

2 Theoretical Framework

Our approach to the management of the refugee crisis of 2015–16 builds on the polity approach to the EU integration process (Ferrera, Kriesi, and Schelkle 2023) and attempts to elaborate it in various ways by making use of insights from the grand theories of European integration in combination with concepts and ideas from comparative politics and policy analysis. This has the advantage of tying the supranational and national policymaking during the crisis together within one and the same theoretical and empirical framework. Such a combination allows one to systematically link policymaking at the two levels of the EU polity and to consistently focus on the prevailing conflict configurations at each level individually and jointly at both levels.

The challenge of the refugee crisis focused on bounding, that is, on the internal and external bordering of the EU, with important implications for binding and bonding. In a certain sense, bounding is the precondition for binding and bonding. Without the creation of external closure, it is hard to develop internal feelings of community and to create a center of political authority able to take binding decisions for the entire community. As observed by Schimmelfennig (2021), open boundaries not only weaken the community's capacity to protect itself against outside intervention (e.g., military attack, terrorism, crime), they also tend to weaken internal communal ties. The weakening of bonds of identity, in turn, may undermine the willingness of individuals to contribute to the public good and engage in social sharing. Solidarity may suffer both from the opportunities to exit (e.g., tax evasion, capital flight, and brain drain) and from the opportunities to enter (e.g., when those who enter benefit from the public goods without ever having contributed to them). Weak identity and solidarity undermine the consensus that constitutes the social foundations of democracy (Dahl 1956). By contrast, higher and better-enforced barriers and congruent external boundaries reduce exit and entry opportunities. Schimmelfennig (2021: 323): "Locking in actors and resources helps to preserve the cultural homogeneity and identity of the people living inside the territory, strengthen institutions

of social sharing, protect the territory from outside threats to security – and thereby build the social foundations of democracy” (Bartolini 2005: 36–53; Rokkan 1974: 49).

Schimmelfennig (2021: 324) expects community deficits – such as threats to national identity, rising inequality, or an increase in crime and military vulnerability – to lead to the politicization of boundaries and to rebordering pressures. The question is whether such pressures lead to more internal or external rebordering. Schimmelfennig expects that, for reasons of efficiency, such pressures increase demands for external rather than internal rebordering: Internal rebordering would constrain the benefits of increasing scale in the EU. However, efficiency considerations clash with community considerations. Thus, exogenous shocks, such as the refugee crisis, which render both external and internal boundaries highly salient, tend to activate the underlying integration–demarcation conflict and mobilize partisan contestation at the level of the member states in the name of defending the national community. This mechanism is likely to enhance internal rebordering, even if the member states are closer to each other than to non-member states. As a result of these contradictory influences (see Chapter 1), the refugee crisis has given rise to what Schimmelfennig (2021) calls *defensive integration*, that is, a combination of measures of mainly internal rebordering (the resurrection of barriers between member states or their exit from common policies or the EU altogether) with external rebordering (the creation and guarding of “joint” external EU borders).

In this chapter, we elaborate our argument to account for this outcome. This argument, as we have already pointed out in the introductory chapter, focuses on the policymaking process. In other words, it is the binding component of the polity approach that constitutes the center of our theoretical attention. The crisis led to the politicization of the EU’s boundaries – internal and external, both at the EU level and at the level of the member states. We shall try to explain why it was “defensive integration” rather than “dilutive integration,” full integration, or disintegration that was the chosen outcome of this politicization process.

We divide the presentation of our theoretical framework into three parts: First, we discuss the underlying conflict structure in the EU’s compound polity of nation-states. Then we turn to the politicization of policymaking during the crisis, which is a function of both the specific characteristics of the crisis situation and some key characteristics of the compound polity. Finally, we discuss possible outcomes and their determinants in terms of policy (“defensive integration”) and in terms of polity (the underlying conflicts and their political structuration).

The Underlying Political Conflicts of the Refugee Crisis

“Defensive integration” constitutes a limited, minimum common denominator solution to the refugee crisis, an outcome predicated on the combination of conflicts between member states, between the central EU authorities and member states, and finally within member states. Our analysis will be guided by the key notion that the outcome of the policymaking process fundamentally depends on the political structuring and politicization of the underlying conflicts in the crisis situation and the political dynamics unleashed by it.

We start from the observation that the EU polity has a two-level structure that invites political structuring at both the supranational level of the EU and the national level of the member states. Similar to coming-together federations, in the compound polity of the EU, the conflict structure *at the EU level* is dominated by the *territorial* dimension. This dimension produces two lines of conflict: a vertical one, focused on the powers of the polity center vis-à-vis those of the member states, and a horizontal one, revolving around the specific interests of the member states. Throughout the twentieth century, functional conflicts became increasingly important in the nation-states. Thus, territorial structuring was complemented by partisan/ideological structuring. This facilitated central consolidation – the formation of a center capable of speaking directly to “the people” and of advancing system building. In the EU, however, the conflict structure is still dominated by the territorial dimension. Given the strength and direct legitimation of national centers, the territorial channel of representation (via the European Council and Council of Ministers) has remained more important than the corresponding functional channel (via the European Parliament [EP]).

Accordingly, the main political fault lines at the EU level run between member states and between member states and the EU agencies. Only recently have party-based conflicts gained some visibility and salience in the EP arena. Interstate conflict is by definition *horizontal* and pitches (coalitions of) member states against each other based on material and normative interests. Conflicts between member states have many triggers and targets. In the refugee crisis, they led to the politicization of internal and external boundaries and of national communities. The dividing lines between member states that emerged during the crisis were above all the result of the differential incidence of the crisis: The immediate problem pressure differed from one state to the next depending on the policies in place, the state’s geographical location, and its attractiveness as a destination state for asylum seekers. In our subsequent analyses, we shall distinguish between five types of member states that developed very

distinct interests during the crisis: frontline states (Greece and Italy); transit states (Austria and Hungary); and destination states, which are further divided into two subsets – restrictive (France and the UK) and open destination states (Germany and Sweden), depending on their institutional and political openness toward incoming refugees. In addition, there is the category of the bystander states, which were not directly concerned with the crisis but which played an important role in its management nevertheless.

According to the Dublin regulation, border states are responsible for any asylum seeker entering the EU (i.e., the Schengen area) through their territory. In the refugee crisis, this regulation shifted the obligation of accepting and integrating asylum seekers to the southern European frontline states, where they first arrived in the EU. But, as we know, the bulk of the asylum seekers did not stay in these frontline states but continued their journey toward the north of Europe. On their way, they traveled across the transit states such as Hungary and Austria. The classification of Austria as a transit state instead of a destination state might be contested, since Austria received a comparatively large number of asylum seekers, too. But as we shall see, the data point toward Austria having been above all a transit state. Our distinction between two types of destination states is partly informed by the member states' policies and border control practices during the refugee crisis (more open versus more restrictive) and partly by their prior policy regimes (IMPIC dataset, Helbling 2016). Germany and Sweden were the principal destination states during the refugee crisis, while countries like France and the UK remained largely untouched by the inflow of asylum seekers. In addition to these four types of member states, there is a fifth category – the bystander states, a category that was not at all directly concerned with the crisis. Among these states were several eastern European countries, as well as countries like Ireland and Portugal.

Based on their common preferences, member states often form transnational coalitions. New intergovernmentalist scholars have provided evidence that national preference formation in the EU has become an inherently transnational process that involves governments of member states (Kassim, Saurugger, and Puetter 2020; Fontan and Saurugger 2020; Kyriazi 2023). Moreover, under crisis situations where uncertainty and urgency prevail, national preference formation and European-level bargaining tend to become simultaneous processes, with policymakers being involved and negotiating at the national and the EU level at the same time (Crespy and Schramm 2021). At this bargaining stage at the European level, transnational coalition formation is a crucial part of policymaking (see Wasserfallen et al. 2019 for the Euro area crisis).

The *vertical* component of the territorial conflict configuration at the EU level refers to the relationship between the EU agencies and the member states. The supranational institutions may be pitted against (coalitions of) member states. Once decisions are made, they become collectively binding and directly enforced by the ECJ (European Court of Justice). A given member state can thus feel dominated by the center when its interests are defeated and undesired policies are implemented. In this case, conflict may indeed take on a vertical drift, turning into opposition against the EU as such. As Mair (2013) has argued, it is the lack of a government–opposition nexus at the EU level that opens the door to opposition in principle against the polity – to Euroscepticism and to populist reactions against the loss of control at the domestic level.

At the *national level*, the European integration process has, indeed, given rise to a nationalist reaction to European integration in the party systems, which is part and parcel of a larger conflict opposing cosmopolitans-universalists and nationalists-communitarians that has by now been restructuring domestic European party systems for decades. This new structuring conflict raises fundamental issues of rule and belonging and taps into various sources of conflicts about national identity, sovereignty, and solidarity. Importantly, in addition to the European integration process, migration has become the most important issue that has been politicized by this conflict. The conflict is structurally rooted, opposing the “losers of globalization” or the “left behind” against the “winners of globalization” or the “cosmopolitan elites” (Kriesi et al. 2006).¹ While the mainstream parties have mainly taken the position of the “cosmopolitan elites,” the preferences of the “losers” have above all been articulated by the new challenger parties of the radical right.

The radical right had become a most vocal and visible opposition in the party systems of most northwestern European countries (except for Germany) before the advent of the refugee crisis, while it had not been as present yet in the party systems of southern and eastern Europe. Already before the refugee crisis, the new divide had initiated a break with the period of a permissive consensus, and conflicts over Europe had been transferred from the backrooms of political decision-making to the public sphere. As argued by postfunctionalists, with the increasing importance of

¹ Scholars have used different labels to refer to this new structuring conflict at the domestic level – from GAL-TAN (Hooghe, Marks, and Wilson 2002), independence-integration (Bartolini 2005), integration-demarcation (Kriesi et al. 2008, 2012), universalism-communitarianism (Bornschieer 2010), cosmopolitanism-communitarianism (Zürn and Wilde 2016), and cosmopolitanism-parochialism (Vries 2017) to the transnational cleavage (Hooghe and Marks 2018) and the cleavage between sovereignty and Europeanism (Fabbrini 2019: 62f).

this conflict, identity politics have become more important for decision-making at the EU and national levels (Deutschmann et al. 2018; Kuhn 2019). In the refugee crisis, joint action was constrained, and conflicts between member states were reinforced by the domestic politicization of national identities produced by the uneven distribution of crisis pressures within the EU polity. Consistent with the predictions of postfunctionalist theory, the tension between the uneven distribution of costs and benefits of crisis resolution at the international level and the limited scope of community feelings at the national level has made opposition to EU policy proposals more vocal. As a matter of fact, for the radical right, the refugee crisis constituted a golden opportunity to mobilize its nationalist constituencies against the admission and integration of refugees in its own country, including opposition to any joint schemes of international burden-sharing that would have increased the number of refugees to be admitted on the national territory. The decision-makers at both levels of the EU polity were exposed to the *political pressure* exerted by the radical right at the national level and had to come to terms with it.

However, the conflict structure at the domestic level of the member states cannot be reduced to the conflict between the nationalist radical right and cosmopolitan and pro-European forces. As a matter of fact, we face a much more complex reality domestically. If the ultimate source of partisan conflict is the radical right opposition, the pressure on government more often is likely to come from the mainstream opposition that tries to pin the government into a corner by accusing it either of doing too little in coming to terms with asylum seeker flows or of excesses and inhumane treatment of asylum seekers. As a matter of fact, the electoral success of the radical right parties has prompted mainstream parties to engage in strategic responses to fend off this electoral threat, often by shifting their own programmatic position toward a more restrictive stance on immigration (Abou-Chadi and Krause 2018; Abou-Chadi et al. 2020). In the extreme, such strategic positioning can play out within the government itself in the case of coalitions, and especially grand coalitions (Engler et al. 2019; Höhmann and Sieberer 2020), where coalition partners compete not only with the radical right but also with each other in an effort to send credible signals to voters that their concerns are heard. In this context, center right parties face the dilemma of whether an anti-immigration stance will advantage them in the electoral competition or whether it will play into the hands of the radical right.

The dilemma for the center-left parties is that they are trapped between the principle-based expectations of a left-liberal electorate and the threat of an exodus to the radical right of its traditional working-class voters. As

center-left parties shy away from outright humanitarian positions, especially if they are part of a coalition government, nonpartisan actors are likely to enter to fill the void. The most likely candidates for such a role are political actors who are driven less by electoral considerations than by humanitarian and legal principles, such as NGO groups; intellectuals; church actors; and more broadly speaking, civil society actors. At the national level, we expect a more general conflict to emerge between governments and such civil society actors as a result of the parties' turn to more restrictive policy positions on immigration. In addition to such a domestic conflict, a similar conflict is likely to emerge at the EU level, too, given that the EU and its member states adopted a realist strategy of "defensive integration." At the EU level, the humanitarian position is also likely to be defended by civil society actors, together with supranational organizations charged with a humanitarian task, such as the UNHCR. Chapters 6 and 7 present the conflict structures at the national and the EU levels, and Chapter 9 provides a closer look at the framing of the refugee crisis by parties from the right.

Finally, in the compound EU polity, the national government is involved in the inter- and transnational conflicts that play out at the EU level. The existence of these parallel conflict lines is perhaps the most important feature of the structural political preconditions at the domestic level during the refugee crisis. Throughout this crisis, governments were involved in a two-level game, with their bargaining power in the European arena conditioned by the type and the intensity of conflict they faced from domestic stakeholders.

Policymaking in the EU Polity under Crisis Conditions

The crisis situation is first of all policy domain specific. It corresponds to the extraordinary moment of urgency and uncertainty that poses an immediate threat to the proper functioning of the policy domain challenged by the crisis, not necessarily to the polity as such. We claim that whether joint action at the EU level is forthcoming depends above all on two sets of factors – the policy-specific institutional context within the compound polity and the characteristics of the crisis situation. The policy-specific institutional context refers to the competence distribution in the policy domain at the moment the crisis intervenes and to the institutionalized decision-making procedures that govern the crisis interventions, while the characteristics of the crisis situation refer to the intensity and distribution of the problem and political pressure, that is, the crisis incidence, among the member states. Although their impact is hard to separate, we shall consider these two sets of factors in two

separate sections and begin with the crisis situation. Chapter 4 will present the details of the crisis situation.

The Crisis Situation: Problem Pressure and Political Pressure

The immediate *problem pressure* is crisis specific, as is the distribution of the pressure across member states. The refugee crisis represents a specific type of crisis in terms of its problem structure and in terms of the distribution of its incidence across the EU member states. We expect the spatial distribution of crisis pressures to directly affect the policymakers' perceptions of the tradeoff between the functional scale of governance and the territorial scope of community that lies at the heart of postfunctionalist theory (Hooghe and Marks 2009).

The crisis-induced distribution of problem pressure may be more or less symmetrical. Crucially, in the refugee crisis, the incidence of the crisis across EU member states was *asymmetric*. Some member states were hit hard by the crisis, while others hardly experienced any problem pressure at all. An uneven exposure to a crisis creates a differential burden of adjustment. By contrast, the presence of a common, *symmetrical* threat experienced by all the member states of the EU multilevel polity is likely to be a powerful driver of expanded expectations of community to the transnational level. As in the Covid-19 crisis, the shared experience of a crisis may reduce the salience of constraints imposed by national identities and facilitate an extension of transnational solidarity (Genschel and Jachtenfuchs 2021). This is the key insight from the work on federalism as a theory of regional integration by William H. Riker and David McKay, who characterize federations as the result of a bargain between central and regional elites intent on averting a common existential threat (see McKay 2004). In the absence of such a commonly perceived threat, national identities and related political pressures are likely to be reinforced, and joint action becomes rather more difficult to achieve.

The uneven incidence of the crisis among the member states makes for a complex configuration of transnational interests. Given the cumulation of both problem and political pressure in the open destination and transit states, we would expect these states to become the major protagonists not only in the national responses to the pressure but also in the search for a joint EU policy response to the crisis. For these states, stopping the inflow of asylum seekers and sharing the burden of accommodating the refugees who had already arrived was a priority. In the short run, the two types of states shared a common interest, which aligned them with the frontline states but placed them in opposition to the restrictive destination and the bystander states, as the latter were not directly concerned

with the inflow and would have had to bear the brunt of burden sharing. However, even if, with respect to the inflows, the interests of the transit states were clearly in line with those of the open destination and frontline states, with regard to accommodation, the position of transit states was more ambiguous, since they clearly benefited from the secondary movements of the asylum seekers within the EU. Moreover, the interests of the frontline and destination states were not fully aligned either: If they shared a common interest in the short run, they were on opposing ends with regard to the reform of the CEAS. Together with the other member states, open destination states were in favor of restoring the Dublin regulation, which attributes responsibility for accommodating incoming asylum seekers to the frontline states. By contrast, the expected priority of the frontline states was reform of the CEAS in such a way that they would no longer have to assume the entire responsibility for accommodating the inflow of new arrivals. We would expect them to accept support in handling the reception of asylum seekers – under the condition that they would not have to assume the entire responsibility on their own and that they would not be forced to accept interventions imposed by the EU and other member states.

In addition to its asymmetrical incidence, the problem structure of this crisis implied a high degree of *urgency* but only a limited degree of *uncertainty*. In terms of the comparison with natural catastrophes, this crisis had an avalanche (or earthquake) structure. Such a structure is characterized by generally expected and cumulative developments that suddenly escalate (see Pierson 2004). The immediate effect calls for urgent action. The policy response is typically one of rapid deployment under constrained creativity. In such a case, we do not expect major shifts in the political underpinning of the status quo. Given the accumulated previous experience with refugee crises, one could have seen this crisis coming. As we shall see in Chapter 4, the EU Commission was, indeed, preparing for its advent. But as a result of a series of nondecisions in the face of the rising threat, when the crisis finally escalated, it still found the member states unprepared and required responses under conditions of high urgency.

In the absence of a joint approach to the looming threat of a crisis, *unilateral actions* on the part of some member states become more likely, with individual member states reacting to their specific crisis situation and relying on their own policy heritage. Thus, in reaction to the mounting pressure during the refugee crisis, given the dysfunctionality of the CEAS, we expect a “free-for-all,” with member states adopting unilateral policies adapted to their own crisis situation – the frontline states waving through the flood of asylum seekers, the transit states doing the

same and building their own fences, and the destination states closing their borders. But note that in a compound polity such as the EU, the interdependence among the member states increases the likelihood that unilateral actions of some member states create important externalities or *spillover effects* for other member states. In the refugee crisis, the spillover effects were widespread and literally visible for anyone to see. They took the form of secondary movements of asylum seekers across borders of member states. Such spillover effects got the policymakers in some member states into a situation where they were trapped by the suddenly mounting crisis pressure and left without any options to respond. In this crisis, the sequence of events arguably ended up trapping the governments of the open destination states in such a way that they could do nothing but accept the normative power of the facts on the ground, at least in the short run.

In a compound polity, these endogenous spillover effects set in motion *cross-level and transnational interactions and conflicts*. We expect the important spillover effects to have created a particularly large number of cross-level and transnational interactions. In a symmetrical crisis, such as the Covid crisis, where all member states are hit in similar ways, they are all likely to take unilateral actions, too. But given that they are all hit in similar ways, their actions are likely to be rather similar and similarly consequential for their fellow member states. In such a situation, fellow member states are less likely to react unilaterally to the others' actions and more likely to look for joint reactions on the part of the supranational institutions. Cross-level and transnational interactions are expected to lead to higher levels of politicization, since they involve the expansion of conflict beyond the national borders both in a transnational and a vertical direction. In addition, we expect such conflicts to involve higher levels of government support at the national level because of a "rally-around-the-flag" effect, which leads national actors to close ranks in the face of trans- or international challenges.

In this respect, it is important to distinguish between *two sets of issues* that have been politicized during the refugee crisis: issues of border control and asylum rules (including integration laws). Modifications of national asylum rules have primarily domestic implications (at least at first sight), while it is border control measures that have a direct impact on other member states and trigger conflicts between member states and/or between member states and third countries. We expect border control measures to be of prime importance in frontline and transit states, which are directly confronted with the inflow of asylum seekers and the unilateral actions that originate the secondary movements of asylum seekers. By contrast, in destination states, asylum rules ought to play a

more important role. The frontline and transit states try above all to fend off new entries by closing their borders and/or to get rid of the inflow by opening up their borders for secondary movements. The destination states, by contrast, are stuck with their inflow of asylum seekers and try to make themselves less attractive by changing the asylum rules to allow them to accept a lower number of asylum seekers in the future and to return increasing numbers of them to their countries of origin. At the EU level, we expect border control measures to be more accessible for joint solutions than changes of asylum rules, at least as far as external borders are concerned: Closing the external borders allows for reducing the joint burden, while changing the EU asylum rules inherently implies a redistribution of the burden that is hard to achieve. Internal rebordering is situated somewhere in between these two extremes because it tends to involve only a subset of (neighboring) countries, which makes finding a solution more palatable.

For the analysis of the cross-level and transnational interactions in the refugee crisis, it is useful to distinguish between “top-down” interventions, when EU policymaking or policymaking in fellow member states intervenes in domestic policies of a given member state, and “bottom-up” interventions, when national policymaking influences EU politics or the politics of other member states. EU authorities may directly intervene in a top-down fashion in the implementation of EU policy at the national level if a member state fails to implement the joint EU policy. This is Börzel’s (2002) case of “foot-dragging.” The EU may also attempt to “download” the implementation of a certain policy to specific member states if it lacks the capacity to do so on its own. Conversely, the EU may intervene in national politics to prevent some domestic policy that is incompatible with a common EU approach from being implemented. In the bottom-up variety, a member state may signal to its fellow member states and the EU that it is unable to implement the EU policy because of national resistance or because of a lack of resources. It may call on the EU or other member states for help to meet the crisis challenge, or it may unilaterally deal with the challenge and adopt a policy that it then may try to “upload” to the EU level. National policymakers may also find themselves in a situation where they face domestic political pressure that threatens their very political survival, given the policies they are forced to adopt. In the face of such pressure, they may call for EU coordination and intervention to come to their rescue, as Greece did in the Euro area crisis. EU policymakers may want to ignore such calls, but, depending on the power of the member state and the perceived threat to the EU polity of a member state’s policy failure, they may be obliged to intervene. In the refugee crisis, several member states needed to turn to the

EU for rescue – either because their unilateral capacity fell short of the task they faced (frontline states) or because they were, indeed, trapped by the unilateral actions of frontline and transit states (Germany). In each case, the call for support triggered attempts at EU policymaking but, as we shall see, not always with great success.

Following Börzel (2002), we shall study both the ways in which member states have adapted to European policies and the ways in which they have attempted to shape European policy outcomes during the refugee crisis. In contrast to our predecessor, however, we focus not on the eventual effects of Europeanization on national policy outcomes but on the conflictual interactions between EU policymaking and policymaking in the member states and its consequences for policy outcomes. Depending on the crisis situation in a given member state, the same policy decision at the EU level may work out very differently in the member states concerned. We shall show how this differential impact played out in the case of the EU–Turkey agreement, comparing the cases of Germany and Greece. Chapters 11 and 12 will focus on cross- and transnational interaction processes.

Although we argue that the characteristics of the crisis situation constitute important preconditions for the policymaking, we readily acknowledge that policymaking is shaped not only by the exogenous characteristics of the crisis situation but also by a set of factors related to endogenous political dynamics, which are only superficially related to the intensity of the crisis: 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 had been set in motion all contributed to the politicization of the crisis, too. Thus, immigration-related 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), too. As the emergency politics literature reminds us (see Chapter 1), there can be strategies of “crisisification” (Rhinard 2019). According to one strategy of political entrepreneurs, action may be explicitly 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). An alternative strategy of political entrepreneurs consists of creating a crisis where there is hardly a policy problem at all. 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. The greater the concentration of the episodes in

time, the greater the impact of the characteristics of the crisis situation can be assumed to be; by contrast, the greater the variation of the timing of episodes within and across countries, the greater the likelihood that endogenous factors play a role (see Chapter 5).

Institutional Context and Policy Legacies

Policy responds to the consequences of *policy legacies* (Hecló 1974). Past policies create a situation of path dependence that limits the available choices for policymakers in the crisis situation. They do so by generating institutional routines and procedures that constrain decision-making. In particular, policy legacies constrain the range of available options (Pierson 2004). In the multilevel polity of the EU, the heritage of past policies refers both to the EU and the domestic level. We shall consider four aspects of the institutional context and policy legacies in particular.

First, depending on the policy domain, the *competence distribution* between the two levels varies a great deal, with important consequences for the policymaking process. Thus, in policy areas where the EU has high competence, it is more likely for European institutions to be situated at the heart of the crisis resolution process. As suggested by Schimmelfennig (2018), when the EU has high competence in a policy domain that is directly affected by the crisis, supranational authorities most notably the European Commission and the European Central Bank (ECB), have both the autonomy and the resources to preserve and expand supranational integration. Where the EU competences are low, European institutions lack the capacity to make an independent impact on crisis management. Moreover, we expect conflict intensity to be lower in policy domains of high EU competence than in domains of low EU competence because in policy domains of high EU competence, the leverage of opposing transnational minority coalitions is more limited than it is in domains of low EU competence.

As we have already seen, in the *asylum policy domain*, the EU has rather low competences and heavily depends on intergovernmental coordination among member states. In this domain, responsibility is shared between the EU and the member states. While the latter have retained core competences, their policymaking still depends on the common Schengen–Dublin framework. In asylum policy, the mixture of interdependence and independence of the member states imposes reciprocal constraints on the decision-makers at each level of the EU polity: While the interdependence imposes constraints on the policy response of national policymakers, the independence that national policymakers have retained constrains the decision-making in asylum policy at the EU level. The

limited competence of the EU in the asylum domain poses a great challenge for policymaking in the crisis, a challenge that is enhanced by the diversity of the policy heritage in the various member states.

Second, in a policy domain like asylum policy, where intergovernmental coordination looms large, the institutionalized power hierarchy between member states constitutes an important factor. Thus, member states have different vote endowments – depending on size – in the Council, including the European Council, and different capacities to contribute to the common good. Large member states not only have a stronger position in the policymaking process than smaller member states do, they are also expected to make a larger contribution to the common good, as is suggested by the public goods literature, since they have potentially more to lose (in absolute terms) from the nonprovision of the public good and are also the ones who are able to unilaterally make a significant contribution to the provision of the good. In the case of the refugee crisis, the common good consisted of both the securing of human rights and solidarity norms (Suhrke 1998), and in greater security and stability as a result of reduced tensions at the borders and limited secondary movements of asylum seekers (Thielemann 2018: 70; Lutz, Kaufmann, and Stünzi 2020). Informally, larger states may also provide leadership for the resolution of the crisis. Thus, Germany and France, the union's largest members, have often exercised joint leadership in crisis situations (Krotz and Schramm 2022).

This more or less institutionalized power hierarchy may be reinforced, but also undermined, by the crisis-induced power relations. The latter, in turn, depend on the distribution of the crisis incidence. As liberal intergovernmentalism tells us, the states that are hardest hit by the crisis find themselves in a weak bargaining position and are most willing to compromise, while the fortunate member states are in a strong bargaining position, which makes them least willing to compromise (Moravcsik 1998: 3). Thus, in the Euro area crisis, Germany's hierarchical position was reinforced, since it was the main creditor of other member states. By contrast, the refugee crisis demonstrates how the institutionalized power relations in the EU may be undermined by the EU's limited policy-specific competences and by the crisis-induced spillover processes between member states. The combination of these two factors goes a long way to explain why Germany, the most powerful member state of the EU, failed to impose its preferred joint solution. Indeed, Germany's capacity to play the role of a stabilizing hegemonic power in the EU proved to be limited in this crisis (Webber 2019: 17), which suggests that crisis-induced bargaining positions may trump institutional power relations. As it turned out, Germany's efforts to arrive at collective solutions

was undermined by some member states trying to minimize their own burden of processing asylum seekers and hosting refugees. We shall present German case studies in Chapters 6, 10 and 11.

Third, as regards the decision-making mode, we insist on the importance of what we call *executive decision-making*. New intergovernmentalism stresses that intergovernmental coordination has become the key decision-making mode in the EU in general and particularly in crisis situations (Bickerton, Hodson, and Puetter 2015; Fabbrini 2019; van Middelaar 2019). Fabbrini (2019: 93ff) characterizes this decision-making mode as a system of voluntary coordination among member states, without any legal restrictions on their choices. In this decision-making mode, it is the heads of member state governments (in the European Council) and responsible ministers (in the Council of Ministers) who assume a decisive role. These are precisely the actors who provide the critical link between the two levels of the EU polity. As a result of their dual role – that of head of state or government representing a country in European negotiations and that of member of the European Council representing Europe back home – the executives of the member states become the pivotal actors in the two-level game linking domestic politics to EU decision-making. Accordingly, we expect the governments of the member states and their key executives to play a pivotal role not only in domestic policymaking but also in policymaking at the EU level.

Under crisis conditions, the role of key executives of both the EU and member states is likely to become even more prominent. Under such conditions, which combine high political pressure in the sense of conflict-laden salience with high time pressure (urgency), executive decision-making is expected to become the preferred mode of decision-making both at the supranational and the national level. In a crisis, policymaking is no longer confined to the policy-specific subsystem (asylum policy in our case), but it becomes the object of macro-politics or “*Chefsache*,” to be taken over by the political leaders who focus on the issue in question. In the terminology of the punctuated equilibrium model of policymaking, executive bargaining occurs as a result of “serial shifts” from parallel to serial processing (Baumgartner and Jones 2002). The decision-making mode of intergovernmental coordination corresponds to the EU-specific version of executive decision-making.

In intergovernmental coordination, the member states have joint responsibility, and in this decision-making mode, deliberation and consensus have become the dominant behavioral norms (Bickerton, Hodson, and Puetter 2015: 2), which is largely explained by the prevailing unanimity rule. Under this rule, every member state has a veto position. However, in the Council of Ministers, QMV (qualified majority

voting) and RQMV (reverse qualified majority voting), as applied in the excessive deficit procedure, have become prevalent modes of decision-making.² These alternative decision-making modes of intergovernmental coordination reduce the possibilities for member states to veto joint solutions and strengthen the center. They can be used in an attempt to impose joint solutions, and they have been used in this way during the refugee crisis. However, these efforts have been to no avail. In the EU polity, the consensus requirements among executives from the member states prove to be very high, and they are disregarded only at high costs, as we shall show. Chapters 6 and 7 will present the key actors at the national and the EU level and confirm the role of executive decision-making in this crisis.

Last, but certainly not least, the focus on heads of member state governments crucially introduces partisan contestation into the management of the refugee crisis, since, at the level of the member states, the national governments are exposed to party competition. We build on postfunctionalism and its insight that national preference formation has shifted from the elite arena of issue-specific negotiations – involving interest groups, executives, and supranational bodies in the distribution of the policy gains of integration – to the mass arena of identity politics. In this arena, *partisan contestation* determines national policymaking, and identities and values contribute to shaping integration preferences (Hooghe and Marks 2019). Partisan contestation was crucial in the refugee crisis. Above all, given the distribution of competences in the asylum policy domain, the bulk of the political decision-making processes took place at the domestic level. Short-term executive-led crisis management has activated opposition from both pro-demarcation and pro-integration forces in the party system and beyond.

Overall, how can we expect the national elite to react to the problem and political pressures of the crisis situation? With respect to the rising problem pressure, we entertain contrasting expectations. Thus, the rally-around-the-flag perspective suggests that the elite will close ranks behind government proposals. By contrast, the party competition perspective suggests that nongovernment elites use the strategic opportunity offered by mounting problem pressure to articulate opposition to the government's proposals and signal distance from government as a result. With respect to rising political pressure, the expectation is more clear-cut: In response to the growing strength of the radical right, the political elite is likely to step up dissent. Moreover, the governments' opponents are

² RQMV implies that sanctions are approved by the Council of Ministers unless a qualified majority turns against them.

expected to systematically respond to each other's expressed level of support to the government's initiatives. Though the government, by virtue of its central role in the policy process, is indeed the main originator or target of conflict, other actors are hardly expected to act in isolation when they decide on their response strategies.

Indirectly, via its consequences for *government composition*, partisan contestation also influences policymaking at the EU level. Thus, we should not only consider the radical right and the parties under its influence as an oppositional force at the national level, but we should also take into account the possibility that such forces may become part of the national government coalition or even the dominant governing party. In the compound EU polity, this implies that the intergovernmental policymaking process may be decisively shaped by the outcome of the national partisan electoral competition. By determining the government's composition, the national electoral competition at the same time shapes the constraints of the policymaking process at the EU level. In the refugee crisis of 2015–16, there were already member states with nationalist-conservative governments that took up the policy stances, frames, and themes of the radical right and mobilized their voters in the name of their opposition to the EU's management of the crisis. Moreover, these governments formed a transnational sovereignty coalition (Fabbrini 2022), which attempted to block joint solutions to the crisis. We expect the policymaking process at the EU level to become more difficult the more the government composition in the member states includes parties that represent the policy positions of the radical right, whether they belong to this party family or are rather situated on the nationalist-conservative right (such as the Hungarian or Polish governments under Orbán and Kaczyński) or the nationalist-conservative left (such as the Slovak Smer government). Chapter 8 focuses on government composition and domestic conflicts, Chapter 10 studies the drivers of elite support in the refugee crisis.

To sum up the impact of the crisis situation on policymaking, we expect that policymaking in the refugee crisis was characterized by a primarily intergovernmental process of crisis resolution, as required by the lack of significant competence and capacity of EU institutions in the domain of the crisis. At the EU level, we expect policymaking to have been characterized by hard-nosed bargaining and for it to end up being stalled due to the perceived divergence of interests among asymmetrically exposed EU member states. Consistent with the postfunctionalist framework and the notion of “constraining dissensus,” we expect to find irreconcilable divergences in intergovernmental fora, catalyzed by the high degree of politicization of identity issues both between and within

member states. At the national level, we expect a plethora of unilateral actions that create spillovers for other member states and trap some of them in impossible situation, which, in turn, results in important cross-level and transnational interactions and conflicts.

Crises Outcomes

Crises often act as “windows of opportunity” for the introduction of new joint solutions. However, in the refugee crisis, the joint presence of intergovernmental crisis management and heightened politicization of national identities has acted as a powerful constraint on the crisis policy-making process, increasing the likelihood of minimum common denominator solutions based on narrowly defined member states’ preferences and making joint policy initiatives harder to achieve (Ferrara and Kriesi 2021). As we know, the breakdown of the EU’s asylum system in the 2015–16 crisis has mainly 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). There was a lack of a push for more integrative solutions. At the national level, we also witness continuity with past legacies: The crisis led to the reintroduction of border controls at the domestic borders and to a further retrenchment of asylum policy across the member states but not to any fundamental changes of policy. 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). Chapter 5 will present an overview of the policy responses at both the EU and the national level.

Reform of the dysfunctional EU asylum policy proved to be impossible. We expect that two factors mainly contributed to this outcome: on the one hand, the early policy failure (relocation scheme) at the EU level, and on the other hand, the stop-gap externalization solution (EU–Turkey agreement) that was adopted at the peak of the crisis. The early policy failure has undermined mutual trust among the member states and has lastingly poisoned the mutual relationships between them. The successful stop-gap solution has taken off the pressure for more far-reaching reforms. As a result, both capacity and motivation to reform declined, and the can was kicked down the road in a series of non-decision-making episodes. The early policy failure, in turn, has to be interpreted in terms of the underlying master conflict between integration and demarcation: As we shall show, it is the result of the mobilization of national identities by nationalist-conservative governments that deliberately used the issue to radicalize their opposition to joint solutions. Such mobilization

processes against joint solutions by member state governments are, of course, most likely in member states that are not directly affected by the crisis. Moreover, we would expect that such mobilization processes occur especially if the potential beneficiaries of joint solutions are widely perceived as undeserving because of earlier domestic policy failures (such as Germany) or as untrustworthy because of endemic structural incapacities (such as Greece).

In spite of the great threat to EU survival perceived in the citizen public (see survey results reported in the previous chapter), no disintegrative dynamic developed at the elite level to threaten the survival of the EU polity during the refugee crisis. It has been argued that not only were national measures and externalization sufficiently effective, but supranational integration among member states was actually not functionally necessary in this crisis (Schimmelfennig 2022; Genschel and Jachtenfuchs 2018). This kind of argument downplays the dysfunctionality of the existing system of European asylum policy and also neglects the indirect consequences of the unresolved issues of asylum policy for subsequent crises in the EU. Given the importance of the integration–demarcation conflict in the European party systems, asylum policy remains a potent means for electoral mobilization on the left and on the right. The large opposition to immigration in some member states is bound to constrain the options available to policymakers because it is likely to constitute a major obstacle to joint solutions. Chapters 13 and 14 address the explosive potential of migration-related issues among the voters, as well as the electoral consequences of the refugee crisis.

More specifically, we should not only consider the consequences of the crisis for policymaking at the EU level. The problem pressure in the destination states may be such that it constitutes a fundamental threat to the survival of political regimes, governments, political parties, and their leaders. We would argue that the refugee crisis provided the crucial impetus for the emergence of the illiberal democracies in Hungary and Poland: Political entrepreneurs in both countries seized the opportunity to transform their political regimes and thereby created the rule-of-law crisis. In terms of threats to governments, parties, and their leaders, in the Euro area crisis, this concerned mainly the southern European member states (see Hutter and Kriesi 2019). In the refugee crisis, we expect that this danger loomed large above all in the northwestern European destination states, and especially in Germany, where a grand coalition dominated by a center right party (the CDU-CSU) was held responsible for the large inflow of asylum seekers. As has been already pointed out, the German government, and especially the dominant center right party, was caught by surprise and found itself trapped by the incoming flow of

asylum seekers. It had to adopt policies that were obviously unpopular with large parts of the dominant party's electorate. We expect leaders of governments who are trapped in this way to look for the EU to come to their rescue by adopting EU measures that alleviate the pressure they are facing. Whether such support will be forthcoming depends, as we have already pointed out, on the distribution of the pressure among the member states and on the support such a government finds among the EU authorities.

However, contrary to the Euro area crisis, we do not expect the refugee crisis to have triggered a wholesale transformation of party systems in some member states. Except for some open destination states, we suggest that the refugee crisis provided much more room for strategic choices by parties, since it was cumulative and expected and, overall, posed less of a threat to the individual governments. The parties could anticipate the potential political impact of the issue and either shield against it or try to exploit it more or less successfully, depending on the case at hand. For individual parties, the crisis provided opportunities to benefit from the increased salience attributed to the immigration issue by the mainstream media and European electorates. We expect that right-wing actors who were persistent on their anti-immigration message and "owned" the issue enjoyed electoral gains at the expense of their proximate party families and the left. We do not suggest, however, that the drivers of the politicization and those who reaped benefits from this right-wing drift were necessarily the same in every country. Instead, we expect the beneficiaries to vary depending on the country-specific context of party competition.

Conclusion

To summarize our main expectations: We expect the management of the refugee crisis to be heavily shaped by the underlying political conflicts in the compound EU polity of nation-states, by the crisis situation that prevailed as a result of the policy-specific heritage, and by the combination of problem and political pressures at both levels of this polity in interaction with a set of particular characteristics of the EU polity. The vertical and horizontal territorial conflicts that are typical of this compound polity are expected to have been exacerbated by two aspects of the crisis situation in particular – the limited number of competences of the EU in the policy domain of asylum policy and the asymmetrical incidence of the refugee crisis among the member states. Finally, we formulated some expectations with regard to the crisis outcomes at the two levels of the polity. At both levels, previous assessments argue for more continuity

than change – in terms of both policy and conflict structures – and limited spillovers from policy to polity change. However, we argue that the implications for the maintenance of the compound polity created by the way the crisis was managed may have been more problematic than meets the eye at first sight.

Our approach is compatible with the “failing-forward” framework as far as the outcome of the crisis is concerned. But this framework lacks concepts for the analysis of the policymaking process that we provide. At the same time, our framework is also compatible with the neofunctionalist approach as far as the importance of spillover processes is concerned. Contrary to neofunctionalism, we insist, however, that these spillover processes do not necessarily contribute to further integration but might, instead, undermine such integration by creating externalities for fellow member states that induce the latter to adopt internal rebordering measures and to create “circles of bonding” that may prove to be highly divisive for the future of the EU polity. Our framework also borrows from intergovernmentalism, whether in its liberal or its renewed version. The refugee crisis was primarily managed by intergovernmental coordination, in close interaction with the EU authorities, most notably with the Commission. The crisis-induced power relations between member states are as expected by liberal intergovernmentalism, and the details of executive decision-making are precisely in line with the expectations of new intergovernmentalism. However, contrary to liberal intergovernmentalism, we do not consider interest groups to be of prime importance for the management of a crisis like the refugee crisis. In this crisis, where identity issues loom large and are activated by partisan contestation in the member states, the political pressure exerted by party competition is much more important, in line with the expectations of postfunctionalism.