11 Dynamics of Politicization of Policymaking between Polity Levels

Introduction

In this chapter, we study the role of the EU and fellow member states in national policymaking during the refugee crisis. As we have already pointed out, the relationship between the EU and domestic politics has often been characterized as a two-level game. The two-level game concept is specifically related to international negotiations and captures the fact that international agreements have to be ratified at home. In the EU polity, however, the two-level game is not only or not even in the first place related to international negotiations. In the EU multilevel polity, the relationship between international and domestic politics is a two-way street, with international, that is, supra- and transnational, politics spilling over into domestic policymaking, and vice versa, domestic politics spilling over into EU policymaking. The interlocking of policymaking at the EU level with policymaking at the domestic level is particularly complex in a policy domain like asylum policy, where the EU and the member states share responsibility for policy. Moreover, such policymaking is complicated by the fact that the arena of cross-level policymaking in the EU is hardly structured by formal rules, which makes unilateral action by member states as likely as cooperative problem solving.[1]

For our analysis of this two-level game in the refugee crisis, we shall distinguish between two types of interactions between EU agencies and the member states, which we have already introduced in the theory chapter: "top-down" interventions, when EU policymaking or policymaking in other member states intervenes in domestic policies of a given member state, and "bottom-up" interventions, when domestic policymaking influences EU politics or the politics of other member states. In addition, we shall subdivide each type of intervention based on the prevailing conflict that has triggered it – an international (supranational or transnational) or a domestic conflict. Scholars of European integration have

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[1] See Benz (1992) for the discussion of a comparable situation in German federalism.

used the concept of "Europeanization" to assess the top-down effects of European interventions on domestic politics, that is, the "domestic adaptation to European integration" (Graziano and Vink 2006). This focus on top-down effects was a reaction to the long-term bottom-up focus on exploring the dynamics and potential outcomes of the European integration process (Börzel 2002: 193). Following Börzel (2002), we propose to study here both the ways in which member state governments attempt to shape European policy outcomes and the ways in which they adapt to European policies. In contrast to our predecessors, however, we focus not on the eventual effects of Europeanization on national policy outcomes[2] (although we come back to them in the conclusion of the chapter) but on the conflictual interactions between EU policymaking and policymaking in the member states.

   First, we analyze the politicization of the forty national episodes in quantitative terms in order to show that episodes involving cross-level interventions are more highly politicized than purely domestic episodes. In a second step, we then choose episodes from four countries – Greece, Italy, Hungary, and Germany – to show in more detail how the cross-level interactions in the policymaking process operated during the refugee crisis.

A Typology of Cross-Level Interactions

Depending on the prevailing conflict, there are essentially two ways in which EU policymakers intervene in a top-down fashion in domestic politics. In the first way, there is a vertical conflict between the EU and a member state or a horizontal conflict between some member states with respect to the implementation of EU policy. The government of a given member state may fail to implement the joint EU policy, due to either lack of resources or lack of will. This is Börzel's (2002) case of "foot-dragging." Such behavior by a member state may lead to attempts on the part of EU agencies to directly intervene in the implementation of EU policy at the domestic level. Domestic policymakers may welcome such interventions as they increase their capacity to act, but they are more likely to resist them because such interventions tend to come with strings attached. In the domain of asylum policy, as we have seen, the Dublin

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[2] In the domain of asylum policies, three types of Europeanization effects have been under investigation (Toshkov and de Haan 2013): a race-to-the-bottom effect (member states compete in order to discourage asylum seekers from choosing them over others), a convergence effect (the common asylum policy leads to a convergence of recognition rates in the member states), and a burden-sharing effect (an effect of the EU on the distribution of asylum seekers across member states).

regulation places a major burden on frontline states for the implementation of the policy, and it is the frontline states that experienced difficulties in assuming their responsibilities during the refugee crisis. These difficulties led the destination states together with EU agencies to push for direct EU interventions in the frontline states – to improve their reception capacity (establishment of hotspots) and their capacity to patrol the external borders (upscaling Frontex into the EBCG) or to prevent secondary migration within the EU (as in transnational border conflicts between member states). Greece above all has been the object of EU interventions of this type.

In the second version of top-down interventions, it is the outcome of domestic policymaking that triggers an EU intervention into domestic politics. In this case, there is no question of foot-dragging with respect to EU policy – what is at stake here is the implementation of domestic policy that is the result of unilateral domestic policymaking and that is incompatible with or explicitly violates EU policy. In this case, the EU intervention is designed to prevent the unilateral domestic policy from being implemented. In the domain of asylum policy, this type of intervention has been applied to some of the policies regarding asylum rules adopted by Hungary because of their disregard for the rule of law.

Depending on the prevailing type of conflict, there are also two types of bottom-up interventions by member states in EU politics. The first version reminds us of Börzel's "uploading" strategy, that is, a member state's strategy of pushing a policy at the EU level that reflects the member state's policy preferences and minimizes its implementation costs. Börzel conceived of this strategy, however, mainly in terms of regulation policies, while in the asylum policy domain during the refugee crisis, this kind of strategy applied above all to capacity building. According to this strategy, a member state unilaterally deals with an international challenge and adopts a policy that serves to substitute for the failure of the EU to adopt a joint policy to deal with the challenge in question. Bottom-up interventions by member state governments of this "self-help" type may be triggered by externalities created by a third country or by other member states. In the refugee crisis, this kind of intervention occurred in the case of frontline and transit states, which took a number of unilateral measures to police the external borders of the EU. Examples are the cases of Greece and Italy, which unilaterally had to deal with third countries – Turkey in the case of Greece and Libya in the case of Italy – in the absence of joint EU action. Hungary, too, built its own fences to unilaterally secure the external border of the EU, and Austria, in turn, organized the transnational cooperative effort to close the Balkan route as a substitute for the EU–Turkey agreement that had

yet to materialize. Internal border closures can also be considered as examples of this type of bottom-up interventions to the extent that one member state unilaterally takes "rebordering" measures, that is, closes its borders with another member state and/or pushes back refugees coming from another member state.

In the second version of bottom-up interventions, domestic policymakers in some member states appeal to the EU and/or other member states to solve some domestic policy conflict. This appeal either calls for support in policy implementation (to alleviate the domestic burden) or attempts to signal that policy implementation at the domestic level is impossible because of too much domestic resistance. In the refugee crisis, it is the frontline and destination states that sought support for the redistribution of the refugees from the EU and the other member states. Germany above all sought the cooperation of its fellow member states for the accommodation of asylum seekers. Greece, as the frontline state most directly hit by refugee arrivals in summer and fall 2015, appealed to the EU for support to make up for its lack of capacity to deal with the inflow of refugees. The most conspicuous example of bottom-up signaling in reaction to EU measures during the refugee crisis is the Hungarian quota referendum, which was organized to send a message to the EU decision-makers that the EU's relocation policy was incompatible with the situation in Hungarian domestic politics. Hungary's use of domestic politics at the EU level most closely corresponds to what Putnam (1988) originally had in mind with the two-level game concept: Weakness at home is a strength on the international stage. Domestic conflict implies the impossibility of a government cooperating internationally: Its hands are tied, and it cannot participate in joint solutions such as the redistribution of refugees across member states. Note that the domestic conflict, as in the case of the Hungarian quota referendum, may be deliberately created by the government of the member state for the purpose of strengthening its position in EU-level negotiations.

For the empirical classification of the national episodes into top-down and bottom-up types, we rely on the information about EU and member state actors targeting actors from the respective other level – domestic actors targeting international (supra- and transnational) actors and vice versa. Since such cross-level targeting is comparatively rare, we chose a low threshold to distinguish episodes with cross-level interactions from purely domestic episodes: If more than 20 percent of the actions in a given episode target actors from the respective other level, we classify it as a cross-level episode. Among the cross-level episodes thus identified, bottom-up targeting prevailed empirically. To qualify for the top-down types, at least 40 percent of the cross-level targeting actions had to be

Table 11.1 *Overview over the four types of cross-level policy interventions*

Type of conflict	Type of intervention	
	Top-down	Bottom-up
International	*EU intervention in member state lacking capacity/willingness to implement EU policy* • Hotspots, Turkey Border Conflict (Greece) • Border Control (Austria) • Brenner (Italy)	*Member state intervention substituting unilaterally for EU policymaking* • Fence Building, Legal Border Barrier (Hungary) • Port Closures, Mare Nostrum (Italy) • International Protection Bill, reception centers (Greece) • Balkan route (Austria) • Ventimiglia (Italy and France)
Domestic	*EU intervention in member state to rectify incompatible domestic policy* • Civic Law, "Stop Soros" (Hungary)	*Member state appealing for EU support/signaling incapacity to implement EU policy* • Quota referendum (Hungary) • Summer 2015 (Greece) • CDU-CSU Conflict (Germany) • Border Control (France)

top-down. Based on prevailing conflict types, international or domestic conflicts (see Chapter 7), we then classify top-down and bottom-up episodes into their respective versions (see Table A11.1 in the appendix to this chapter for details).

Table 11.1 provides an overview over the four types of cross-level policy interactions and presents the episodes that are classified into the corresponding types. Six episodes (15 percent) are of the top-down type, four of the first variant, triggered by EU policies, and two of the second variant, triggered by domestic policymaking. Thirteen episodes (33 percent) represent bottom-up cross-level interactions, nine of which were triggered by EU policymaking and four by domestic policymaking. The remaining twenty-one episodes (53 percent) are of a purely domestic type.

Note that the distinction between cross-level and purely domestic episodes is closely related to the policy domain and to the type of conflict. Thus, all top-down episodes deal with border control issues, and all except one of the bottom-up episodes (the Greek International Protection Bill) also deal with border control issues or with relocation. By contrast, only five of the twenty-one domestic episodes are concerned with border control – the Italian Sicurezza laws, the Calais case (in both France and the UK this episode hardly involved European actors at all), Swedish border control, and the German suspension of the Dublin rules.

In addition, two domestic episodes deal with resettlement/relocation – the British VPRS episode and the Swedish episode devoted to relocation between Swedish municipalities. Note that the very important case of the German suspension of the Dublin rules is misclassified by the rules applied here, that is, it is not classified as a cross-level episode. As we shall discuss in the next chapter in more detail, it is actually a case of a bottom-up cross-level episode, which we can see only when we link it systematically to the EU–Turkey agreement, an EU-level episode that was crucial for German policymaking during the crisis.

Cross-Level Politicization of Policymaking Episodes

This section presents a quantitative analysis of the politicization of the forty domestic policy episodes in order to show that cross-level episodes tend to be more highly politicized. The politicization of a policymaking episode is generally a function of exogenous and endogenous factors. Among the exogenous factors, as we have argued previously, the problem pressure and the political pressure exerted on the policymakers are crucial. The problem pressure is exogenous to the extent that the policymakers cannot influence the number of arrivals of refugees, at least not in the immediate term. The policy heritage – the combination of the responsibilities assigned to the member states by the prevailing EU policy and the limited resources available to come to terms with these responsibilities – is likely to restrict the options of the policymakers, especially in frontline and transit states. We expect the enormous problem pressure in these member states to contribute to the politicization of the policy episodes, independently of the political pressures.

The political pressure includes pressure from both domestic and international (supra- and transnational) politics. Domestic political pressure is likely to be endogenous to the domestic policymaking process. It may be driven by the national opposition, by domestic civil society actors, or by opposing factions within the country's governing parties. Top-down international pressure by EU agencies and by other member states is a more exogenous factor that is likely to add and run counter to this domestic pressure. As Benz (1992: 163f) has argued, linking domestic decision-making arenas with international arenas is likely to increase the conflict intensity of policymaking processes. Cross-level interactions introduce conflicts with supranational authorities and with other member states into domestic policymaking, which expands the scope of conflict and thus contributes to the politicization of national episodes. In particular, cross-level interactions may provide the government with an incentive to deliberately create domestic pressure to reinforce its position

in the cross-level policymaking process. The politicization of domestic policymaking episodes by the national government may provide it with the reason for why it is unable to comply with EU policy requirements or for why it is required to unilaterally adopt policies that are incompatible with EU policies.

To test these expectations, we have created a dataset where the episode month constitutes the unit of analysis, that is, each episode is broken down into monthly units for which we calculate the level of politicization. The independent variables are the characteristics of the episode (cross-level interaction [top-down, bottom-up, or purely domestic] and conflict type [international or domestic]), type of member state, phase of the crisis (pre- and post-EU–Turkey agreement), and problem pressure. Table 11.2 presents the results of four increasingly complex regression models to explain the monthly politicization of the forty episodes. The first model includes only the characteristics of the episode, the second model adds the country type and the phase, the third model adds problem pressure, and the fourth model adds interactions between country type and phase.

Model 1 confirms the expectation that cross-level interactions increase the politicization of national policymaking episodes. Both top-down and bottom-up episodes are, on average, significantly more politicized than purely domestic episodes. Moreover, international conflicts are more highly politicized than domestic ones. The expansion of the scope of conflict beyond domestic politics apparently leads to an increase in politicization at the domestic level. Adding country type and phase in Model 2 doubles the R^2 from 0.10 to 0.18. Model 2 indicates that the politicization of the episodes has been greater in frontline states than in the other types of member states, a result that is attributable to the fact that all episodes in frontline states with the exception of one were characterized by cross-level interactions. Once we control for this effect, the effect of the cross-level interactions is considerably attenuated, and the effect of conflict type vanishes. The phase has, on average, no impact on politicization, which means that episodes before and after the adoption of the EU–Turkey agreement were equally politicized.

Model 3 adds our indicator for problem pressure, which has a highly significant effect on politicization, independently of the effects of the indicators already included in Model 2. Adding problem pressure, however, hardly modifies the effects of the indicators previously introduced, which is to suggest that the greater politicization of the episodes in frontline states is attributable not only to problem pressure but also to some extent to endogenous political pressure. Nor does adding problem pressure modify the R^2. Model 4 specifies that the increased politicization

Table 11.2 *Cross-level politicization of policymaking episodes: OLS-regression coefficient,* t *values, and significance levels*

	Model 1 b/t	Model 2 b/t	Model 3 b/t	Model 4 b/t
Top down	**0.075*****	**0.046***	**0.043***	**0.055****
	(4.319)	(2.397)	(2.338)	(2.973)
Bottom up	**0.045****	0.028	**0.033***	**0.051*****
	(3.127)	(1.856)	(2.316)	(3.480)
Others, ref				
Conflict type, international	**0.033***	−0.012	−0.024	−0.027
	(2.064)	(−0.710)	(−1.489)	(−1.702)
Frontline		**0.144*****	**0.131*****	**0.053***
		(7.413)	(7.092)	(2.247)
Transit		0.026	0.017	0.005
		(1.829)	(1.168)	(0.254)
Open destination		−0.008	**−0.025***	−0.017
		(−0.655)	(−2.090)	(−0.837)
Closed destination, ref				
phase 2		0.007	0.017	−0.010
		(0.742)	(1.731)	(−0.732)
Problem pressure			**0.338*****	**0.276****
			(3.913)	(2.882)
Phase 2, frontline				**0.160*****
				(5.125)
Phase 2, transit				0.020
				(0.861)
Phase 2, open destination				0.006
				(0.232)
Phase2, closed destination, ref				
Constant	0.031***	0.025**	0.017*	0.026**
	(5.520)	(2.979)	(2.167)	(3.016)
Observations	592	592	580	580
aic	−905.19	−957.93	−1010.03	−1031.41
bic	−887.66	−922.86	−970.77	−979.05
R^2	0.10	0.18	0.19	0.22

*$p < 0.05$; **$p < 0.01$; ***$p < 0.001$
b = regression coefficients; t = *t*-values; Ref = reference category

in the frontline states occurs mainly in the second phase, that is, after the peak of the crisis when the immediate problem pressure has become less pronounced. This is yet another indication that the politicization of the crisis in the frontline states was, to some extent at least, the endogenous result of domestic politics and only partly the result of exogenous problem pressure. Once we take the endogenous politicization in the

frontline states into account, the effect of the two cross-level interactions on the politicization of the episodes is again significantly enhanced. In other words, cross-level policymaking increases the politicization of the episodes in general and is not a specialty of the frontline states.

Having clarified this general point, we now turn to a detailed analysis of the variety of cross-level policymaking in the four member states, where it was most important during the refugee crisis. The Greek case will serve to illustrate both EU policy triggering top-down EU interventions to increase the domestic capacity of a frontline state to deal with the crisis and bottom-up demands of a frontline state for EU support. The case of Italy, our second frontline state, will focus on bottom-up efforts to substitute unilaterally for EU policy but will also feature an episode of top-down intervention by the EU to come to terms with externalities created by Italian policy for its neighbors. In contrast to the Greek case, the Italian example will show how factors endogenous to domestic policymaking are creating international conflicts and cross-level interactions. Third, the Hungarian case will above all serve to discuss top-down and bottom-up cross-level interactions that are rooted in conflicts endogenously created in domestic politics. Finally, the German episode will show how domestic policymaking in a member state can trigger EU policymaking in support of the member state.

Greece: The Frontline State Facing the Most Conspicuous International Interventions

Greece is the member state where intervention in domestic politics by EU agencies and governments from a third country (Turkey) and from other member states were most conspicuous. All five Greek episodes are characterized by international conflicts, which are associated either with top-down interventions in domestic politics or with bottom-up interventions of Greece at the EU level. Moreover, all Greek episodes respond to extraordinary problem pressure, given that Greece was the member states where the arrivals of refugees were concentrated, both in phase 1 and at the end of phase 2 of the crisis.

Phase 1: Summer 2015 and Hotspots

At the peak of the refugee crisis, the politicization of asylum policymaking in Greece was closely aligned with the politicization of the crisis at the EU level, as is shown by the left-hand graph in the first row of Figure 11.1, which presents the politicization of the Greek episodes by phase and adds the politicization of the EU episodes (mostly focusing on
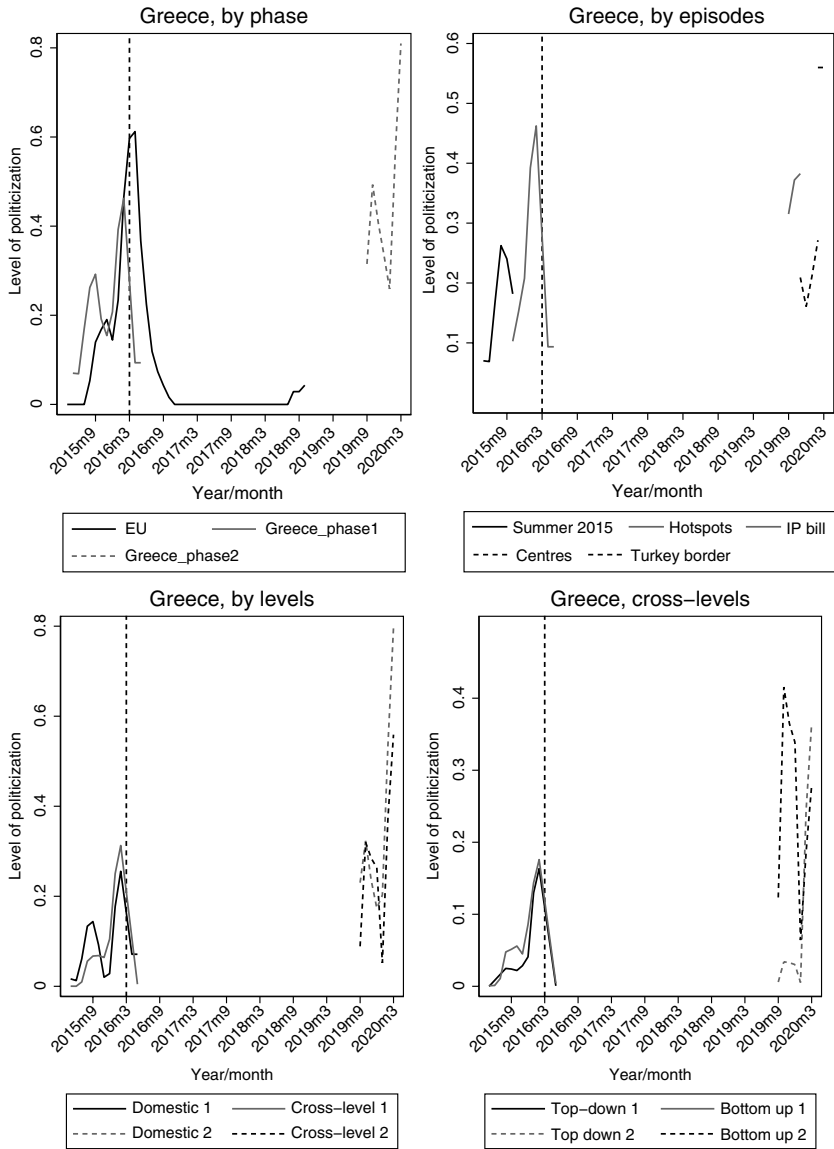
Figure 11.1 Politicization of Greek episodes

Hotspots, EBCG, Relocation and the EU–Turkey agreement) in phase 1. The negotiations related to the EU–Turkey agreement, and even more directly the elaboration of the hotspot approach and the transformation

of Frontex into the EBCG, were of immediate concern to Greece. Accordingly, Greek policymaking in summer and fall 2015 and in early 2016 took place in the shadow of EU policymaking.

In summer 2015, when Greece was first hit by the flood of refugee arrivals, the country was in fact preoccupied with the bailout process and not properly equipped and hardly willing to deal with the inflow of refugees (see Chapter 4). As is argued by Nestoras (2015: 19), the "intention to use the migration crisis in order to leverage some form of financial relief – extra funds or relaxed bailout terms – or simply to claim a moral high ground was evident from the beginning of Syriza's term in power."[3] There was "an explicit attempt to connect the Euro-crisis with the migration crisis and bargain with Greece's position as a gateway to Europe" (p. 20). Nestoras cites Defense Minister Panos Kammenos, the leader of Syriza's far right coalition partner, who did not hold back when he threatened (in March 2015) to send migrants, including jihadists, to western Europe: "If Europe leaves us in the crisis, we will flood it with migrants."[4] In the summer 2015 episode, the Greek government appealed to the EU for funds to manage the refugees. But once the EU promised to deliver, Greece was unable to administer the promised funds. Only in mid-September did the Commission announce that it had received all the required documentation regarding the management of these funds and promised to process it as quickly as possible to release the first 30 million euros (of a total allotted sum of more than 500 million euros). The Greek ministers and deputy ministers responsible for migration and foreign affairs multiplied the declaratory statements and symbolic gestures, as did the EU commissioner for interior affairs and migration, Demetri Avramopoulos, a Greek, as well as an assortment of government and EU spokespersons. But nothing much actually happened. The Greek opposition was asking for the resignation of the minister of migration policy, criticizing the government for "deafening inaction" and "complete absence of a plan." And on August 28, in the midst of the crisis, the whole government did, indeed, resign – but for reasons having to do with the bailout, not with the refugee crisis.

As is shown by the right-hand graph in the top row of Figure 11.1, this first episode was immediately followed by the more intensely politicized episode of the hotspots. The latter episode is both an EU-level episode and a Greek episode, and it represents the most clear-cut case of a top-down intervention of EU agencies and fellow member states

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[3] Syriza came to power after it won the January 2015 elections.
[4] *La minaccia di Kammenos alla Germania: "Se Ue ci abbandona, vi sommergeremo di migranti mescolati a jihadisti,"* La Repubblica of March 9, 2015.

in the domestic policymaking of a member state. What we present here is the politicization of the episode in Greece, which covers the period from October 2015, when the first deal to implement the hotspot policy was struck, to May 2016, when the final makeshift migrant camps were evacuated and the hotspot approach was fully implemented. The two graphs in the bottom row of Figure 11.1 document that during this period, domestic and cross-level politicization developed in lock-step, reaching comparable levels. The same applies to top-down and bottom-up cross-level politicization.

At the end of summer 2015, domestic politics loomed large in Greece as the country was preparing for new elections, which were to take place on September 20. Moreover, domestic politics were still dominated by the issue of the bailout and the memorandum process. With the preceding government having resigned, it was up to the Greek president to perform the symbolic gestures in asylum policy during the interregnum. The new government, which was practically the same as the old one, took office immediately after the elections, at a moment when the European governments were in the thrall of the relocation issue, which they tried to resolve under German pressure. Under the pressure of the events, the exchanges between the new government and European officials, presidents, prime ministers, and ministers of other EU member states became ever more intense, not only at European summits but also in bilateral meetings on the phone and in person. European worthies came to visit Greece to inspect the sites and to get an idea of the proportions of the problem, while Greek officials intervened with the Commission and fellow ministers in other member states to explain the Greek predicament. The EU expected Greece to set up hotspots and promised its help in setting them up, but Greece was reluctant to do so because it was afraid that the hotspots would be perceived as an alternative to relocations. Several ministers proposed that an alternative could be to build the hotspots and refugee centers directly in Turkey. Of course, when Prime Minister Alexis Tsipras went to Ankara to explore the prospects of such a proposal, he found that the Turkish prime minister, Davutoglu, was afraid of the exact same trap, that is, that relocations would never happen once hotspots were set up, and was therefore similarly reluctant to construct them in Turkey, which meant that the hot potato returned again to Greece.

As time passed, the pressure on the Greek government to get things done – to construct the hotspots and to stop the inflow – increased. The Greek strategy of evading the issue – an example of Börzel's "foot-dragging" – proved to be increasingly vulnerable to the demand from other member states to exclude it from the Schengen area and to the

determination of the Balkan countries to shut down their borders. Demands from the V4 countries for the removal of Greece from the Schengen area in December 2015 provoked a reply from the Greek minister of foreign affairs, who pointed out that the dimensions of the problem were bigger than any country of any size could handle and that it was unreasonable to expect a national solution from Greece for the joint problem. Greek protests notwithstanding, by the end of November 2015, the North Macedonian government started putting up a fence and sent police to the border, blocking the continuation of the flows along the Balkan route. Concurrently, the European institutional pressure on Greece to conform increased, and threats of excluding it temporarily from Schengen persisted. Eventually, at the end of January, the Commission gave Greece a three-month "warning" to fix the issues with border control and registration, or a temporary suspension from Schengen would be imposed. Moreover, at the West Balkan conference at the end of February 2016, under the leadership of Austria, the western Balkan countries – four EU member states (Austria, Bulgaria, Croatia, and Slovenia) and six candidate countries from the western Balkans (Albania, Bosnia-Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia) – agreed to shut down their borders. They started to do so immediately after the conference.

Faced with this threat, in January 2016, Greece joined Germany in its efforts to come to an agreement with Turkey. At this point, Prime Minister Tsipras explicitly stated that the key to the refugee crisis was "transferring the focus of the refugee crisis management to Turkey." By early February, the Greek government admitted Turkey to its list of "safe countries," so the returns to Turkey could be legally unblocked. By mid-February 2016, Germany and the key EU actors, in turn, took the side of Greece in its struggle with the Balkan countries, with Chancellor Merkel, EU Council president Tusk, and EU Commission president Juncker declaring over a succession of days that Greece could not be left to fend for itself and that the solution of closing the Balkan route was not really a solution. The EU assumed a mediating role between the two "blocks" of member states that faced each other at this point, the "hard-line" transit and bystander states led by Austria, which wanted Greece to control its borders or be expelled from Schengen, and the more moderate western destination states, like Germany and France, which were more focused on the maintenance of Schengen.

With respect to the hotspots, the Greek government ended up taking some necessary steps. At the summit in mid-December, Prime Minister Tsipras assured German chancellor Merkel that the hotspots would be completed within the next two months. To this end, the government

mobilized the army to speed up their construction at the end of January 2016. Conscripts serving on Lesvos and the other islands assisted in the construction. Locals protested and blockaded the hotspot installations, but the mainstream opposition chose to mostly leave the refugee crisis outside of domestic political conflict. Eventually, the episode became a race to the finish line, to halt the refugee flows and set up the hotspots before Greece was expelled de facto or de jure from the Schengen zone. The EU–Turkey agreement was a huge relief to the tension, as was completion of the hotspots, owing much to the army's assistance. It is not clear whether the hotspots and Frontex's assistance would have been able to stem the tide of refugees without the agreement with Turkey that ground arrivals to a halt. The episode formally ended with the disbandment of the camp at Idomeni on the Macedonian border in late May 2016.

Phase 2: International Protection Bill, Reception Centers, and the Turkey Border Conflict

The three remaining Greek episodes all occurred within a short time span at the very end of the period covered by our analysis in late 2019/ early 2020, and they are closely interrelated. As is shown in Figure 11.1, all three episodes were very short and highly politicized, with domestic and international politicization again moving in lock-step. The first two of the episodes – the International Protection Bill and the reception centers – were dominated by bottom-up politicization, while in the last episode – the Turkey Border Conflict, the most highly politicized episode overall – top-down politicization prevailed. The separation of the three episodes is somewhat artificial, as they all took place against the background of mounting problem pressure, that is, increasing arrivals of refugees, overcrowded refugee camps on the Greek islands, and increasing tensions between Greece and Turkey. The latter were spurred by repeated threats of Turkish president Erdogan to "flood Europe with migrants," but they had wider ramifications: The tensions between the two countries also involved issues about the limits of the maritime border, the Cyprus issue and sea energy fields near the island, as well as the ripples this created in their Middle Eastern alliances and interventions. For brevity's sake, we focus here on the last episode – the Turkey Border Conflict. We shall discuss the other two episodes in the following chapter.

The last Greek episode, the Turkey Border Conflict, is a top-down episode, mostly because of a combination of the intensified stand-off with Turkey and increasing supportive interventions by EU officials and fellow member states on behalf of Greece. Greece fought on two

fronts – with Turkey and with its European allies. The confrontation with Turkey was indeed critical in this short episode. It started only a couple of days after the previous episode – the island standoff on the detention centers – with the deterioration of the situation at the land border between the two countries. Turkish officials declared that Turkey "could no longer prevent refugees from illegally entering Greece." During the night of February 28, 2020, a large number of refugees tried to cross the land borders but were prevented from doing so by Greek riot police and army units. Greece was accusing Turkey of "weaponizing the refugees," while Turkey was accusing Greece of teargassing innocent people and even of killing or injuring multiple refugees with its indiscriminate use of force. Greece ramped up its frontier military presence as a response, while the Turkish minister of the interior on March 5 responded by sending 1,000 special forces units to Evros in order "to stop the efforts of the Greek army in obstructing migrants from crossing the borders." While President Erdogan ratcheted up his rhetorical attacks on Greece, calling the Greek government "fascist and barbaric," he showed a more pragmatic approach toward the EU. On March 11, he noted that he would retain the open border policy until the EU was ready to discuss financial assistance, visa liberalization, and a customs union with Turkey – objectives of the original EU–Turkey agreement that had fallen by the wayside.

While clashing with Turkey, the Greek government initiated a round of contacts with EU officials asking for their support in the effort to seal the Evros border. Commission president von der Leyen, European council president Michel, and EPP president Weber all expressed their support for Greece. The Greek government soon increased the resources for implementing its border closure, continuously sending more army and police units; asked Frontex to deploy its rapid intervention unit; and, most importantly, suspended the right to lodge asylum applications for a month. However, the flow of refugees toward the border continued unabated, turning the border into a conflict zone. Prime Minister Mitsotakis meanwhile made a symbolic helicopter visit to the border, accompanied by von der Leyen, Michel, and EP president Sassoli. In contrast to the hotspot episode in the first phase, Greece now found unwavering support not only from EU top officials, but also from Austria, Croatia, and the Netherlands, countries that had previously been protagonists in scolding Greece. The general secretary of the Austrian ÖVP went as far as pledging his "full support personally, materially and financially towards Greece and the Balkan countries, stating that Austria and Hungary would not be blackmailed by Erdogan." The foreign minister of Austria rushed to meet his Greek colleague in Athens a few days later,

declaring that Greece was "defending its borders not against the thousands of miserable victims who have been manipulated by Turkey, but against Turkey's cynical use of human suffering." Austrian chancellor Kurz would also visit Athens to declare his unwavering support against Turkey's cynical blackmail. Germany's reaction was more measured. It emphasized that despite recent developments, in the medium-term what mattered was the maintenance of the EU–Turkey agreement. Chancellor Merkel, unlike the Austrians, simply called President Erdogan, telling him that piling pressure on the Greeks was the wrong way to proceed but also assuring him that if the Europeans were unwilling, Germany was ready to provide bilateral support to Turkey instead. Merkel and Mitsotakis discussed the ongoing crisis in Berlin and attempted to find a solution that satisfied both Greece and Turkey.

The episode ended with the exploding Covid-19 crisis. As this crisis took hold of everybody's mind, the tone of the discussion started deescalating, with the Greek government declaring that there was a mutually advantageous solution, which lay in the improvement of some aspects of the EU–Turkey agreement of 2016. At the same time, border crossing attempts were scaled down, as fewer and fewer refugees appeared at the border, thus defusing the tension. As the borders generally closed down on both sides to contain the pandemic, on March 21, the last groups of refugees tried, unsuccessfully, to cross. The episode ended at the European level with Mitsotakis pleading for a renewal of the EU–Turkey agreement, a new agreement that would stipulate a flow of money inversely related to the flow of migrants rather than providing a lump sum to Turkey and that would guarantee a greater presence of Frontex at the Greek border.

Italy: A Frontline State Substituting Domestic Policy for Joint EU Solutions

Italy is the other frontline state in our country selection – a frontline state that was, however, much less affected by the refugee crisis of 2015–16 than Greece was. Four of the five Italian episodes concern cross-level interactions, mainly of the bottom-up type with prevailing international conflicts – the Mare Nostrum, Brenner, and Ventimiglia episodes during the first phase and the episode of Port Closures during the second phase. To these episodes should be added the EU–Libya conflict, an EU-level episode that was actually initiated by unilateral policy measures on the part of Italy. As is shown in the left-hand graph of Figure 11.2, the Mare Nostrum episode and one of the border disputes (Ventimiglia) preceded the peak of the refugee crisis, while the other border dispute
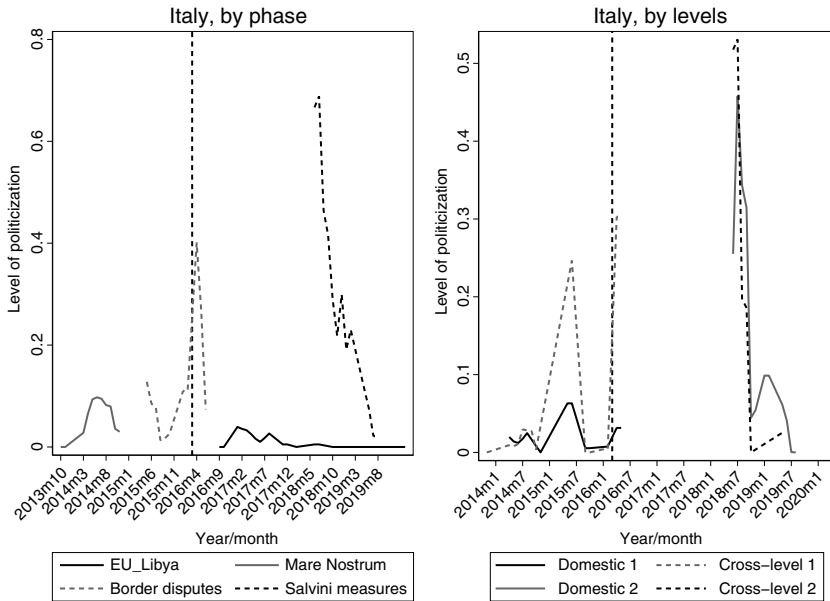
Figure 11.2 Politicization of Italian episodes

(Brenner) took place at the peak of the crisis. The most politicized episode, however, about Port Closures, occurred late in the second phase and was almost entirely unconnected to problem pressure exerted by the crisis. The right-hand graph of Figure 11.2 indicates that these episodes also gave rise to domestic politicization, but international politicization prevailed, except for the very last episode, the purely domestic episode concerning the Sicurezza decrees.

Phase 1: Mare Nostrum and Border Conflicts with Neighboring States

Already before the refugee crisis of 2015–16 hit Europe, Italy faced flows of refugees coming from northern Africa by boat across the Mediterranean. The first Italian episode, the year-long policy of Mare Nostrum, preceded the refugee crisis but was a harbinger of things to come. It represents a bottom-up attempt by Italy to solve a problem that a pan-Italian consensus considered to be a problem for joint EU operations. Initiated by the center left government of Letta, Mare Nostrum was a project that 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. Mare Nostrum built on previously existing search and rescue schemes but greatly expanded the resources and personnel made available for such operations. It was enacted after a horrible shipwreck near the Strait of Sicily on October 3, 2013, left more than 360 drowned immigrants. Mare Nostrum operated for a year before it was partially replaced by a common smaller-scale EU project, the operation Triton.

This episode was characterized by constant Italian requests for EU intervention, the EU's reluctance to make more than a minimum effort, EU claims and admissions by Italian authorities that they were interpreting their Dublin duties creatively, and demands by the domestic opposition (Lega's Salvini) to stop rescue operations altogether and focus on building capacity and reception centers in Africa instead. Italian calls on the EU member states to take action were above all articulated by Prime Minister Renzi and Minister of the Interior Alfano but would be echoed across the entire Italian political system. The more he was pressured by the domestic opposition, the more pressure Alfano would put on the EU to come forward with a solution. Even Napolitano, the president of the republic, intervened to defend the record of Mare Nostrum but also to plead for European help. Eventually, another shipwreck near Lampedusa and a more concrete proposal by Alfano mobilized the EU to promise to launch an operation that would complement Mare Nostrum. In the end, Alfano unilaterally decided to substitute Triton for Mare Nostrum, while the responsible EU commissioner (Malmström) delivered only a smaller-scale operation that the EU member states could agree upon. The final outcome was a downgrade of the Mare Nostrum operation.

The second and third Italian episodes examined in phase 1 are transnational conflicts with neighboring EU member states over Italy's border control capacity and operations. The first of these two episode involves the Italian and French governments' confrontation over Ventimiglia, where a large number of refugees had gathered to attempt to pass over the French border. The practice of the Italian border police (to unofficially allow those crossings) and the practice of the French border police (to return immigrants to Italy in a move of dubious legality) was causing frictions between the two countries. The episode is concentrated in time, as almost all action occurred in June 2015, just before the eruption of the main European crisis, which served to shift attention elsewhere. Importantly, the Ventimiglia clash incited the EU to discuss the issue and agree on some basic principles. Thus, the episode gave rise to a three-way meeting between the ministers of the interior of Italy (Alfano), France (Cazeneuve), and Germany (De Maizière), where it was agreed that EU policy ought to be based on the twin pillars of responsibility

(to register and identify) and solidarity (to distribute and provide aid). While an overall agreement on EU policy was not reached at this point, the outlines of such an agreement were laid down, as the main part of the refugee crisis was about to begin. The same themes were discussed when French president Hollande and Italian prime minister Renzi met in Milan, where a second migrant camp had mushroomed at the train station. This top-level meeting helped smooth the two countries' differences and reduce the political tension. Eventually, the episode ended with the dismantling of the migrant camps, amid organized protests by Italian activists. With the spotlight moving elsewhere, the Ventimiglia camp was dismantled in a police operation three months later, on September 30, 2015.

A similar story, but without migrants actually camping near the border, took place in the clash between Italy and Austria during spring 2016 – the Brenner episode. In this episode, the EU Commission became involved, trying to mediate between the two member states, which makes it a top-down episode. The EU Commission had at first warned Italy about its lack of effort in tackling registration, but after the Austrian government's announcement that it was planning to increase controls at Brenner Pass or close it altogether, the Commission changed sides and berated the Austrians for not respecting the Schengen and Dublin treaties, in a barrage of statements by EU Commission President Juncker and migration commissioner Avramopoulos. It is important to understand that the Brenner Pass episode occurred at the peak of the crisis and escalated in the shadow of the Austrian presidential elections, where the candidate of the radical right, Norbert Hofer, triumphed in the first round (on April 24) and was expected to win the run-off (on May 22). Within such a context, there was much less tolerance for straying from the Dublin rules and much more readiness to act in a unilateral way. The Austrian government invoked reasons similar to the ones that had led to its southeast border closures in late 2015 – the lack of registration of migrants in Italy and Italy's unwillingness to adhere to the Dublin rules. Italian prime minister Renzi, in turn, claimed, among other things, that border closures and the widespread refusal to share the burdens of this epochal challenge put the union at risk. This confrontation was more long-lived and acrimonious than the French–Italian one, as it centered not on the semiformal actions of police bodies but on the official actions of two EU member state governments. 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 pass that links Austria and Italy – would remain open.

Later in 2016, the Mare Nostrum episode got some sort of a rerun with the EU–Libya agreement, one of our six EU-level episodes. Just as the EU operation Triton followed upon the earlier unilateral Italian operation, the EU–Libya agreement was closely linked to an earlier Italian policy response. Thus, in September 2016, the Italian center left government had reached an agreement with Libya's national unity government to implement a series of urgent measures aimed at managing the migrant crisis and preventing deaths at sea. In February 2017, building on the Italian response, the Malta Declaration of the EU Council confirmed the cooperation with Libya and increased the funding of Libya's efforts to stop the flow of migrants across the Mediterranean. Accordingly, the EU subsequently assisted the Libyan coast guard in intercepting and returning migrants to Libya. The episode was a low-key affair that was hardly politicized at all at the EU level, but it once again illustrates the bottom-up cross-level interaction where unilateral policy measures by a member state at first substitute for EU policy and are then taken over by the EU as its own policy.

The episode of Port Closures, the second most politicized of all national episodes, is yet another instance of unilateral Italian action undertaken in the absence of EU policymaking, but one that was much more contested by fellow member states. What characterizes this episode is that it was largely created for domestic political purposes in the absence of acute problem pressure. While it achieved the domestic electoral purposes of the Lega (its public support rose sharply as a result of the events linked to this episode; see Figure 4.6), it failed to incite the EU to support Italy.

When the new populist Italian government took office in early June 2018, just before the EU summit that was supposed to solve Merkel's internal problems with Seehofer (see the section on Germany below), the new minister of the interior, Salvini, traveled to Libya for talks on the migrant crisis. He called for the establishment of asylum processing centers and "regional disembarkation platforms," ideas that were prominent at the summit meeting but were subsequently rejected by Libya and its North African neighbors. Salvini, however, pursued his agenda of reducing arrivals, increasing expulsions, and cutting the costs for maintaining the alleged refugees in Italy – independently of the Libyan response. He did so by focusing on the rescue ships that brought refugees they had picked up in the Mediterranean to Italian ports.

Singlehandedly, Salvini politicized this issue by creating a series of incidents involving individual rescue ships. For a few months, the incidents with these ships filled the Italian news and drew the public's attention to the migration issue. The series of events started with the case of the *Aquarius*, which Salvini faced only a few days after assuming the

post of minister of the interior. The *Aquarius*, a German NGO ship carrying 629 refugees, was trying to enter an Italian port after having been refused entry into Malta. Salvini announced that Italy was going to close its ports as well. Subsequent incidents involved the *Ubaldo Diciotti*, a vessel of the Italian coast guard, and the *Lifeline*, a ship flying the Dutch flag. Salvini refused to let the refugees on these ships disembark. More incidents with other ships followed. The episode was concluded with the final tour of the *Aquarius*, which was again denied docking rights by Italy and ended up in Malta. At this point, the ship was flying the Panamanian flag. Pressured by Italy, Panama recalled the ship's right to fly its flag, essentially ending the presence of NGO rescue boats in Italian waters. The episode of Italian Port Closures lasted until September and was then immediately followed by the one of the Sicurezza decrees, a purely domestic legislative episode also initiated by Salvini, which codified the ad hoc measures he had adopted during the summer to regulate flows, reception, and returns of refugees.

Domestically, the politicization of the port closures gave rise to great tensions between the two partners of the new populist coalition, with ministers of the M5S and the M5S president of the Chamber of Deputies distancing themselves from Salvini. But politicization also spilled over to the transnational and European levels, with other member states and the EU Commission responding in contrasting ways to the Italian port closures. On the one hand, in reaction to the first incident, the socialist Sanchez government in Spain said it would let the *Aquarius* disembark in Valencia. Commissioner Oettinger praised the Spaniards and announced that Europe should show more solidarity. No similar response materialized with regard to the *Ubaldo Diciotti*. For the *Lifeline*, an ad hoc agreement was reached for the ship to land in Malta and to distribute the immigrants aboard the ship among seven EU countries, Italy included. The main negative reaction came from French president Macron, who called the Italian stance cynical and irresponsible, while the Italian government retorted by calling Macron a hypocrite who had not offered to take any immigrants himself and had enforced much more rigid and cynical reception policies. Salvini did not miss a chance to remind Macron who was responsible for the situation in Libya, while Prime Minister Conte first canceled a planned visit to Paris and then went to Paris anyway. On the other hand, the Hungarian, Austrian, and Slovak governments supported Salvini, noting with pleasure his decisiveness in stopping the smuggling routes. The EU Commission meanwhile once again took a mediating stance, refusing to be involved in the transnational conflicts, expressing sympathy for Italian concerns, and trying to bring the new government to the table. However, the ad hoc decisions

to redistribute migrants from each ship did not result in a redesign of the Dublin agreement or any meaningful sharing scheme.

Hungary: A Variety of Cross-Level Interactions Rooted in Domestic Conflicts

All five Hungarian episodes involve cross-level interactions, though they were of varying types. Two episodes – the Fence Building and the Legal Border Barrier Amendment – refer to unilateral actions by Hungary to substitute for joint EU measures to protect the external border. Two episodes – the Civil Law of 2017 imposing a financial disclosure requirement on all NGOs receiving funding from abroad and the "Stop Soros" package of 2018 imposing an even more onerous special "migration tax" on all organizations deemed to aid immigrants – are domestic measures in Hungary that led to EU interventions to rectify domestic policy. The fifth episode – the quota referendum of 2016, the Hungarian response to the European attempt to introduce a relocation scheme – represents the case of a domestic policy signaling to the EU and the other member states domestic obstacles to the implementation of EU policy. The quota referendum was the most politicized Hungarian episode and the most politicized of all national episodes. Four of the five Hungarian episodes were highly politicized, even when compared to the high level of politicization of episodes in frontline states (see Table 5.2).

Figure 11.3 presents the politicization of the Hungarian episodes. The left-hand graph compares the border control episodes (Fence Building and Legal Border Barrier Amendment) with the episodes addressing asylum rules (Quota Referendum, Civil Law, and Stop Soros) and with the EU episodes addressing asylum rules (Relocation and Dublin Reform). As we can see, at first, the Hungarian politicization of border control moves in parallel with the politicization of asylum rules at the EU level. The two developments, however, part ways as the crisis starts in earnest. Moreover, the politicization of asylum rules at the domestic level is completely uncoupled from the corresponding politicization at the EU level. It unfolds in three waves that correspond to the three episodes dealing with relocation quotas, Civil Law, and Soros. The politicization of the Hungarian asylum rules proves to have been much more intense than the politicization of these rules at the EU level and also more intense than the politicization of border controls, except for the very beginning of the crisis, when Hungary started with its fence building. Contrary to what we have observed in the frontline states, the Hungarian politicization essentially follows a domestic logic, as is illustrated by the right-hand graph of Figure 11.3: Throughout the crisis, the domestic politicization has
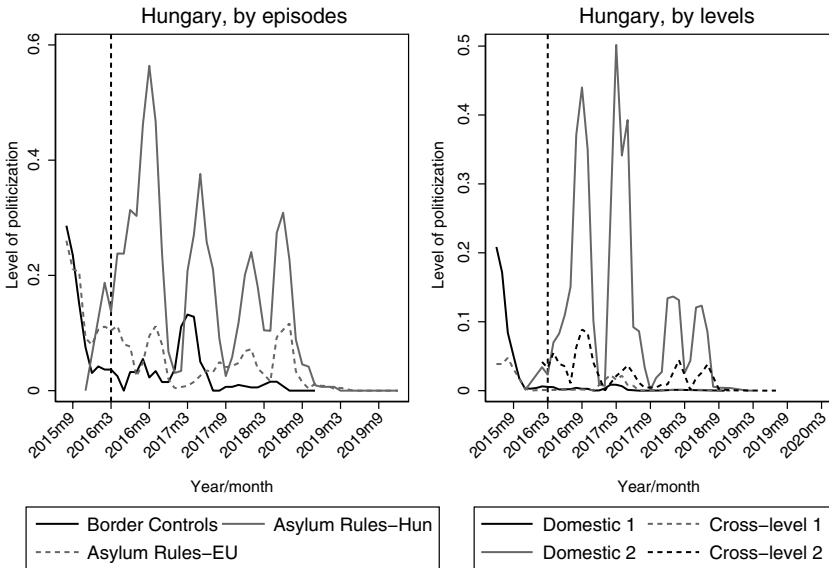
Figure 11.3 Politicization of the episodes in Hungary

been more intense than the cross-level politicization. We focus here on the bottom-up episodes, since the Hungarian top-down episodes (Fence Building and the Legal Border Barrier Amendment) have already been discussed in some detail in Chapter 6.

The Quota Referendum

The Hungarian quota referendum was held on October 2, 2016. The government submitted the following highly biased question to citizens: "Do you want the European Union to be able to mandate the relocation of non-Hungarian citizens into Hungary even without the approval of the National Assembly?" The referendum vote was preceded by an equally biased campaign. Eventually, 98.4 percent of those who voted answered no to the question, but in spite of the government's relentless mobilization, turnout did not reach the required quorum of 50 percent. Nevertheless, the referendum marked a turning point both in Hungarian domestic politics and in the EU's management of the refugee crisis. Domestically, it marked the final stand of Jobbik as the standard bearer of the Hungarian radical right. Internationally, even if the final turnout failed to pass the quorum, making the outcome constitutionally void, it laid bare the European right's almost limitless potential to politicize

the EU's relocation scheme for domestic political purposes, which ultimately led to its demise. The referendum followed up on Hungary and Slovakia's joint appeal to the ECJ against the EU's relocation decision, which would eventually be upheld by the ECJ in September 2017.

The quota referendum is a bottom-up case of cross-level interactions rooted in domestic conflicts. It was designed "to send a clear message to Brussels that it is only up to the Hungarians, with whom they want to live in their country" (László Kövér, speaker of the National Assembly). The cross-level interactions in this case were mainly driven by the Hungarians themselves who attempted to signal to the EU the domestic opposition to the relocation scheme, while EU-level actors were comparatively silent in the debate. Roughly 6 percent of total actions were of the top-down type, a rather meager share considering that the episode as a whole was targeted against an EU-level decision. By contrast, no less than 20 percent of the actions involved bottom-up interactions. Although most of the EU-level actions were targeted against the proposal, the Hungarian government could rely on some degree of support from the EU and fellow member states. Thus, in the run-up to the vote, the Dutch migration minister, representing the rotating presidency of the EU, argued that it was up to the member states to find a way to discuss the decisions in Brussels. Manfred Weber, the president of the EPP in the EP, conceded that the will of the people always mattered and added that the Hungarian government had the right to ask its citizens for their opinion. Once the results of the vote became public, a European Commission spokesperson emphasized the "democratic will" of the Hungarian people, and Robert Fico, the Slovak prime minister holding the EU presidency at that time, stated that he considered the referendum to be a legitimate and democratic tool and that he fully accepted its outcome.

The Hungarian voices directed at Europe were numerous: Prime Minister Orbán announced that he initiated the referendum to prevent an EU compulsory quota system in violation of EU law. According to him, it was unacceptable to make decisions over the heads of the people that would greatly change the lives of future generations, as the admission quota would change the ethnic, cultural, and religious profile of Hungary and Europe. His decision to introduce a referendum vote was not against Europe, he claimed, but for the protection of European democracy. He said that he called the Hungarian voters to war so that there would be no mandatory relocation quota, and he likened the attempt of Brussels to determine whom Hungary should accept to the communist dictatorship. Szijjártó, the foreign minister, added that western European politicians always talked about the importance of democracy, and then, when a government asked its people for their opinion on an important issue,

they questioned the most democratic tool, the referendum: "What is this, if not double standards, hypocrisy and ambiguity?" According to him, the union's proposal to penalize the rejection of quotas was "simple blackmail."

Hungarian spokespersons not only defended democracy but also insisted on national sovereignty. Prime Minister Orbán claimed that a referendum was the only thing that could not be taken lightly in Brussels. According to him, if the Hungarian referendum was successful, Brussels would have to back down: "The Hungarian government wants a democratic European Union, whose internal relations, rules of life, ethnic composition and culture are determined by Europeans, not by a bureaucratic elite in Brussels acting against the will of the peoples of Europe." He added that uncontrolled immigration was not a human rights issue but a security issue. After the vote, Prime Minister Orbán informed Jean-Claude Juncker, president of the European Commission, by letter about the outcome of the quota referendum on October 2. The prime minister indicated that in order to enforce the will of the overwhelming majority of the participants in the referendum, the cabinet had decided to initiate an amendment to the constitution. In his letter, Orbán claimed that the amendment proposed by the government would be in full compliance with EU law.

Two Additional Episodes on Asylum Rules

The Civil Law and the Soros Law represent domestic conflicts that gave rise to disciplining top-down interventions on the part of the EU, since these laws violated fundamental European values. If the quota referendum was still directly connected to the EU-level politicization of the relocation scheme, the domestic politicization of the Civil Law and the Soros Law could no longer be credibly related to migrant flows as an existential threat to Hungary's security and sovereignty and to interventions at the EU level. As a result, the grace period that characterized the Orbán government's immediate response to the crisis turned into a domestic war of attrition between the government and civil society in which the latter could count on the unwavering support of the parliamentary opposition, EU actors, and civil society organizations themselves. With respect to cross-level interactions, both of these laws were challenged by infringement procedures launched by the European Commission. Moreover, the EP also took measures by accepting the Sargentini report, with a detailed list of the Hungarian government's various infringements of the rule of law, including "Stop Soros", in September 2018. Both the Civil Law and the "Stop Soros" Law were ultimately struck down by the European Court of Justice in 2020.

Germany: Seeking EU Support to Overcome Domestic Conflicts

Germany provides two episodes of domestic, intragovernmental conflicts that led the government to seek support from the EU to solve the domestic conflicts. The first example concerns the episode of the suspension of the Dublin regulation by Germany in September 2015. This episode is classified as a purely domestic episode, which is misleading because it is intimately linked to the EU–Turkey agreement, which served as the German chancellor's plan B to come to terms with the domestic conflict that had been unleashed by her unprecedented decision to suspend the Dublin regulation and to admit refugees to Germany who had traveled from Greece across the Balkan route to ask for asylum in Germany. The episode of the EU–Turkey agreement is an EU-level episode – but one that was intensely discussed in Germany. According to the criteria applied to classify cross-level episodes, the German discussion of this agreement would qualify as a bottom-up cross-level episode: More than 40 percent of the actions reported in the German debate on the EU–Turkey agreement involved cross-level interactions, and the overwhelming majority of these cross-level interactions were of the bottom-up type. We shall discuss this episode in more detail in the next chapter. The other example of intragovernmental German conflicts spilling over to the European level is the CDU-CSU Conflict in summer 2018, which also induced the German chancellor to seek support at the EU level to solve her differences with her coalition partners. This episode qualifies as a bottom-up cross-level episode rooted in domestic conflicts.

Figure 11.4 shows the close alignment of German domestic politicization with the politicization of asylum rules (Relocation Quota and Dublin Reform) at the EU level during the first phase and then again in summer 2018. This alignment is a result of spillover processes from German policymaking to the EU level. In the first phase, as Germany attempted to come to terms with the crisis domestically, it at the same time put pressure on the other member states to get the relocation quota passed in the Council of Ministers in an attempt to share the burden of reception and integration of asylum seekers. It is only once Germany failed to obtain a relocation scheme from its fellow member states that it turned to an agreement with Turkey as the second best solution. The renewed alignment of German policymaking with the politicization of asylum rules at the EU level in summer 2018 is the result of yet another spillover of domestic German conflicts to the EU level. In both instances, it was mainly intragovernmental conflicts that led to the cross-level politicization of policymaking.
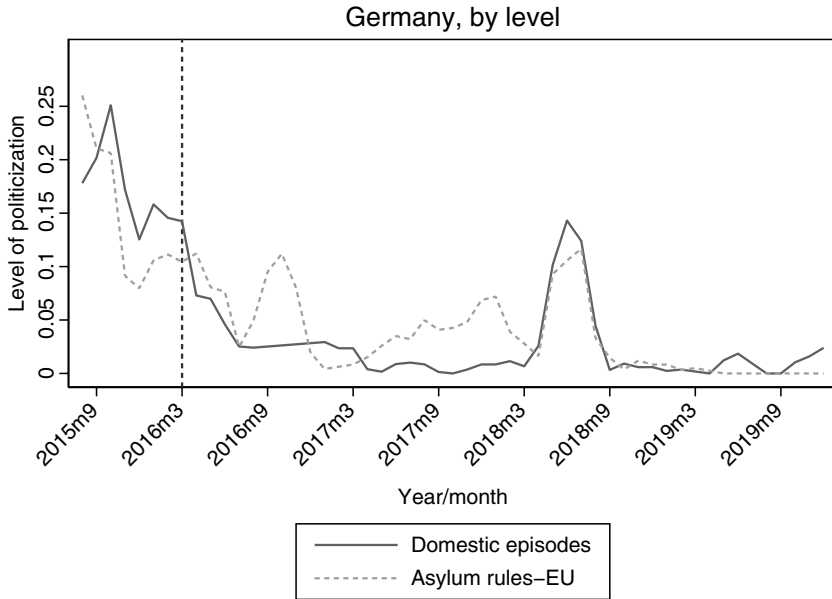
Figure 11.4 Politicization of German episodes and EU episodes concerning asylum rules

The border control issue returned to German politics when Horst Seehofer, the head of the CSU and the most vocal critic of Merkel's open-doors approach in 2015–16, became minister of the interior in Merkel's new grand coalition cabinet that took office in March 2018. It was Seehofer's attempt to implement his hardline asylum policy that gave rise to the second border control episode in Germany. In early June 2018, Seehofer insisted on turning back at the German border two categories of refugees: those who had already been registered in other countries and those against whom a reentry ban had been imposed in the past. He met with resistance on the part of Chancellor Merkel, who had legal and practical objections and pleaded for a coordinated European solution instead. The issue unleashed an open power struggle between the two, which developed into a highly politicized episode (although it does not register as such in Table 5.2, because of its very short duration).

On June 18, 2018, Merkel asked Seehofer for a two-week timeout to solve the issue at the European level. More specifically, Merkel wanted to negotiate bilateral return agreements with Italy and Greece so that refugees could be returned in a coordinated manner, plus a "European solution" that she promised to offer as an alternative to Seehofer's approach

involving rejections at the border. A week and a half before the upcoming European summit, there was, however, little clarity about what such a "European solution" would look like. Merkel intensified cross-national negotiations in preparation for the upcoming summit. First, she seized upon the occasion of the Franco–German summit at Merseburg Castle on June 19 to discuss curbing migration with French president Emmanuel Macron. Macron assured Chancellor Merkel (CDU) of his support to find, "together with some other states," solutions to sending back already registered refugees. Macron promised to speak to Italy's new prime minister Giuseppe Conte, who had just taken office as the head of the Lega–M5S coalition government. Next, she relied on EU Commission president Jean-Claude Juncker for the organization of a preparatory summit of "interested states" in the run-up to the European summit of June 28–29. At the request of Merkel, Juncker invited the heads of state and government of sixteen particularly affected EU countries (among them Austria, Italy, France, Greece, Bulgaria, and Spain) to Brussels for a meeting a week before the summit of the European Council to discuss a "European solution" to the migration crisis.

Meanwhile, Seehofer insisted on sending a signal to the German public. He ordered that the federal police should, starting on July 1, reject refugees against whom a reentry ban had been imposed in the past, and he reiterated the proposal to reject refugees who had already been registered for asylum in another EU country. He threatened to break up the coalition if his plan were not adopted, and CSU parliamentary group leader Alexander Dobrindt no longer ruled out that the dispute over the refugee policy could mean the end of the union party comprised of CDU and CSU. The SPD, in turn, was urging the coalition partners CDU and CSU to resolve their asylum dispute before the next coalition committee meeting. Federal president Steinmeier (SPD) heavily criticized the conflict between CDU and CSU and supported Merkel's plea for a joint EU solution to the conflict about the reform of the European migration policy.

In the government declaration in the Bundestag just before the European summit, Chancellor Merkel (CDU) spoke engagingly. She warned against a unilateral German solution and suggested that asylum policy could become a fateful issue for the future of Europe. Seehofer was not present in the plenum, and the CSU reacted coolly. At the summit in Brussels, Merkel fought for her job. At first, a compromise failed to materialize. Merkel met with massive resistance from Italian prime minister Giuseppe Conte, who blocked all decisions that had been prepared in the run-up to the summit. He asked for a radically new policy, which would include abandoning the Dublin rule. Although Germany and Italy shared common interests as key frontline and destination

states, they failed to find a common ground at the meeting. While Conte was ready to understand the asylum issue as one concerning the whole of Europe, he refused to accept that the obligation to rescue people at sea implied the obligation to treat their asylum requests in the name of all of Europe. EU Council president Donald Tusk and EU Commission president Jean-Claude Juncker were then forced to cancel their scheduled press conference. Eventually, however, the heads of state arrived at an agreement: A concept for disembarkation platforms would have to be elaborated for refugees who had been rescued in the Mediterranean – this was a measure to reduce the attractiveness of the business model of smugglers (in response to an old Italian demand and building on an idea of Tusk). In addition, so-called controlled centers were to be built by member states on a voluntary basis, where decisions would be taken about who had a right to protection (an idea of Macron). The recognized refugees would be distributed over the member states – on a voluntary basis. However, much was still unclear about details and, as it turned out, the proposals remained a dead letter.

Merkel, however, was relieved. She had achieved little in terms of a solution to the migration crisis but a lot in terms of saving her chancellorship. At the press conference following the summit, she was asked whether the result of the summit was functionally equivalent to the immediate rejection of already registered refugees at the border (as demanded by Seehofer and the CSU). She claimed that if everything were to be implemented as discussed, the adopted proposal would be more than functionally equivalent and there would be real progress. Seehofer insisted that the summit solution was not functionally equivalent, but, surprisingly, in a direct meeting between the two on July 2, he and Merkel arrived at a compromise. Refugees who were caught at the border, although not allowed to enter or stay in Germany because they had been already rejected previously (a very small group indeed), were exempted from the compromise because Seehofer had already ordered the federal police to reject them at the border after July 1. Refugees who had already been registered in another country where they had asked for asylum (a larger, but still comparatively small, group of 35,000 persons per year) would be directly returned to the country responsible for them – but only if there was an agreement with the country in question. If there was no such agreement, they would be rejected at the border with Austria. Those refugees who were rejected were to be put into buildings of the federal police close to the border or in the transit zone of the Munich airport (the so-called transit centers).

Nobody knew exactly what the compromise implied in practice and whether it was legally possible to implement it. The SPD angrily opposed

the transit centers, and the opposition voiced a sharp critique. Austrian prime minister Sebastian Kurz, caught off guard by this asylum compromise, issued a sharp reaction: "We are certainly not ready to conclude contracts at the expense of Austria." In a subsequent joint meeting, Seehofer and Kurz decided to increase the pressure on the Italian government to take back refugees who desired to go to Germany. Meeting shortly afterward, the interior ministers of Germany, Austria, and Italy tried to negotiate an agreement about the return of asylum seekers to Italy. Meanwhile, Merkel tried to accommodate the SPD, declaring that under the German constitution, asylum seekers could be held in transit centers for a maximum of two days. If the transfer to the country where they had already been registered was not successful within this lapse of time, they would have to be brought to regular facilities. Nevertheless, Seehofer considered his conflict with Chancellor Merkel about the refugee policy to be over: There were disagreements about content but no personal bad feelings, he claimed. They could "look each other in the eye" even after an argument. Seehofer justified his threat of resignation by claiming that he would not allow himself to be thrown out of office by a chancellor "who was Chancellor only because of me." On July 10, he finally presented his "master plan" for migration policy for faster asylum procedures and more consistent deportations, which he had already announced in March, even before the new government was sworn in, but was prevented from publishing by the conflict with the chancellor. Facilitated by the EU-level interlude, the compromise in early July essentially served as a face-saving device for Merkel and Seehofer and did not change much in Germany's asylum policy.

Conclusion

In this chapter, we took a closer look at the cross-level episodes, which include roughly half of the national episodes of our study. This is a remarkably high share, which indicates that national asylum policymaking is taking place in the shadow of EU policymaking. These episodes have been more intensely politicized than purely domestic episodes, since they involved the expansion of conflict beyond the national borders both in a transnational and in a vertical direction. Cross-level episodes have either been rooted in domestic conflicts that expanded up into the international realm or in international conflicts that were closely associated with domestic politics. We have presented a fourfold typology of such cross-level episodes, which distinguishes between top-down and bottom-up cross-level interventions for both international and domestic conflicts. Top-down interventions involve attempts of EU agencies and/or fellow member states to impose EU policy implementation on

a defaulting member state – either by providing support or by imposing disciplinary measures – or to prevent a member state from implementing domestic policies that are incompatible with fundamental EU values. Support may be forthcoming in terms of capacity building (providing the member state with additional resources), in terms of regulation (adapting some policies to the needs of the member state), or in more exclusively symbolic terms. As we have seen, additional resources have been provided to Greece in the hotspot episode, and to Italy in the context of Triton and the EU–Libya agreement. Support has also been pledged in more symbolic terms, as in the case of Greece's border conflict with Turkey and in the case of the German intragovernmental conflict in 2018. However, in regulatory terms, support for frontline and destination states has not been forthcoming, and several of the episodes just ended nowhere, with the attention of the public and policymakers turning elsewhere and leaving the issue lingering. Calling a defaulting member state back to order may include material sanctions but also punishments such as exclusion, shaming, and shunning, as is illustrated by the Hungarian Civil Law and "Stop Soros" episodes. In the refugee crisis, such measures have been ineffective.

Bottom-up interventions involve unilateral policy measures on the part of a member state to substitute for EU policies that have not been forthcoming, the appeal by a member state to the EU/fellow member states for help, or its signaling of the impossibility of implementing joint policies. Faced with unilateral measures by member states, the EU/fellow member states may attempt to mediate between the member state adopting the measure and other member states directly concerned by the externalities of the measure, as has occurred in several of the cases we have reviewed here (the border conflicts between member states, the Italian Port Closures). The EU may also attempt to develop a policy of its own that is able to build on and replace the unilateral policy of the member state in question, as in the cases of Mare Nostrum, the EU–Libya agreement, and the EU–Turkey agreement (which served to replace the unilateral Balkan Route Closure). But the unilateral action by a member state may also prevent the EU from adopting joint solutions and have a paralyzing effect, like the Hungarian quota referendum and the associated actions of the V4.

The intense cross-level interactions in the domestic episodes during the refugee crisis demonstrate the interdependencies between the member states and between the member states and the EU in this policy domain. At the same time, they also demonstrate the difficulties in coming to joint solutions, even under great pressure, and the amount of effort that it takes to search for joint policies in a polity that requires consensual decision-making.

Table A11.1 *Politicization of episode types*

Episode ID	C type[a]	Top-down	Episode ID	C type[a]	Bottom up	Episode ID	C type	Others
Turkey border conflict	V	**0.56**	Port Closures_it	V	**0.51**	Sicurezza Bis	N-G	**0.15**
Hotspots	T	**0.22**	Internat. Protection B.	V	**0.37**	Asylumlaw_fr	N-P	**0.14**
Summer 2015	N-P	**0.15**	Reception centres_gre	T	**0.24**	Righttointervene	N-P	**0.11**
Civil Law	N-S	**0.13**	Quota referendum_hu	N-P	**0.22**	Calais_fr	N-P	**0.06**
"Stop Soros"	N-P	0.07	Brenner_it	V	**0.19**	Immigrationact_2014	N-P	0.05
Bordercontrol_at	V	0.06	Ventimiglia_fr	V	**0.14**	Asylumpackage_de	N-G	0.05
Bordercontrol_swe	N-S	0.03	CDU-CSU_de	N-G	**0.10**	Asylumlaw_at	N-P	0.04
			Fence Building_hu	V	0.09	Integrationlaw_de	N-G	0.04
			Balkanroute_at	V	0.07	Immigrationact_2015	N-S	0.03
			Suspension of Dublin_de	N-G	0.07	Rightsofforeigners	N-P	0.03
			Mare Nostrum	T	0.05	Integrationlaw_at	N-G	0.02
			Ventimiglia_it	V	0.05	Municipalities	N-S	0.02
						Family Reunification (12/2018–07/2020)		
			Legal border barrier_hu	T	0.02	Family Reunification A.	N-P	0.02
			Bordercontrol_fr	N-P	0.02	Calais	N-S	0.02
						Residence Permits	N-P	0.01
						Dubs Amendment	N-P	0.01
						Deportation	N-S	0.01
						VPRS	N-P	0.01
						Police Powers	N-S	0.01
Mean: politicization		0.10			0.09			0.04
Mean: salience		0.09			0.08			0.04
Mean: polarization		0.47			0.44			0.31

[a]Conflict type: V = vertical, T = transnational, N-P = national-partisan, N-S = national-societal, N-G = national-intragovernmental.