

5 The Variety of Policy Responses at the EU and National Levels

In Chapter 3, we introduced the policy episodes during which the policy-makers elaborated their multidimensional response to the crisis at both levels – six episodes of policymaking at the EU level and forty episodes at the national level. In this chapter, we present these episodes and their exogenous and endogenous drivers in more detail to lay the groundwork for the subsequent analysis of the way policymakers reacted to the crisis. In a first step, we show how the overall politicization of the crisis response developed over time.¹ This will allow us to characterize the timing of the policymaking during the crisis in a summary way. To be sure, we consider only key episodes of policymaking that are particularly likely to get politicized. But even within this highly selective set of episodes, there is great variation in terms of the extent to which they have become politicized, as we intend to show in the first section of this chapter. In addition, in this part of the chapter, we shall also discuss the episodes in terms of their key drivers, which we have introduced in the previous chapter – problem pressure and political pressure. As we shall see, in addition to these forces, endogenous factors also played a considerable role in determining the timing of the episodes.

In presenting the development of the politicization of the policy response over the course of the crisis, we shall distinguish between *three periods*: the precrisis period, which starts in early 2013 with the initiation of the first episode in our set and lasts until August 2015, when the crisis situation becomes acute; the peak period, lasting from September 2015 until the adoption of the EU–Turkey agreement in March 2016; and the postpeak period, which extends over several years from April 2016 up to the end of February 2020. We shall show that the politicization of the policy response at the EU level and at the level of the member states reached its apex during the peak period of the crisis. A closer look at the episodes

¹ Let us remind the reader that we conceptualize politicization as the product of salience and polarization – the salience of the policymaking process in the attentive public and the polarization of the actors participating in this process.

involved at the national level will reveal, however, that not only the level of politicization but also its timing varied greatly across member states.

In the next two steps, we shall *zoom in on the individual episodes* at the two levels, briefly indicating their politics and substantive policy content, although space constraints will not allow us to go into much detail. While the timing and the details of the policymaking process are hard to predict and are sometimes rather surprising, in substantive terms, the policy responses did not stray very far from the well-known policy heritage in the asylum policy domain. In the 2015–16 refugee crisis, EU asylum policymaking remained prone to continuity rather than change (Ripoll Servent and Zaun 2020), and the same can be said of national policymaking. Despite crises often acting as “windows of opportunity,” the breakdown of the EU’s asylum system in the 2015–16 crisis has triggered the same kind of response as in past crises – namely, a shift of responsibility outward and a reinforcement of border control at the EU level (Guiraudon 2018). At the national level, it led to the reintroduction of border controls at domestic borders and to a further retrenchment of asylum policy across the member states. In general, the measures introduced during the crisis were consistent with an approach at the national and EU levels that can be traced back for more than two decades (Geddes, Hadj Abdou, and Brumat 2020).

The Overall Politicization of the Policy Response during the Crisis

We have measured the monthly politicization of the policymaking processes during the refugee crisis at the EU level and across all eight countries at the national level.² The two graphs in Figure 5.1 present the development of politicization over the three periods of the crisis for the EU and for the eight member states as a whole. The two graphs differ with respect to the indicator for politicization at the national level – the cumulation of the national politicization across the eight member states (graph a), as opposed to the average national politicization in a given member state (graph b). The two vertical lines in the graphs refer to the quickening of the crisis in September 2015 and to the adoption of the

² Salience is measured by the number of times the episode (or some aspect of it) has been mentioned in the media on which we rely in our project (see Chapter 2). Polarization is measured by the product of the share of actions in favor of the proposals put forward by the government during the episode with the share of actions opposing the proposal. If all actions are favoring the proposal, this product is zero. It is also zero when all actions are opposing the proposal. As the share of favoring and opposing actions becomes more balanced, polarization increases and reaches a maximum when they are both equal.

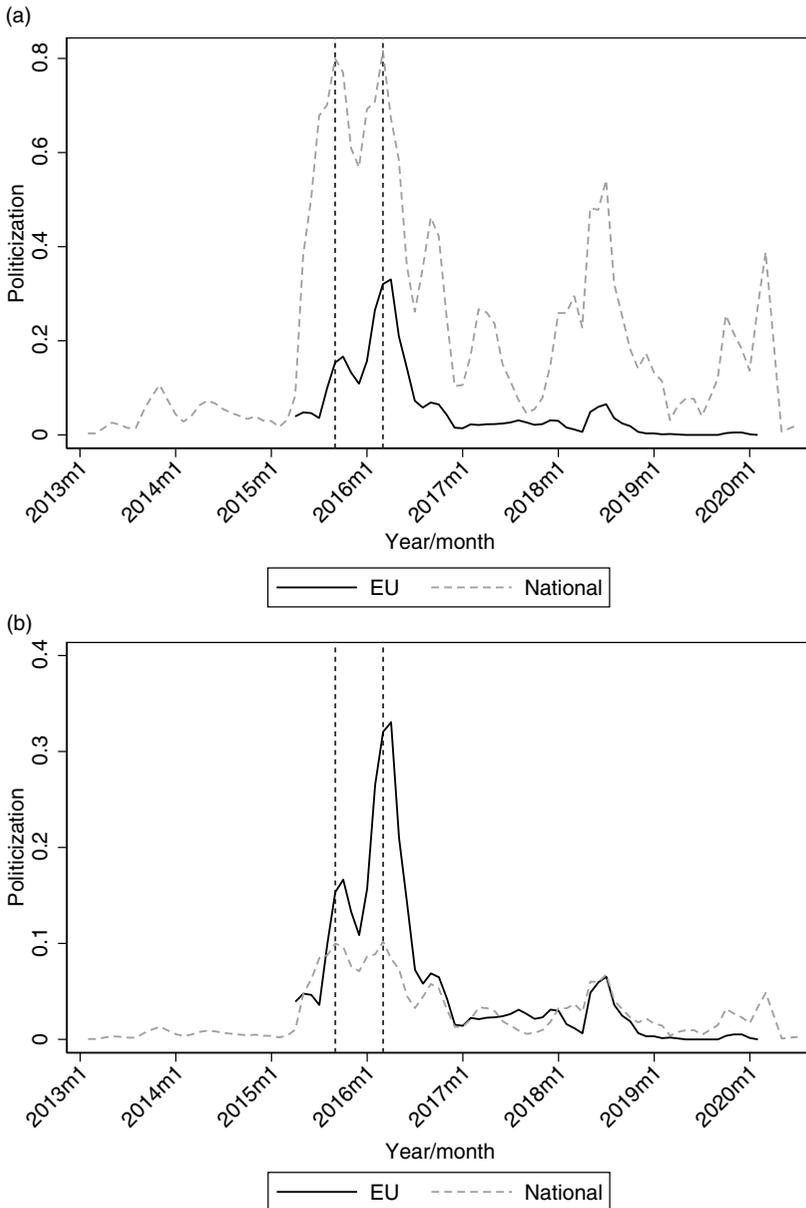


Figure 5.1 Development of politicization of the policy response during the refugee crisis at the EU and national levels. (a) Sum of national politicization: smoothed curves^a; (b) average of national politicization: smoothed curves^a

^aThe first vertical line refers to the beginning of the crisis in September 2015, and the second one refers to the adoption of the EU–Turkey agreement in March 2016. The graph presents three-month running averages.

EU–Turkey agreement in March 2016 – the key moments that divide the crisis into its three periods. As is immediately apparent, the politicization of the crisis reaches its apex during the peak period, at both levels. For the EU, politicization is single peaked at the time of the EU–Turkey agreement; for the member states, there are two peaks, one at the moment the crisis explodes in September 2015 and another at the time of the adoption of the EU–Turkey agreement. But note that politicization does not subside in the aftermath of the adoption of the EU–Turkey agreement. More limited peaks follow in the third phase at the level of the member states in particular.

Figure 5.1 also shows that the politicization of the asylum policymaking process had already started before the crisis situation became intolerable in September 2015, although it stayed at a low level. As we shall see below, it was above all the restrictive destination states that had already, before the crisis shock in September 2015, taken measures to restrict asylum seekers' access to their countries. Finally, graph a shows that the cumulated politicization of the crisis at the member state level far outreaches its politicization at the EU level. If taken together, a lot more was going on in the member states than at the EU level. Indeed, the attentive public that follows quality news sources may have gotten this impression, given that such news sources report on a variety of countries. However, national policymakers are responsible only for what is going on in their own country. Thus, it might be more accurate to juxtapose the politicization of the crisis at the EU level to the average politicization of policymaking in the eight member states. Graph b provides this information. Viewed from this perspective, the development of national politicization is much flatter and far outclassed at its peaks in September 2015 and March 2016 by the politicization at the EU level. Compared to the politicization of the crisis in any individual member state during the peak of the crisis, but not before and after the peak, the EU-level politicization was most impressive.

As we have seen in the previous chapter, at the peak of the crisis, the *problem pressure* and the *political pressure* (measured in terms of public salience) were at their maximum in the transit and open destination states, and to some extent also in the frontline states (at least in Greece if measured by the number of arrivals). We expect the politicization of the crisis to be a direct response to the pressure exerted by the crisis situation on policymakers in the respective countries. The problem pressure in the crisis situation is bound to focus the governments' attention on the policy domain that is hit by the crisis shock. Theories of the policy process stress the importance of attention to policy domains and the limited attention spans of governments (Jones 1994; Baumgartner and

Table 5.1 *Correlations between politicization and problem/political pressure, by member states*

Type	State	Problem pressure	Public salience	Radical right vote	<i>n</i>
Frontline	Greece	0.19	0.51	-0.04	16
	Italy	-0.15	0.65	0.34	35
Transit	Hungary	0.20	0.27	0.46	50
	Austria	0.66	0.71	0.04	27
Open destination	Germany	0.46	0.78	-0.34	47
	Sweden	0.71	0.66	0.22	53
Closed destination	France	0.10	0.24	-0.11	67
	UK	0.39	0.29	0.24	56
	All	0.67	0.75	0.59	120

Jones 2002; Jones and Baumgartner 2005). More specifically, the crisis situation is likely to cause a so-called serial shift in policy processing, that is, a shift from parallel processing in policy-specific subsystems to serial processing in the “macro-politics” of top executives. At the same time, the crisis situation also concentrates the mind of the public on the policy domain in question. Just like the top brass political decision-makers, the public is focusing serially on one thing or at most a few things at a time (Simon 1983), given its limited attention span and the limited capacity of the media (Hilgartner and Bosk 1988). The increased public attention on the policy in question is likely to reinforce the pressure on the government to act.

Table 5.1 provides a straightforward measure of the relationship between the pressure on the policymakers and the politicization of their crisis response: the correlation between politicization on the one hand and the three indicators for pressure that we introduced in the last chapter on the other hand. These correlations do not inform us about causal relationships, but they give us a rough idea of the strength of the association between the variables involved. Summing over all eight member states, the correlations are quite high, varying between $r = 0.59$ and $r = 0.75$. In other words, in line with expectations, the pressure exerted by the crisis is rather closely associated with the politicization of policymaking in response to the crisis.

However, if we go to the level of the individual member states, the association turns out to be close only in the two open destination states and in Austria, one of the transit states, and only for two of the three indicators for pressure. Even in the key open destination state, Germany, the association with problem pressure is relatively modest ($r = 0.46$). In the frontline states, politicization is associated only with public salience,

but not with problem pressure (in Italy, the corresponding correlation is even negative), and in the closed destination states and Hungary, all associations are quite weak. While we would have expected such weak associations for the closed destination states, which were not directly hit by the crisis, the low associations in the case of Hungary are somewhat unexpected. For the third indicator, political pressure as measured by the radical right vote share, correlations are, with the exception of Hungary, generally low or even negative.

If this shows that policymakers reacted to the combined problem pressure and political pressure at the peak of the crisis by launching policy episodes in the most heavily hit countries, the associations between politicization and pressure are not as strong as we might have expected. The reason is that policy episodes were also politicized by factors *endogenous* to politics: The anticipating reactions of policymakers, the strategies of political entrepreneurs, key events, the legislative cycle, and the endogenous dynamics of policy reactions to the crisis once they have been set in motion all contributed to the politicization of the crisis, too. We can get an idea of the importance of such endogenous factors by inspecting the timing of the individual episodes at the EU and the national level.

To start with the EU level, the EU Commission responded to the rising tide of refugees in anticipation of things to come. In May 2015, it had presented the *European Agenda for Migration*, which sought to formulate a comprehensive EU approach to the surge in Mediterranean arrivals. The agenda-setting by the Commission rested on four pillars (Geddes 2018):

- Strengthening the common asylum policy with a reform of the Dublin regulation
- Improving control of the external border (through solidarity with border countries such as Greece and Italy and strengthening the mandate of Frontex)
- Reducing incentives for irregular migration (addressing the root causes of such migration in countries of origin, dismantling smuggling and trafficking networks, and better application of return policies)
- A new policy on legal migration

Based on this agenda, the Commission launched four of the five policy episodes we cover in this study in spring or summer 2015, that is, before the peak of the crisis. But the Commission's proposals were not yet followed up by the European Council. Thus, the Commission had proposed to use, for the first time, the emergency response mechanism under Article 78(3) to set up a temporary relocation scheme (for a total of 40,000 persons in need of international protection) based on mandatory

country quota to relieve the frontline states, Greece and Italy. The number of persons to be relocated seemed quite small, given the dimensions of the inflow of persons in need. But even this very limited measure was watered down by the July 20, 2015, European Council meeting: Participation in the scheme was to remain voluntary rather than mandatory as proposed by the Commission. At the EU level, the policymakers saw the crisis coming, but they did not yet react decisively.

For the national level, Figure 5.2 presents a systematic overview over the starting points of the national episodes by type of member state against the background of the developments of problem pressure (number of asylum requests) and political pressure (public salience of immigration and asylum as measured by Google trends). The vertical dashed lines in this figure indicate the starting points of the episodes, with grey lines referring to border control measures and black lines to modifications of asylum rules. The figure shows how the timing of the episodes varied depending on the type of member state. Thus, in the closed destination states (France and the UK), most episodes were initiated before the advent of the crisis and do not seem to be directly related to increases in problem pressure (which was comparatively

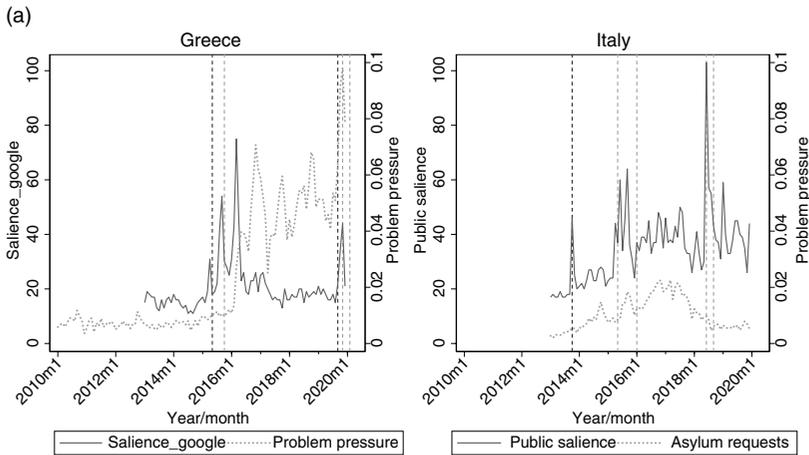


Figure 5.2 Starting dates of the episodes in relation to problem pressure (asylum requests) and political pressure (public salience). (a) Frontline states; (b) transit states; (c) open destination states; (d) closed destination states (smoothed curves).

^aVertical lines indicate the beginning of an episode. Gray lines refer to Border Control episodes, while black lines refer to asylum rules' episodes. For a given type of member state, both problem pressure and political pressure are displayed on the same scale.

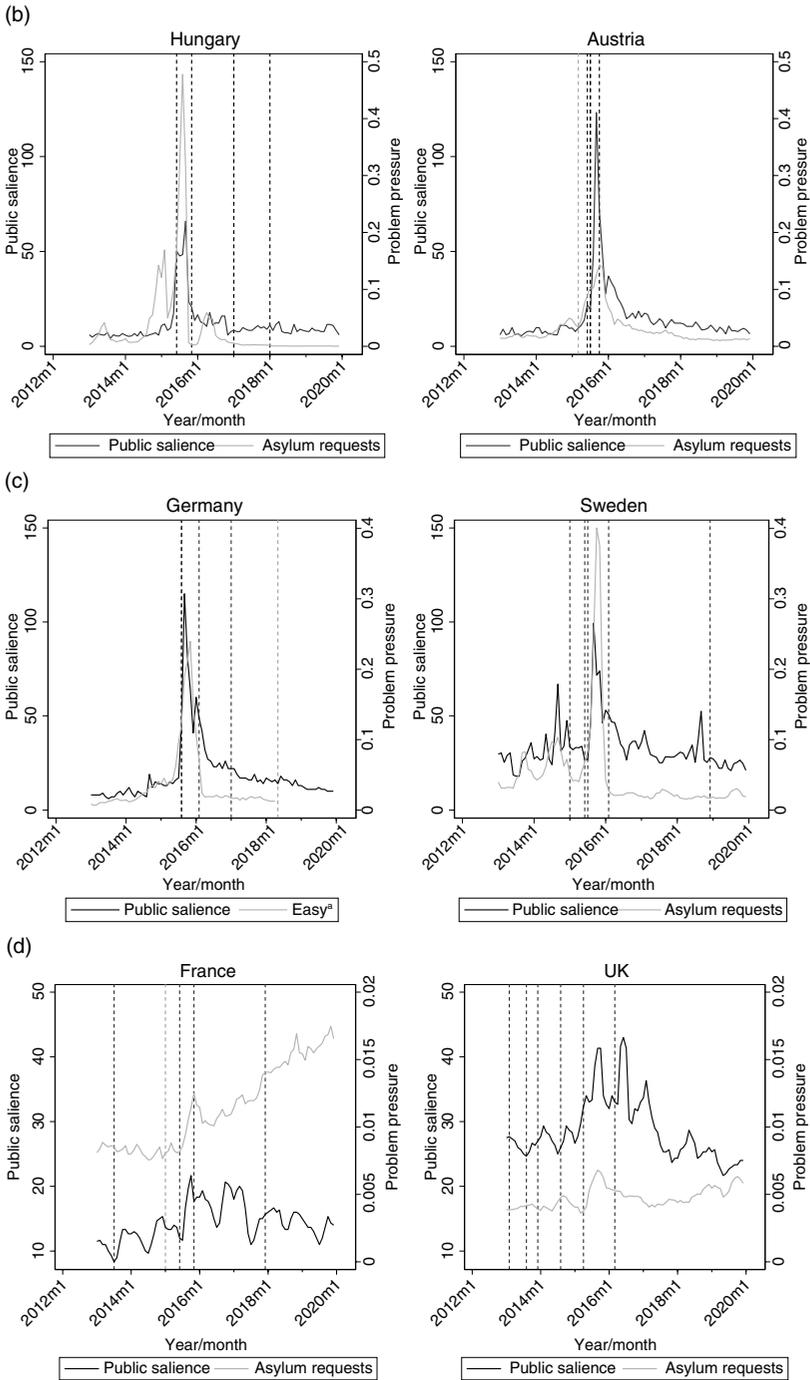


Figure 5.2 (cont.)

low anyway) or to public salience of refugee and migration issues. These states had preventively taken measures to close their borders and to retrench their asylum policy. By contrast, in the frontline states (Greece and Italy), we observe a clustering of episodes rather late in the day – their starting points are only partially related to the development of pressure. It is in the transit and open destination states that the episode triggers are clustered just before the peak or during the peak of the crisis, when problem pressure and political pressure in the respective countries were at their maximum. With the exception of Austria, however, even in these countries, some of the episodes intervened only in later stages of the crisis.

As a matter of fact, there are several instances of episodes launched by *political entrepreneurs*. As we have argued in the previous chapter, immigration issues may be rendered salient by the operation and effects of politics and the wider socioeconomic context within which they are embedded (Hadj-Abdou, Bale, and Geddes 2022), and party strategies play an important role in this context (Abou-Chadi, Cohen, and Wagner 2022). As the emergency politics literature reminds us, there can be strategies of “crisisification” (Rhinard 2019). According to this strategy, action is often delayed until a foreseeable policy problem escalates into a crisis, and the ensuing crisis is then “exploited” to increase support for public office-holders or their policy agendas (Boin, ’t Hart, and McConnell 2009; Rauh 2022). There is, however, also an alternative strategy of political entrepreneurs that consists of them creating a crisis where there is hardly a policy problem at all. Several episodes among our selection correspond to the latter pattern.

Thus, the low association between problem/political pressure and politicization in Hungary is explained by the fact that three of the five episodes occurred after the crisis peaked and problem pressure ceased to exist. These episodes all refer to measures that the Fidesz government under Victor Orbán introduced in its attempt to outbid its radical right competitor as a defender of the national cause – the Legal Border Barrier Amendment further tightened the already very tough border control regime, and the other two episodes served to attack NGOs’ supportive of refugees. In the frontline states, too, only two of the five episodes in Greece and only one of the Italian episodes were launched at the time or just preceding the time when the crisis peaked. The two Italian episodes that occurred in the aftermath of the crisis as well as two of the three Greek episodes that occurred late in the day responded more to endogenous political dynamics triggered by a political entrepreneur than to external pressure, and their high public salience is more likely the result of political dynamics than their cause. In Italy, the two

episodes were related to port closures in fall 2018, which were a direct consequence of the policy of the new minister of the interior and leader of the Lega, Salvini, who attempted to exploit the refugee issue for his own political purposes. In Greece, the political entrepreneur in question was Turkish president Erdogan, whose policy to incite refugees to cross the border into Greece in order to put pressure on the EU led to two belated Greek episodes: One of them was the domestic conflict on the islands created by the increasing number of arrivals, and the other was the direct Greek reaction at the land border to Turkey. The last German episode, finally, was in many ways similar to Salvini's port closures. It was instigated by the new minister of the interior, Seehofer, who aimed to toughen the German border controls for his own political purposes in June 2018.

The *legislative cycle* not only played a role in the strategies of the new ministers of the interior, Salvini and Seehofer, but it also helped to initiate one of the three late episodes in Greece. The so-called International Protection Bill was the first act related to immigration from the newly elected New Democracy government, which aimed at streamlining the asylum process, making it faster and stricter.

Triggering events launched at least one of the German and French episodes. In both instances, the events were terrorist attacks. Thus, after the terrorist attack by a Tunisian refugee on a Christmas market in Berlin on December 19, 2016, the issues of return and deportation of rejected asylum seekers became particularly salient in the public debate in Germany, which triggered the introduction of a new act on deportation (return) in January 2017 and its adoption in July 2017. In France, border controls became a highly salient issue after the November 2015 terrorist attacks (Bataclan, Stade de France) in Paris. Following these attacks and ahead of UN climate talks in Paris, France introduced border checks on all of its borders. Subsequently, citing the persistent threat of terrorism, France renewed the border checks every six months up to the end of the period covered.

The issue of return also provides an example of the *implications of early decisions* to open the door to a large number of refugees. The issue became pressing in the aftermath of the peak of the crisis as large numbers of asylum seekers who did not qualify for asylum in the destination countries were required to return to their country of origin. Not only in Germany, but also in Sweden, one of the episodes deals with this issue. Finally, the last Swedish episode was a direct sequel to an earlier episode that had introduced temporary residence permits for asylum seekers for a limited period of time, after which the measure had to be amended again.

Zooming in on EU Policymaking

We have already introduced the basic distinction between external border control measures and internal measures concerning asylum rules. At the *EU level*, external border control actions have been somewhat more frequent, with 57 percent of all actions in the six policymaking processes, but asylum rules have been important, too, accounting for 43 percent of all the actions. Figure 5.3 presents the development of the politicization of decision-making processes across the period covered, with a focus on these two types of episodes at the EU level. The left-hand graph illustrates the predominance of Border Control episodes during the peak phase. The right-hand graph provides the details for the four episodes that focused on border control. As we can see, the EU–Turkey agreement dominated the peak phase completely: The externalization of refugee protection to Turkey was the single most politicizing policy decision taken during the crisis, not only at the EU level but overall. It was more salient than any other episode, but in terms of polarization, it was only slightly above the rather high average. The other Border Control episodes – the much more limited deal with Libya, the hotspot approach, and the reinforcement of the European Border and Coast Guard – were much less politicized. As a matter of fact, on average, the two episodes referring to asylum rules, the relocation quotas and the Dublin regulation – were more politicized than the Border Control episodes at the EU level and even more politicized than both types of episodes at the domestic

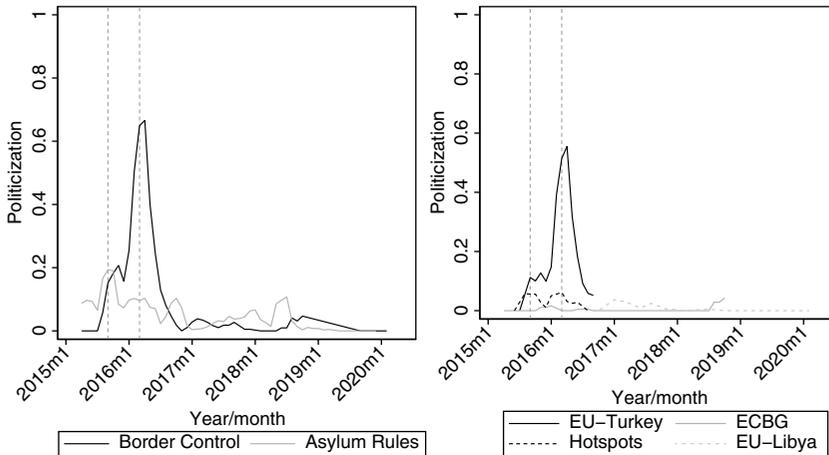


Figure 5.3 Thematic focus of policymaking at the EU level: development of issue-specific politicization over time

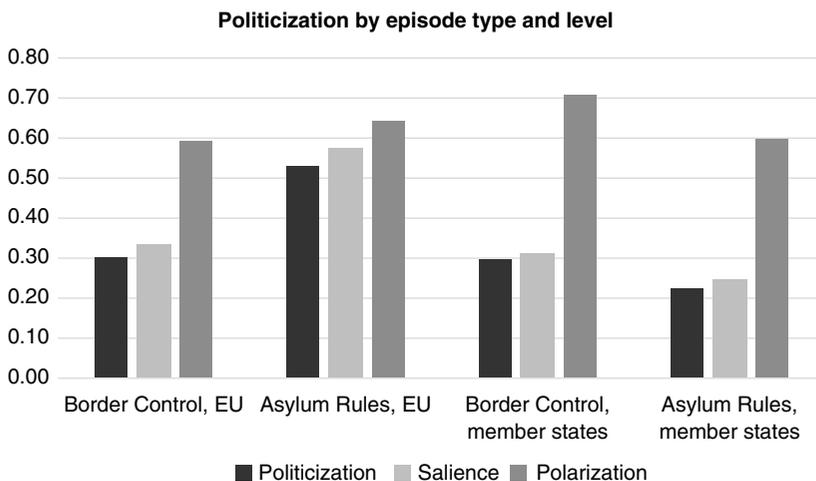


Figure 5.4 Politicization by episode type and level of polity

level. This is illustrated by Figure 5.4, which shows the average level of politicization and of its components – salience and polarization – by episode type and level of polity. As this figure clarifies, polarization is high for both types of episodes at both levels of the polity. However, in terms of the average salience, the episodes concerning asylum rules at the EU level stick out, which makes them most politicized overall. At the national level, border control episodes are somewhat more polarized and salient than episodes concerned with asylum rules, but not by much.

At the EU level, the relocation of refugees was the Commission's first attempt to come to terms with the crisis. But, as we have already seen, the Commission had been blocked in its attempt to introduce a relocation mechanism to provide for burden-sharing between member states in summer 2015. But it did not give in. In his speech on the 2015 state of the union, which was held on September 9, at the very moment when the crisis blew up, Commission president Juncker announced a proposal for a second mandatory emergency mechanism that aimed to relocate a further 120,000 persons seeking international protection from Greece, Italy, and Hungary. Under the pressure of the crisis situation, the response was immediate: On September 14, an extraordinary meeting of the Council of Ministers of the Interior took place in order to adopt this plan. While the European Parliament endorsed the emergency mechanism on September 17, the plan met with great resistance from eastern European member states. Nevertheless, under German pressure, at another extraordinary meeting of the Council of Ministers on

September 22 that was arranged by the Germans, the relocation mechanism was adopted by qualified majority voting: Twisting the arms of several reluctant member states (including Poland), the Germans obtained the required majority.

As van Middelaar (2017: 110) observes, this “revolutionary decision,” pushed through by the Germans, who did not want to be left alone with the task of receiving and integrating refugees, turned into a fiasco. From the seeming German victory, the European refugee policy would not recover. The Czech Republic, Slovakia, Hungary, and Romania had voted against the relocation mechanism; Finland had abstained. Hungary, which had originally been proposed as a beneficiary of the emergency relocation mechanism, rejected the offer. In Poland, the liberal center right government soon was to be replaced by a conservative right government, which joined the eastern European resistance against the mechanism in the so-called Visegrad group (V4). Two of the countries that had voted against the mechanism – Hungary and Slovakia – appealed to the ECJ against the decision, and Hungary later organized a referendum over the relocation quota (see below). Eventually, the ECJ upheld the decision in September 2017, and the Hungarian referendum held on October 3, 2016, after the largest ever advertising campaign, failed to reach the quorum due to opposition boycott. Nevertheless, in central and eastern Europe, the fight for public opinion was lost for a long time. From this point on in this part of Europe, the acceptance of refugees was viewed not as a humanitarian act but as submission to Berlin. As a result, the implementation of the decision fell far short of the expected numbers. Van Middelaar (2017: 110–112) suggests that the crucial mistake was the attempt to keep the European Council, where qualified majority decisions are not possible, out of the loop.

At the same time as Germany tried to alleviate its burden with internal burden sharing, it also sought the help of Turkey to stop the arrival of refugees on the Greek islands. The contacts were already established in late summer 2015. Only with controlled external borders could Germany maintain its welcome culture. Between October 2015 and May 2016, Angela Merkel traveled no less than five times to see President Erdogan in Turkey, bowing to him in an unusual bout of European “realism.” A first joint action plan of the EU with Turkey was agreed at the EU Council meeting on October 15–16. On November 29, the EU Council decided to implement this plan, but in mid-December, eleven member state governments rejected the implementation plan (Webber 2019: 167). Arrivals remained high, and the negotiations between Turkey and the EU continued, driven by the German chancellor, who, backed by the European Commission, fought for her political survival. Slominski and

Trauner (2018: 109) point out that the deal was negotiated in a format that shielded the EU member states from the other EU supranational institutions, notably the EP and the ECJ. After a dramatic finish during the early days of March, negotiations eventually succeeded: The EU–Turkey agreement that finalized the deal between the EU and Turkey was adopted on March 18, 2016. In the aftermath of the agreement, the implementation of the deal gave rise to protracted additional negotiations, which we followed until September 2016, at which point the episode breaks off in our data.

The deal stipulated that as of March 20, 2016, new irregular migrants entering Greece from Turkey had to be returned to Turkey. For every Syrian being returned to Turkey from the Greek islands, another Syrian was to be resettled in the EU. The maximum number of people to be returned according to this mechanism was 72,000. As part of the agreement, Turkey promised to take necessary measures to prevent new sea or land routes from Turkey to the EU. In return, the EU promised to pay Turkey up to 6 billion euro to contribute to its expenses with Syrian refugees by the end of 2018. It also promised to upgrade the customs union, accelerate visa liberalization for Turks in the EU, and relaunch the accession process. As a result of the deal, arrivals on the Greek islands dropped sharply, as did registered deaths and missing persons in the Aegean Sea.

Since the adoption of the EU–Turkey statement more or less coincided with the closing of the west Balkan route (see below), the question is which of the two measures was responsible for the effective closure of the EU's borders. As van Middelaar (2017: 118) argues, both measures contributed to this result. The arrivals started to decline once the west Balkan route was closed, but the decline was accentuated after the adoption of the EU–Turkey Deal. He suggests that Turkey agreed to the deal only once it realized that the EU was ready and able to close the border without its cooperation. There is an important difference between the two measures, however: While closing the west Balkan route abandoned Greece, an EU member state, the EU–Turkey Deal allowed Greece to stay in the Schengen area.

The EU–Turkey agreement, the most important measure at the EU level, was one of the first examples of EU realist foreign policy, and it has been criticized by those who do not consider Turkey a place where asylum protection is in accordance with international standards (Niemann and Zaun 2018: 8). Legal considerations in this respect have been partly removed by declaring Turkey a safe third country. Other critiques argued that this deal exposed the EU to blackmail by a leader with clear authoritarian leanings. Moreover, the agreement did not deal coherently

with the situation in Greece: It did not cover the more than 42,000 refugees who had entered Greece before March 20 and who remained in Greece after the agreement. And finally, the deal did not work out as planned. While the number of arrivals dropped by 97 percent three years on, the number of returns remained very limited (only 2,441 migrants had been returned since March 2016), and the number of resettlements of Syrians from Turkey to EU member states remained rather limited as well (roughly 20,000 in total).³ The threat of being returned to Turkey and the closing off of Greek borders to the north seem to have been sufficient to dissuade most refugees from making the crossing to the Greek islands. Eventually, after the summer 2016 coup in Turkey, negotiations on the implementation of the deal went sour and, except for its financial contribution, the EU did not deliver on its promises.

The *hotspot approach*, another border control measure adopted by the European Council during the peak period, was part of the European Agenda on Migration. The European Asylum Support Office, Frontex, and Europol were to work on the ground with frontline member states, in particular Greece and Italy, to swiftly identify, register, and fingerprint incoming migrants. On the whole, notwithstanding the “assistance” rhetoric, hotspots were designed to shift back to frontline states all the responsibilities they (theoretically) have to shoulder under current EU legislation: to identify migrants, provide first reception, identify and return those who do not claim protection, and channel those who do so toward asylum procedures in the responsible state – in most cases, none other than the frontline state itself. The implementation of the approach in Greece and Italy has been slow, due in part to the need to build the procedures from scratch and with shortcomings in infrastructure, staffing, and coordination but also due to foot-dragging on the part of the two frontline states (see below).⁴ At the end of 2016, the reception facilities in the two countries were still inadequate, particularly in terms of accommodation and international standards for unaccompanied minors.

The creation of the *European Border and Coast Guard* (EBCG), the third border control measure implemented swiftly in late 2015, involved extension of the already existing border control agency Frontex, which had been created in 2004 on the eve of the “Big Bang enlargement.” The proposal for the creation of the EBCG was drawn up in record time by the Commission in the midst of the crisis situation, between September

³ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20190318_eu-turkey-three-years-on_en.pdf

⁴ European Commission, 2017. Implementing the European Agenda on Migration: Commission reports on progress in Greece, Italy and the Western Balkans, press release, 10 February 2017.

and December 2015 (Niemann and Speyer 2018: 32f). Frontex's mission was to coordinate operational cooperation; assist member states in training, technical equipment, and joint return operations; follow up on technical innovation; and conduct risk analyses (Niemann and Speyer 2018: 26f). The former Frontex had been underfunded and lacked administrative staff, a deficiency that was addressed by creating a standing 1,500-member-strong rapid reaction pool of border guards and technical equipment, to which the member states committed explicit contributions that could not be withheld. The new EBCG would have funding worth 322 million euros by 2020, up from the 114 million euros that had been originally budgeted for 2020.

The critical question in the creation of the EBCG was whether it had the right to intervene even if the member state on the territory in which it wanted to intervene did not agree – a critical question for the constitutional set-up of the EU, as van Middelaar (2017: 123) points out. In this case, and contrary to the relocation issue, the European Council agreed to a compromise solution: If a member state did not cooperate within thirty days with an emergency plan designed by the EBCG on behalf of the Council, the Commission could start the procedure to suspend the country's membership in the Schengen area. In other words, the EU could not control the external border against the explicit will of a member state, but it could exclude the country from access to the area of free movement if it did not cooperate. This provision allowed for the closure of a possible gap in the external border without forcing a joint solution on a resisting member. The new EBCG soon proved to be too limited, however. In his state of the union speech in 2018, Commission president Juncker confirmed that it should have an additional 10,000 border guards by 2020, and he provided a blueprint for the future of the EBCG (Angelescu and Trauner 2018).

With the closure of the eastern Mediterranean, the focus of the refugee streams shifted back to the central Mediterranean and to the sea crossing between Libya and Italy. Following up on an Italian deal with Libya, in February 2017, the European Council also turned its attention to the support of Libya in controlling the central Mediterranean route. The Malta Declaration of February 3, 2017, outlined a number of measures as part of a comprehensive strategy to strengthen the EU's intervention along this route. The declaration pledged 200 million euros to the North of Africa window of the EU Trust Fund for Africa, with a priority to be given to Libya for 2017.⁵ A series of measures followed, all of which were designed to actively support Libyan authorities in contributing to efforts

⁵ www.consilium.europa.eu/en/press/press-releases/2017/02/03/malta-declaration/

to disrupt organized criminal networks involved in smuggling migrants, human trafficking, and terrorism.

The EU episodes concerning *asylum rules* refer to the relocation of refugees in particular and to the *reform of the Dublin regulation* in general. Having failed in the short term with its relocation measures, the Commission repeatedly proposed a reform of the dysfunctional Dublin regulation as a long-term response to the crisis. This crucial internal solidarity measure was, however, repeatedly shelved – a blatant case of non-decision-making in the face of a major crisis. The new Commission, which took over after the EP elections in 2019, rapidly proposed a new plan for the reform of the CEAS – the so-called *Pact on Migration and Asylum*, which has met with the same lack of success as the attempts of the previous Commission. As the Covid-19 crisis hit the EU, asylum policy more or less disappeared from the agenda of EU decision-makers, and further reform steps have been shelved once again.

Zooming in on Policymaking at the National Level

At the *national level*, the thematic focus of policymaking varies heavily across the type of member state, as is shown in Figure 5.5, which presents the share of border control actions by member state type and crisis period. Border controls include measures to secure the external borders of the EU as well as border closures between EU member states. While

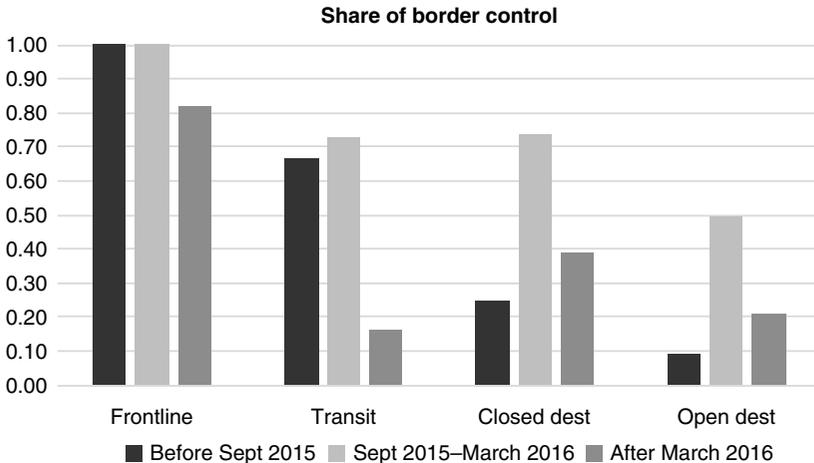


Figure 5.5 Share of border control actions by member state type and crisis period: percentages

border control was more in the focus in all member states during the peak phase of the crisis, it was the exclusive issue in frontline states. Thus, in all three phases, major policymaking episodes in Italy were exclusively devoted to border control issues, as were all episodes except one in Greece. Border control issues were also dominant in transit states during the first two periods but lost much of their importance in these states during the third period. By contrast, in both types of destination states, *asylum rules* prevailed in the prepeak period as well as in the postpeak aftermath of the crisis.

Border Control Episodes

If Border Control episodes prevailed in the frontline states, they did not result in effective policies, especially not in Greece. In the Summer of 2015, *Greece* was preoccupied with the bailout process, the referendum, and the snap elections in September 2015 and it was not properly equipped to deal with the incoming flow of refugees. At the EU summit on October 15–16, 2015, at the peak of the crisis, when the member states adopted the joint action plan with Turkey, Commission president Juncker and the German government suggested that Greece should ramp up its efforts to protect its frontier by operating joint border patrols with Turkey. This proposal was, however, adamantly rejected by the Greek government, given Greece's traditionally poor relationship with Turkey. Eventually, in yet another leaders' summit at the end of October, the Europeans agreed to scrap the request for joint Turkish–Greek maritime patrols and instead asked Greece (as part of the “hotspot approach”) to greatly accelerate the registering and documentation of refugees; create camps in the Aegean; and accommodate 50,000 refugees who would later be redistributed across the EU, 30,000 in hotspots and 20,000 in camps set up with the help of the UNHCR. It was also at this point that, instead of joint patrols, the Commission proposed to transform Frontex into the EBCG. Both proposals met again with Greek resistance. On the one hand, Greece was reluctant to set up hotspots because it was afraid that they would be perceived as an alternative to relocations. On the other hand, Greece was reluctant to subscribe to the plan to deploy the transformed EBCG without the consent of the directly concerned member state.

While the EBCG plan could be rapidly implemented thanks to the compromise described above, the hotspots were slow in coming, as already indicated. For a while, the Greek government was happy to pretend it was registering refugees, while its European peers were happy to pretend that they would implement a relocation scheme. Eventually, in

December 2015, this theater ended, with the EU governments demanding in earnest the implementation of hotspots and border controls but not guaranteeing the viability of the relocation scheme. As the Greek prime minister Tsipras told his colleagues at the leaders' summit in late December, Greece was at risk of becoming a "black box" that refugees disappeared into. But his strategy of foot dragging was vulnerable to the Balkan countries shutting down their borders, which is exactly what was going to happen a few weeks later (see below). As a result, by the end of January 2016, the Greek government ended up mobilizing its army to complete the hotspot construction in a timely fashion, and by mid-March, the adoption of the EU–Turkey agreement stopped the inflow of refugees for some time to come.

The Greek border conflict that flared up with Turkey around Christmas 2019 and lasted until spring 2020 was the single most highly politicized of all the episodes. At the time, as a result of President Erdogan provocatively inciting refugees to move on to Europe, increasing numbers arrived at the land border. The Greek government responded by mobilizing police and armed forces to seal the land border with Turkey and by tolerating the actions of "civil militias" that acted behind the borderlines. Daily clashes of refugees with police occurred at the border in what was reported in Greek media as a "defence against invasion." Eventually, the realization that the Greek authorities would not allow them to pass and the outbreak of the coronavirus pandemic put an end to this episode in March 2020.

At the same time, the Greek government also tried to alleviate the anxieties of local authorities on the islands who balked at the prospect of new closed centers being installed. The regional authority of the Northern Aegean, where most centers were to be built, went on a collision course with the government, engaging in protest mobilization as well as judicial challenges of the government's decision. The standoff culminated in an actual confrontation between far right and far left groups, each opposing the hotspots for their own reasons, and the riot police that had been sent to supervise and protect the start of the building process. Engaging in a sort of low-key guerilla warfare, locals ambushed police cavalcades, blockaded their arrival at the centers, and burned police equipment. Eventually, the government retreated and delayed the building of the hotspots to "consult" with local authorities, with the prime minister promising to visit the three most afflicted islands.

As we have already observed, in *Italy*, all five episodes were concerned with border controls. The first one, the yearlong policy of *Mare Nostrum* that was initiated by the center left Letta government, predated the crisis. It involved deploying the Italian armed forces and coast guard near the

Strait of Sicily, with the dual objective of performing humanitarian rescues and arresting human traffickers and smugglers. The project was the continuation of previously existing rescue schemes, but *Mare Nostrum* greatly expanded the resources and personnel made available for search and rescue operations. It was enacted after a horrible shipwreck near the Strait of Sicily that had left more than 360 drowned immigrants on October 3, 2013. The shock of the immense loss of life jolted the government into action, and on October 18, it responded with the *Mare Nostrum* plan. *Mare Nostrum* operated for a year before, on October 31, 2014, it was abandoned. Operation Triton, a common EU project, albeit initially smaller in scale, partially replaced it.

The second and third Italian episodes refer to border conflicts with other EU member states. The second episode involves the Italian and French governments' fight over Ventimiglia, where a large number of refugees had gathered in an attempt to pass over the French border. The Italian border police's unofficial practice of allowing those crossings was challenged when France, following a large number of migrant arrivals, temporarily reintroduced border checks at Ventimiglia in June 2015. The episode was concentrated in time, as almost all action occurred within one month, just before the eruption of the main European crisis, which shifted attention elsewhere. A similar story, but without migrants actual camping near the border, took place in a conflict between Italy and Austria in 2016. Austria threatened to unilaterally impose stricter controls on its Brenner Pass border with Italy. It cited similar reasons – the lack of registration of immigrants in Italy and Italy's unwillingness to adhere to the Dublin rules. This confrontation was more long-lived and acrimonious than the French–Italian one, as it did not center on the semiformal actions of police bodies but on the official policies of two EU member state governments. The EU Commission became involved, trying to mediate between the two member states. In the end, in a manner similar to what happened to Greece, the Austrian chancellor reassured everyone that since the Italian authorities were ramping up their efforts to perform their duties on migration, the Brenner Pass, the bottleneck route linking Austria and Italy, would remain open. Contrary to the previous two episodes, the Brenner confrontation reached very high levels of politicization.

As already mentioned in the previous section, the two final Italian episodes occurred after the government coalition of the Five Star Movement (M5S) and Lega came to power in summer 2018, and the leader of the Lega, Salvini, assumed the role of minister of the interior. Tasked with migration, he soon proceeded with his first project, which was to severely limit the role of NGOs in rescue operations by closing Italian ports for NGO ships carrying refugees. The standoff between Salvini and the

crew of the *Aquarius* drew immense international publicity and became a symbol of the conflict about asylum seekers in Europe. It was eventually resolved by the Spanish government, which allowed the *Aquarius* to dock in Spain, while henceforth NGO rescue ships essentially ceased operations in Italian waters. The second episode of this period, called the Sicurezza decrees, involved the codification of Salvini's drastic measures into official law and was split into two legislative acts that were passed in October 2018 and spring 2019. The first decree made it harder to obtain a humanitarian residence permit, while the second formalized the port closure for NGOs and made it illegal for NGO rescue ships to assist migrants requiring help. Both decrees became official Italian law, even though the Italian constitutional court threw out some aspects of both, declaring them unconstitutional.

Turning to *transit states*, two of the five Hungarian episodes concerned border controls. To stem the tide of the refugees, in summer 2015, Hungary started to build a fence at the Serbian border that was extended to the Croatian border in the fall – an episode that was highly politicized early on, especially by the negative international reactions to the fence building. Hungary also set up transit zones near the border as temporary reception centers for asylum seekers, tightened the penal code for offenses related to illegal crossings and physical damages to the fence in September 2015, and imposed an eight-kilometer rule that allowed for the detention of asylum seekers in the summer of 2016. The bulk of the action took place in the Summer of 2015 and into September. In spring 2017, the legal border amendment, a highly consequential but less politicized Hungarian episode, considerably tightened the border controls once again. The legal changes introduced by this amendment effectively meant that all asylum seekers found outside the transit zones in the country would be escorted back to the other side of the border fence. The only way to obtain asylum rights would be via long months of detention in metal containers set up at the southern border. Asylum seekers could leave these containers only by returning to Serbia, thus effectively surrendering their right to asylum (Klaus et al. 2018). Adding insult to injury, stories about blatant human rights abuses abounded in these containers, as documented by a Hungarian human rights group.

With the arrival of the flood of asylum seekers from Hungary in early September 2015, which caught the authorities off guard, the first Austrian responses had a temporary character. In line with the German response, Austria opened the borders, and the new arrivals were met with a wave of solidarity (“welcome culture”), which was carried by a high degree of civil society activism. During a short period in fall 2015, the Austrian federal railway, the police, and the Austrian armed forces

worked closely with the big nonprofit rescue organizations to establish efficient transportation, emergency shelters, and provisional accommodation for refugees. The public mood changed rather rapidly, however, and the sudden wave of solidarity and civic engagement ebbed the longer the influx of asylum seekers persisted. Once Germany decided to reintroduce identification checks for asylum seekers at its Austrian border on September 14, Austria introduced controls on its border with Hungary. Moreover, toward the end of the year, it started building a fence at its southern border with Slovenia.

In addition, Austria took the lead in coordinating national border control measures in the western Balkans to shut down the Balkan route and to halt the refugee flows at the Greek border, a measure that created pressure for a common border control mission on the EU's external borders and for adoption of the EU–Turkey agreement. At the west Balkan conference that took place on February 24, 2016, in Vienna, the ministers of the interior of four EU member states (Austria, Bulgaria, Croatia, and Slovenia) and of six candidate countries from the western Balkans (Albania, Bosnia-Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia) agreed on the shut-down. The Austrian foreign minister, Kurz, emphasized that all the participants would prefer a common European solution, but that in the absence of such a solution, the countries were forced to adopt national measures. Austria, he asserted, was “simply unable to cope” (*OÖ Nachrichten*, February 24, 2016). Immediately after the conference, the participant countries started to close down their borders.

Major destination state *Germany* had kept its borders open. Pressured by her Austrian colleague, Chancellor Faymann, and by the critical situation at the Austro–Hungarian border, Chancellor Angela Merkel took the unprecedented decision, during the night of September 4, 2015, to keep the borders open for refugees. More specifically, Germany suspended the Dublin regulation for Syrian refugees. On the following day, a new train full of refugees arrived at the Munich railway station almost on the hour. Over this one weekend in September 2015 alone, 22,000 refugees arrived in Germany (Alexander 2017: 63). And the refugees kept coming. Merkel's decision on September 4 had been preceded by her summer press conference, where she had pleaded for more flexibility in the refugee crisis, had made it clear that there was zero tolerance for right-wing extremists, and had tried to reassure the public by asserting that “we can do it” (“Wir Schaffen Das”)⁶ – the expression that was to become the slogan of the German “welcome culture.”

⁶ www.bundesregierung.de/breg-de/aktuelles/pressekonferenzen/sommerpressekonferenz-von-bundeskanzlerin-merkel-848300

Just like in Austria, however, the mood of the German public soured rapidly, political contestation in the streets (witness the surging number of criminal acts against refugee shelters) and in the party system increased, and asylum policymaking in Germany quickly became more restrictive. In terms of border controls, Germany reintroduced identity checks for refugees on September 14, although no one was refused entry. Subsequently, in spite of massive internal critique, Chancellor Merkel kept insisting on her open-doors policy. Thus, in her New Year's address, she again claimed that "we can do this, because Germany is a strong country." She also praised civil society for its commitment and dedication, and she stressed that integration of hundreds of thousands of refugees would be "a chance for tomorrow" (*Süddeutsche Zeitung*, December 31, 2015). In December 2015, Merkel was chosen as Person of the Year by *Time* magazine, and "Flüchtlinge" (refugees) was chosen as the word of the year in Germany. The phrase "Wir Schaffen Das" made it into the top ten.

Following the infamous assaults on dozens of women by immigrants in Cologne on New Year's Eve, a new wave of criticism of the chancellor's policy swept over the country. Merkel refused to change her policy, although critiques of it grew massively, especially among the politicians on the ground who had to receive and accommodate the refugees – and even within the ranks of her own party. Only with the adoption of the EU–Turkey agreement, Merkel's plan B, did the border control issue fade from public debate in Germany.

The issue returned, however, when Horst Seehofer, the head of the CSU and Merkel's most vocal critic, became minister of the interior in Merkel's new cabinet that took office in March 2018. As the new minister of the interior, Seehofer was sensing the chance to implement his hardliner asylum policy, which gave rise to the second Border Control episode in Germany. In June 2018, Seehofer insisted on turning back at the German border refugees who had already been registered in other countries. He met with resistance on the part of Chancellor Merkel, who, at this point, defended a coordinated European solution. The issue unleashed an open power struggle between the two, which developed into the most politicized German episode. To everyone's surprise, although Merkel was unable to obtain the hoped for European solution at the EU summit at the end of June 2018, the two finally reached a domestic compromise in early July, which essentially served as a face-saving device for both and did not change much in Germany's policy.

In *Sweden*, throughout the summer and early autumn 2015, authorities continued taking a humanitarian position to welcoming refugees (Hagelund 2020: 8). But later in the fall, the historically liberal consensus

characterizing the Swedish immigration regime began to adjust to the new reality, and more restrictive measures were introduced. Not only did the incoming numbers put great stress on the asylum system, according to the government, they also posed a serious threat to public order and internal security. Just as in Germany, two strategies were used to reduce the number of asylum seekers: the introduction of border controls to limit access to Swedish territory and the revision of the migration law with the intention of making Sweden a less attractive destination for asylum seekers (Emilsson 2018: 11). The debate on border controls started in July 2015, with the Migration Agency claiming that it was unable to handle the number of migrants. After a lot of hesitation, the government ended up introducing identification checks at the border for incoming refugees in November 2015. This measure resembled the measure Germany had introduced two months earlier. Just as in Germany, the purpose of the temporary border checks was above all to exercise control over who came to Sweden. However, refugees without identity documents were prevented from boarding ferries in Germany, which meant that they could no longer seek asylum in Sweden. At the press conference, where Prime Minister Stefan Löfven and his deputy Åsa Romson (leader of the Green Party), the latter in tears, announced these measures, the prime minister declared that the decision had been heavy and painful to make but that it had been necessary: “We have to act to safeguard that people trust the society and the welfare to work.”⁷ This measure gave rise to the most intense political debates at the peak of the crisis, but the issue continued to occupy the Swedish public until the end of 2020, given that the temporary border controls were repeatedly extended over time.

Finally, among the closed destination states, *France* was involved in two major rows with neighboring countries involving border management and migrant camps at these borders – the already mentioned row with Italy in Ventimiglia and the Calais conflict with the UK. The temporary border checks at Ventimiglia in June 2015 were challenged before the French State Council, but the court ruled that border controls were legal and that the elimination of systematic interior border controls in the Schengen area did not prevent French authorities from carrying out identity controls. The situation at Calais also became more intense over the course of the summer and autumn of 2015, with growing numbers of migrants trying to make their way to Britain. French and British officials continued to negotiate the management of the camp throughout the coming years, introducing tougher security tools to guard the Channel

⁷ *Dagens Nyheter*, November 25, 2015.

Tunnel, joint police commands, and increased financing. The Calais situation prompted the UK government to announce not only tougher security tools to guard the Channel but also tougher immigration policies. In France, border control generally became highly politicized due to the November 2015 terrorist attacks in Paris. After these attacks and ahead of UN climate talks in Paris, France introduced border checks on all of its borders. Subsequently, citing the persistent threat of terrorism, just like Sweden, France renewed the border checks every six months.

Asylum Rules Episodes

As we have seen, compared to border control measures, episodes modifying asylum rules appear to have been generally less politicized – with the exception of some episodes in Hungary, Austria, France, and the UK, which reached an even higher degree of politicization than border control measures. In *Hungary*, the quota referendum in October 2016, which opposed the relocation plans of the EU Commission, was most highly politicized. Domestically, the referendum episode marked the final stand of Jobbik as the standard bearer of the Hungarian radical right. Jobbik had originally put the idea of the referendum on the agenda, but it was Fidesz that initiated a petition against the quota scheme and eventually organized the referendum. In the face of the government's and Fidesz's unparalleled resources to mobilize the no vote, Jobbik proved unable to outbid the government and to preserve its status as the most credible defender of the “national cause.” Squeezed into a diminishing electoral corner, Jobbik thus began the long march to the center of the Hungarian party system. On the whole, Fidesz successfully politicized the issue of migration and acted as an agenda setter rather than a follower (Bíró-Nagy 2022). With refugee flows largely under control by 2017, the Hungarian government set its sights on domestic NGO groups, mostly those supported by the philanthropic Hungarian-born billionaire George Soros, that were accused of acting as domestic agents of external actors. The assault proceeded in two waves. First, in 2017, the government imposed a financial disclosure requirement on all NGOs receiving funding from abroad. This policy debate came to be known as the infamous Civil Law, which was later challenged by the European Commission and struck down by the European Court of Justice in 2020. The following year, in preparation for the upcoming 2018 parliamentary elections, the government sought to impose even more onerous requirements on NGOs – including a special “migration tax” on all organizations deemed to aid immigrants. This second policy package was labeled “Stop Soros”, a not-so-subtle reference to the new enemy in town. These measures were

highly contested by international actors as well as Hungarian civil society and the opposition.

The most highly politicized episode in *Austria* was also an episode related to asylum rules, that is, to the question of whether the federal government could force member states and municipalities to host refugees. This issue is the domestic equivalent of the international relocation issue in Hungary. Already before the peak of the crisis, in spring 2015, the conflict between the Federal Ministry of the Interior and the state governments about the latter's insufficient provision of accommodation for asylum seekers reached a new level. By this point, only three out of nine states had provided sufficient accommodation facilities. At the same time, the situation in the federal reception center of Traiskirchen became intolerable. To relieve the situation in the federal reception centers, the government proposed incorporating into the constitution the right of intervention ("Durchgriffsrecht") by the federal government. This would allow the minister of the interior to set up shelters for asylum seekers in member states and municipalities that did not assume responsibilities on their own. The measure was proposed in August 2015 and adopted on September 23, at the peak of the crisis.

The first *Swedish* episode, which started in January 2015, also addressed the uneven distribution of refugees across the country – municipalities instead of regions in the Swedish case. Like in Austria, the government considered that the uneven distribution of refugees among municipalities was unsustainable, but no mandatory legislation was in place. The legislative process was, however, slower and less contentious than in Austria. The bill forcing municipalities to receive refugees was eventually adopted in January 2016.

As we have already pointed out, the mood in Austria quickly changed, and the government not only introduced border controls, but it also adopted ever more restrictive asylum rules. By early 2016, the Austrian government had completely changed course: Within a four-month period, it had shifted from "an Angela-Merkel-course to a Viktor-Orbán course."⁸ The most important change of the new asylum law, which was adopted in April 2016, concerned limiting the asylum period to three years, the minimum stipulated by the EU Qualification Directive 2011/95/EU. Most controversially, however, the new law also introduced an annual asylum cap ("Obergrenze"), putting a limit on the number of refugees permitted to enter the asylum process. As Gruber (2017: 51) observes, with this decree, the Austrian government set a European

⁸ As formulated in a critical comment by the leader of the Austrian Greens, Pelz, in early February (*Der Standard*, February 7, 2016).

precedent: the provision of a quantitative limit to grant a human right. The preset upper limit has not yet been reached, which means that the decree was never applied. A second reform package adopted in summer 2017 stipulated compulsory civic integration programs for beneficiaries of international protection as well as a ban of face veiling in public – yet another tightening of the screw in Austrian asylum policy.

In *Germany*, the retrenchment of asylum law was set in motion even earlier than in Austria. Thus, the chancellor announced the legislative initiative for the first (limited) asylum package on September 1, 2015, shortly before she took the fateful decision to suspend the Dublin regulation for Syrian refugees. The proposal aimed at better accommodation of refugees and asylum seekers and at an acceleration of the processing of asylum applications. It was rapidly adopted. The second asylum package was more ambitious and more contested. It also sought to accelerate the asylum procedures and, above all, it intended to suspend the right of people in subsidiary protection status (mainly Syrians) to reunite with their family members. Negotiations between the coalition partners CDU-CSU and SPD dragged along and were complicated by the New Year's Eve events in Cologne, after which the debate shifted to deportation, that is, to the designation of Morocco, Tunisia, and Algeria as "safe countries of origin," thus easing deportations to these countries. While the Bundestag adopted the package at the end of February 2016, the Bundesrat rejected the bill in March 2017, and, once again, in February 2019.

At the time when the second asylum package was adopted in the Bundestag, the coalition partners had already started to discuss a new integration law. This law was not only new, it was also encompassing. It had been demanded by the SPD for a long time and was to regulate the details for a sustained acceptance and integration of refugees. Just like the Austrian law, the new law was an example of civic integration policies. This is reflected in the law's guiding motto of "support and demand," a programmatic slogan borrowed from the welfare reform of the early 2000s. On the "support" side, the law established integration classes that allowed asylum seekers with a high likelihood of receiving protection (including Syrians, Iraqis, Iranians, and Eritreans) to begin learning German while their claim was still pending. Moreover, access to the labor market became easier. On the "demand" side, the law stipulated that asylum seekers refusing to participate in integration classes would have to accept cuts in their benefits. It also linked the right to settle permanently in Germany with integration efforts: Permanent residency became contingent upon finding employment or training within three years of arrival for those fluent in German and within five years for those

who spoke basic German. In addition, all new arrivals seeking long-term settlement had to successfully complete an integration course. The law was rather consensual and was rapidly adopted by both chambers.

As already mentioned, after the terrorist attack by a Tunisian refugee on a Christmas market in Berlin on December 19, 2016, the issues of the return and deportation of rejected asylum seekers became particularly salient in the public debate. A new act on deportation was introduced and eventually adopted in July 2017. The new policy tried to address the relatively low return rate by facilitating the consistent deportation of rejected asylum seekers. The act was adopted only after the federal court decided that the deportation of persons posing a terrorist threat was compatible with the constitution. The new policy was again amended in 2019.

In *Sweden*, with regard to the retrenchment of asylum rules, the Social Democratic and Green Party coalition government signed an agreement with the four center right parties on October 23, 2015. Only the Left Party, which did not accept its content, and the Sweden Democrats, who were not invited, were left out of the broad compromise. The agreement proposed twenty-one measures for a more orderly asylum reception, a more efficient settlement process, and a limitation of the costs of the asylum policy. The most important measure of the package resembled the one adopted in Austria – the introduction, albeit only temporarily and limited to three years, of three-year residence permits. While both Denmark and Norway had for a long time already granted refugees only temporary protection in the first round, Sweden had in the main granted all protection beneficiaries permanent residency. When this was reversed, Sweden let go of its image as a humanitarian frontrunner and international exception on immigration policy, and instead accepted that it, too, had to (temporarily at least) lower its standards. In view of the expiration of the temporary migration law in June 2019, the Swedish government had to deal with the issue once again, which led to yet another Swedish episode on asylum rules. After the extension of the temporary migration law in June 2019 for two years, the government invited all parliamentary parties to a parliamentary inquiry into the future of Swedish migration policy from the summer of 2021 onward, when the extension of the law was to expire. The inquiry committee was, however, unable to find a consensus and in July 2020, the negotiations between the Social Democrats and the Alliance crashed. A solution is still pending at the time of writing. Just as in Germany, the last Swedish episode dealt with deportations and was running into the same kind of opposition.

Finally, two comparatively highly politicized episodes on asylum rules occurred in the closed destination states. As we have seen, in

both countries, asylum rules had already been toughened before the advent of the crisis. In *France*, however, the most politicized reform of asylum and immigration law took place under the Macron government in the aftermath of the crisis in 2017–18. The minister of the interior, Gerard Collomb, proposed toughening France's immigration policy, which met with heavy opposition from left and right as well as from human rights groups. The bill proposed shortening asylum application deadlines and doubling the time for which illegal migrants could be detained. After intense parliamentary debates, it eventually passed into law in August 2018.

In the *UK*, the Immigration Act 2014 constituted the most complex and most politicized episode, as it included a multitude of measures aimed at putting the “hostile environment” principle into practice. Legally speaking, the most controversial measure turned out to be the citizenship clause that allowed authorities to strip naturalized criminals (but not British-born citizens) of their citizenship. However, as it impacted the life of very few people, it did not become the most contentious part of the package. Instead, what made the episode hotly debated – involving stakeholders in the business world and civil society – was the extension of the controlling functions of the state to the private sector. Thus, the Right-to-Rent scheme legally mandated landlords to check the immigration status of tenants and held them legally responsible if illegal immigrants gained access to private housing. Compared to the 2014 Immigration Act, the Immigration Act of 2016 concentrated on fewer issues and was less politicized, with the Right-to-Rent scheme again in the center. The main policy innovation in this regard was the introduction of a hefty fine of up to 3,000 pounds for landlords found to be in breach of their obligations to check prospective tenants' immigration status.

The two last British measures are related to the issue of the distribution of refugees across member states – the Vulnerable Person Resettlement Scheme (VPRS) and the Dubs Amendment. The VPRS marked the British contribution to the EU's relocation scheme. The VPRS's early focus was on women and survivors of torture. Later, in September 2015, it was extended, both in numbers and in scope, to all Syrian refugees in Middle Eastern refugee camps who were eligible according to the UNHCR's vulnerability criteria. The UK government actually came close to fulfilling the target of 20,000 Syrian refugees resettled by 2020, although resettlements were temporarily halted because of the coronavirus pandemic. The Dubs Amendment, finally, can best be characterized as a minor humanitarian concession in an otherwise restrictive immigration environment: Before the Immigration Act of 2016 was adopted, Alf Dubs, a member of the House of Lords from the Labour Party and a

son of a Jewish refugee who had fled the Nazis in Czechoslovakia, had tabled an amendment that would allow the relocation of a prespecified number of unaccompanied children to Britain, even if they did not have family members residing in the UK and therefore would not have automatic right to enter via family reunification according to the legal status quo. Though originally ambitious, the actual number accepted under the amendment turned out to be quite low, numbering in the couple of hundreds rather than the thousands as originally intended.

Conclusion

Table 5.2 provides an overview of the episodes ordered by level and type of member state. It indicates the thematic focus, the start and the end dates as well as the duration of each episode, and the extent of its overall politicization. In terms of timing, we have observed that the politicization of the responses adopted by government during the crisis was most intense during the peak period, both at the European and the national level. This is in line with the expectation that the combined problem and political pressure during the peak period would incite the authorities to rapidly initiate and adopt policy responses to come to terms with the massive inflow of refugees. However, the association between politicization and pressure, both problem and political pressure, proved to be rather variable across member states and looser than expected. We have tried to account for this finding by taking a closer look at the endogenous political dynamics during the crisis. Policy responses at the national level were not only required by the failure of the CEAS and by the inability of the leaders to adopt joint solutions at the EU level, but these policies were also the result of a series of endogenous factors at the national level, which operated independently of problem pressure and, in part at least, created the political pressure in the first place. The strategies of political entrepreneurs – Orbán, Salvini, Seehofer, and Erdogan – most clearly fitted this bill, but anticipation of crisis situations to come, legislative cycles, conspicuous events like terrorist attacks, and sequels of policy decisions made earlier in the crisis all contributed to these endogenous dynamics.

In terms of thematic focus, we distinguished between border controls and internal retrenchments of asylum rules. At the EU level, four of the six episodes concerned the control of external borders, with the EU–Turkey agreement dominating all other episodes, which turned out to be the single most politicized episode during the refugee crisis because of the episode’s very high saliency at the peak of the crisis. In terms of polarization, however, it does not stick out, since all types of episodes,

Table 5.2 *Basic characteristics of the episodes^a*

Country	Episode	Thematic focus	Start	End	Duration (months)	Politicization
EU	EU-Turkey	1	2015m7	2016m9	14	1.00
EU	Relocation	2.1	2015m4	2018m12	44	0.74
EU	ECBG	1	2015m4	2018m10	42	0.05
EU	Hotspots	1	2015m6	2016m8	14	0.12
EU	Libya	1	2016m9	2020m2	41	0.04
EU	Dublin	2.1	2015m5	2019m12	55	0.31
GRE	Summer 2015	1	2015m5	2015m10	5	0.27
GRE	Hotspots-Frontex	1	2015m10	2016m5	7	0.56
GRE	International Protection Bill	2.2	2019m9	2019m11	3	0.34
GRE	Detention Centers	1	2019m11	2020m2	4	0.29
GRE	Turkey Border Conflict	1	2020m2	2020m3	2	0.34
ITA	Mare Nostrum	1	2013m10	2014m11	13	0.13
ITA	Ventimiglia	1	2015m5	2015m10	5	0.02
ITA	Brenner	1	2016m1	2016m6	5	0.22
ITA	Port Closures	1	2018m6	2018m9	3	0.65
ITA	Sicurezza Bis	1	2018m9	2019m8	11	0.60
HUN	Fence Building	1	2015m6	2016m12	18	0.62
HUN	Quota referendum	2.1	2015m11	2016m12	13	0.96
HUN	Legal Border Barrier Amendment	1	2017m1	2018m11	22	0.13
HUN	Financial disclosure	2.2	2017m1	2017m12	11	0.52
HUN	“Stop Soros”	2.2	2018m1	2019m12	23	0.49
AT	Border Control	1	2012m6	2016m12	54	0.32
AT	Balkan route	1	2015m6	2016m3	9	0.19
AT	Asylum Law	2.2	2015m3	2016m5	14	0.22
AT	Integration Law	2.3	2015m10	2017m6	20	0.09
AT	Right to Intervene	2.1	2015m7	2015m12	5	0.13
GER	Keeping border open	1	2015m8	2016m4	8	0.19
GER	Asylum Packages	2.2	2015m8	2016m3	7	0.12
GER	Integration Law	2.3	2016m2	2016m8	6	0.06
GER	Deportation	2.3	2017m1	2019m12	35	0.12
GER	CDU-CSU	1	2018m5	2018m7	2	0.02
SWE	Border Control	1	2015m7	2018m11	40	0.25
SWE	Residence Permits	2.2	2015m6	2016m9	15	0.00

Table 5.2 (cont.)

Country	Episode	Thematic focus	Start	End	Duration (months)	Politicization
SWE	Police Powers Family Reunification (12/2018– 7/2020)	2.3	2016m2	2018m3	25	0.09
SWE	Family Reunification Amendment	2.2	2018m12	2020m7	19	0.08
SWE	Municipalities	2.1	2015m1	2016m1	12	0.06
FR	Ventimiglia	1	2015m6	2015m11	5	0.22
FR	Border Control	1	2015m11	2020m2	51	0.36
FR	Asylum Law	2.2	2017m12	2019m4	16	0.75
FR	Rights of Foreigners	2.3	2013m7	2015m11	28	0.23
FR	Calais	1	2015m1	2016m11	22	0.43
UK	Immigration Act, 2014	2.2	2013m2	2014m6	16	0.25
UK	Immigration Act, 2015	2.2	2015m4	2016m5	13	0.09
UK	Dubs Amendment	2.1	2016m3	2017m5	14	0.05
UK	VPRS	2.1	2013m12	2017m11	47	0.04
UK	Calais	1	2014m8	2016m10	26	0.16

^aType codes: 1 = border control, 2 = asylum rules, 2.1 = burden sharing, 2.2 = asylum law, 2.3 = integration/return

whether dealing with border controls or with the retrenchment of asylum rules, were typically highly polarized. At the national level, the mix of measures depended on the type of member state: In frontline states, border controls prevailed, while in the UK, asylum rules prevailed. In transit states, open destination states, and France, both types of measures were important for coming to terms with the crisis situation.

With respect to the substantive content of the policy responses, continuity prevailed, with the possible exception of integration laws in Germany and Austria, which, however, also only adopted what other countries (e.g., the Netherlands) had already implemented before (see Joppke 2017). The crisis did not prove to be an opportunity for reforming the existing system. Instead, failure to reform at the EU level and retrenchment at the national level were the predominant responses. The internal rebordering between member states constitutes a persistent threat to the internal freedom of movement policy, the retrenchment of asylum rules contradicts Europe's humanitarian values, and the

externalization of the border control to Turkey makes the EU vulnerable to the whims of the Turkish president. The outcome is a form of stagnation or inertia that reproduces the policies in the asylum domain without providing the output the polity is meant to produce.

In the subsequent parts of this volume, we shall analyze in detail the actor configurations, conflict structures, and political dynamics of policymaking during the crisis to show how this state of affairs came about.

