Lokaritgerð til MA-gráðu í Evrópufræðum.

Perspectives on the EU challenges: East-West fracture on the Migrant Crisis

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Abstract:

The current refugee crisis in Europe has become an increasingly urgent issue in European Union's political agenda. Congestion effect in Greece and Italy demanded immediate response and proved that European asylum policy is not sustainable enough to absorb large numbers of immigrants. The purpose of this research is to investigate what caused a clash of opinions between the Member States when mandatory quotas for refugee relocation were introduced as a strategic solution. Along with a case study analysis of Germany and Hungary, and theories of European Integration, this research will present how different was the response towards asylum crisis and what were the main obstacles while formulating collective strategy. Pointing out solidarity issues that European Union has been facing for a while, it is also crucial to tackle further challenges that go along with the crisis. Added to this is growing nationalism and the rise of right-wing political parties that demonstrate opposition to European integration and negative discourse against immigration. Up to this point, European Union experienced profound crises before, and all of them led to a certain change across different policy areas. Consequently, this research will argue, that recent asylum crisis only proved, that the EU needs to introduce a major migration policy reform urgently.

Key words:

Asylum crisis, European Integration, Mandatory relocation, Refugees, Supranationalism vs Intergovernmentalism.
Preface

This essay is the final project for the Master’s Degree in European Studies at the Faculty of Political Science of the University of Iceland. Final paper contains 30 ECTS out of 120 ECTS for Master’s Degree. Research paper will be conducted during the beginning of spring semester of 2020 with the aim to graduate in February 2020. The supervisor of my thesis is Maximillian Conrad, Associate Professor at University of Iceland. I would like to sincerely thank him for his patience, guidance and constructive criticism during the writing process.
# Table of Contents

Abstract: ............................................................................................................................... 5
Preface .................................................................................................................................. 6

List of Abbreviations and Acronyms .................................................................................. 9

1. Introduction .................................................................................................................. 10

2. Methodology and analytical framework ...................................................................... 11
   2.1 Relevance of the thesis topic and research questions ............................................. 11
   2.2 Qualitative research method and comparative case study ...................................... 12
   2.3 Overview of chapters ............................................................................................... 13

3. Historical overview ..................................................................................................... 15
   3.1 Emergence of the European migrant crisis ............................................................. 15
   3.2 European Union’s migration and asylum policy ..................................................... 17
   3.3 The Dublin System .................................................................................................. 20

4. EU Policy Proposals ..................................................................................................... 23
   4.1 The Dublin suspension ............................................................................................ 23
   4.2 Refugee relocation decisions .................................................................................. 24

5. Theoretical Framework ................................................................................................. 26
   5.1 Literature review ...................................................................................................... 26
   5.2 Theories of European Integration .......................................................................... 30
      5.2.1 Neofunctionalism .............................................................................................. 31
      5.2.2 Supranationalism .............................................................................................. 33
      5.2.3 Intergovernmentalism ...................................................................................... 35

6. Case Studies .................................................................................................................. 36
   6.1 HUNGARY .............................................................................................................. 36
      6.1.1 Historical background and migration trends .................................................... 36
      6.1.2 Party politics and immigration concerns ......................................................... 38
      6.1.3 Asylum policy amendments ............................................................................ 40
      6.1.4 Mandatory quotas and Hungary’s position ...................................................... 44
      6.1.5 Opposition and NGO’s ................................................................................... 48
      6.1.6 Conclusions ..................................................................................................... 49
   6.2 GERMANY ............................................................................................................. 50
      6.2.1 Migration policies in Postwar Germany ............................................................ 51
      6.2.2 The open-door policy and effect of the crisis ................................................... 52
      6.2.3 Asylum policy amendments ............................................................................ 54
6.2.4 Immigration concerns and support for AfD........................................56
6.2.5 NGO’s ........................................................................................58
6.2.6 Conclusions..................................................................................58

7. Conclusions....................................................................................60
8. References......................................................................................64
List of Abbreviations and Acronyms

AfD  Alternative for Germany
CEAS  Common European Asylum System
CoE  Council of Europe
CDU/CSU  Christian Democratic Union of Germany and Christian Social Union in Bavaria
EASO  European Asylum Support Office
EC  European Commission
ECB  European Central Bank
ECtHR  European Court of Human Rights
EFTA  European Free Trade Association
EU  European Union
EURODAC  European Asylum Dactyloscopy Database
FRONTEX  European Border and Coast Guard Agency
FIDESZ  Hungarian Civic Alliance (right-wing populist party)
GDP  Gross Domestic Product
HHC  Hungarian Helsinki Committee
IAO  Immigration and Asylum Office (Hungary)
ICJ  International Court of Justice
ISIS  Islamic State of Iraq and Syria
JOBBIK  The Movement For a Better Hungary (Hungarian far-right political party)
KDNP  The Christian Democratic People's Party in Hungary
LMP  The Green Party
MKKP  Two-Tailed Dog Party
MSZP  Hungarian Socialist Party
NGO  Non-Governmental Organization
PM  Small Green Leftist Party in Hungary
UAE  United Arab Emirates
UDHR  Universal Declaration of Human Rights
UN  United Nations
UNHCR  United Nations High Commissioner for Refugees
1. Introduction

Since 2015, thousands of refugees fled to Europe from the Middle East and Northern African countries due to the war and regional instability. Most of them reached European coasts by boats through Mediterranean Sea. According to UNHCR, the largest refugee influx after the Second World War, brought more than one million people seeking for asylum in 2015.¹ The EU countries experienced these migration flows asymmetrically, as for example Greece and Italy being at the border felt it heavily, while other countries were geographically away from the problem. Situation whatsoever was unprecedented and demanded solution for asylum aid and management of external borders.

The refugee crisis undoubtedly sparked intense political debates, as it exposed contradictory attitudes toward immigration in the EU. Formulating a common response for this crisis was complicated for several reasons. What first proved wrong was European asylum system that was not built to withstand such circumstances. Based on the Dublin regulation, the EU Member State where an asylum seeker enters first becomes responsible for the application. In this case, all the burden fell on Greece and Italy most of all. External border control was another problem. Once crossing into Greece or Italy, asylum seekers aimed to reach more prosperous countries and settle down over there. Hereby, Germany received the highest number of asylum applications, while Hungary moved into second place, as migrants made the journey overland through Greece and the Western Balkans.² Journey into Schengen area was done, once Hungary began to build a fence alongside the border with Serbia.

European leaders had to discuss strategic plan, since migration issues became too complex to deal with it merely on the national level. Consequently, the first solution was to suspend Dublin regulation and distribute 40 000 refugees from Italy and Greece within two years among other EU states that were willing to accept them voluntarily.³ Shortly

after, the EU institutions observed that this decision would not be a sufficient relief for the crisis. Therefore, the European Commission proposed to use the emergency mechanism to assist Greece and Italy by adding additional 120,000 asylum seekers to the relocation.\(^4\) The second proposal became binding after qualified majority voting with Hungary, the Czech Republic, Slovakia, Romania and later Poland opposing. The decision to introduce mandatory quotas triggered clash of opinions and Union’s incapability to fight with crisis collectively.

2. Methodology and analytical framework

2.1 Relevance of the thesis topic and research questions

The ongoing refugee crisis is relatively new topic in academic context. Lack of literature in the field identifies that topic is worth studying. Moreover, the existing literature does not address all the problems in the field. It is important to tackle further challenges that go along with the crisis. For example, growing nationalism and the rise of right-wing political parties that are using current situation for their election campaigns and demonstrating negative discourse against immigration. Realities of regional area in Hungary are important to address since it highlights challenges for liberal democracy. Not only country has expressed negative stance against the mandatory refugee relocation. The latest changes in 2018 Hungary’s constitution criminalize wide range of activities for support of asylum seekers.\(^5\) This ongoing campaign against refugees in Hungary raises immense concerns as it does not stand together with EU values and objectives.

The purpose of this thesis, therefore, is to analyze the EU’s legislative approaches and further understand the obstacles that caused disagreement while formulating collective strategy for asylum crisis. In order to do that, this study will attempt to answer the following research question: \textit{how differently the asylum crisis was perceived between the EU member states?} Case study method with the analysis of Germany and Hungary was chosen to illuminate different positions existing within the EU. Considering all this, other questions of this thesis, thus, emerges as follows: \textit{What were Hungary’s and Germany’s...}

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\(^4\) COUNCIL DECISION (EU) 2015/1601 of 22 September 2015  

\(^5\) Amnesty International (2018) : 4  
https://www.amnesty.org/download/Documents/EUR2786332018ENGLISH.PDF
policies in regard to the current migrant crisis? What were the possible reasons for this outcome? And what could be the underlying motivations for these policy approaches?

2.2 Qualitative research method and comparative case study

The case of this thesis is global and unique, as it is related to the both studies of International and European relations. It includes lot of different actors as well, first of all, the countries of origin where crisis emerged (mostly Syria and Iraq), secondly the EU, where the current crisis had causal effects, with millions of people claiming for asylum. It is a matter of the EU law as well, because current crisis shed the light on the European asylum system, which seemed to be not sustainable to absorb large numbers of immigrants. With this research, I aim to understand political developments in the EU and identify the reasons for refugee policy approaches. Interestingly, I find that, if financial crisis has extended regional integration and pressed for deeper cooperation, then refugee crisis proved that supranationalism, with agenda-setting by the Commission, does not really work for justice and home affairs policies.

Considering all this, thesis will be based on qualitative research method. From a methodological standpoint, qualitative research strategy is best suitable for a broad case analysis, as it underlines emphasis of a human nature and motivations for its behavior. On the contrary to quantitative research, qualitative method rejects the practices of the natural sciences and tries to understand social phenomena between cultures, societies, organizations or groups of individuals. This research will be conducted by using variety of academic resources such as journals, decision making - documents, public diplomacy speeches of politicians and social media articles. At the same time, analytical framework of comparative case study will be used as a method of evaluation.

In order to answer the research questions and reach the conclusions, selecting Hungary and Germany as representative cases seemed a natural choice for me, as it gives comparatively opposite insight of how different the EU countries had to deal with unique issues and have thus reacted differently. Following this, possible motivations for Hungary’s and Germany’s policy approaches will serve as a means to further understand the effect of the refugee crisis on the EU. To gain better understanding on the recent
refugee crisis in Europe, on one hand we are going to take a look at Hungary, where governments anti-immigration narrative was strong from the very beginning of refugee crisis. Interestingly, the right-wing governing party Fidesz, that dominates in Hungarian politics for the last nine years, became more radical than the actual far-right party in Hungary. On the other hand, we will analyze Germany’s open-door policy, that driven by Angela’s Merkel decision, led to acceptance of more than one million refugees in the country.

Even though, both countries presented radically different ways of approaching this situation, this research will be written systematically, meaning that we are going to take a look at the same sequences in both countries, and compare in which aspects they are different or similar. Thematically, these aspects will include historical background and migration trends in both countries, governing party politics and their response to the crisis, asylum policy amendments that followed next and the role of NGO’s. I will trace causal mechanisms and look at the correlations between the factors. So, although, countries have produced different outcomes, immigration concerns are undoubtedly noticeable in both countries. Moreover, these concerns have correlated positively with support of right wing and far-right parties, as Fidesz gained electoral success again in 2018, and relatively new far-right party AfD gained victory during Germanys federal elections in 2017. Causal relationships will be taken into consideration as well. Meaning that it is important examine, whether the absence of the situation would have prevented the outcome. For example, would AfD have gained a political success in Germany in other circumstances, not in the light of refugee crisis? Or if the right-wing party Fidesz in Hungary, have ever shifted their politics in such a radical way?

2.3 Overview of chapters
Starting point in this research will be overview of realities in the Middle East regional area. This section will go through the causes of refugee crisis and explain why large number of refugees started reaching Europe. The other two sections in this chapter will focus on the EU’s asylum system. With the general subject of EU refugee law, I will analyze the evolution of *acquis communautaire*; and argue that despite the fact that directives
and regulations forming the CEAS were built, the existing system is not completely efficient and fair. Outlining that problem is slow implementation of community laws in the Member States, I will also emphasize that within a common system existing on the supranational level, countries still hold lot of power in this area. Separate section will be given to the Dublin System as it is significant part of the EU’s asylum policy and also because it has been highly criticized for not successfully achieving the objective, especially since increasing influx of asylum seekers began in 2015.

The fourth chapter will examine the EU’s crisis management, partial suspension of Dublin system and refugee relocation decisions. I will annotate that supranational institutions failed to compromise reform deals on the EU level. Despite all the efforts, system relied on member states to show collaboration and go beyond the necessary requirements to relieve the burden. Eventually, it turned out that this approach was not realistic.

Fifth chapter of this research is theoretical framework. First section is literature review where variety of academic articles, official documents and news articles will be analyzed. Annotating what is important in existing literature, I will also look for the gap in variety of academic resources, emphasizing that there is still a need for a broad qualitative research. The other three sections will test different European integration theories on the recent refugee crisis. With the explanatory power of Neofunctionalism, Supranationalism and Intergovernmentalism, I will outline different opinions on the current refugee crisis.

Sixth chapter is case studies on Germany and Hungary that illuminates the fracture between the West and East on the outgoing issue. Both countries were popular destinations for refugees. Hungary was more as a transit zone, while Germany was listed to be number one desired final destination. I will argue, that to some extent constructivist approach can explain behavior aspects of crisis management in both countries. For Hungary it was purely interest-based situation. Country lacked compassion and was not engaged to show solidarity by welcoming refugees. Hungarian way of handling the crisis proved to be extreme in many ways. Moreover, governmental measures have contributed to growing nationalism and strengthened the right-wing forces in the country. Germany on the contrary, has introduced a more humanitarian refugee policy. According to some critics it is purely economic interest as country need labor force to boost their economy. This behavior could also be explained through their past
experiences, and the cautious intention to restore national reputation. Finally, the results will be summarized in the conclusions and evaluate what kind of limitations does this crisis represent in larger European context, and what could be future perspectives for the EU’s integration.

3. Historical overview

3.1 Emergence of the European migrant crisis

The political and social instability in the Middle East and North Africa triggered a large scale of migration influx in the EU. Syria, Iraq and Afghanistan are the three main countries where refugees have been fleeing from over the last four years.\(^6\) Causes of refugee crisis are multiple, it includes civil war, violation against human rights, and also climate issues in the region. However, the reason in a broad sense is the Arab Spring, unprecedented movement that started in the early 2011 against authoritarian regimes and low standard of living in the Muslim countries. In Libya and Syria these movements have grown into full-fledged civil wars. Furthermore, the war in Syria entered its eighth year and it is still ongoing issue today. Consequently, Syrians form the largest number of refugees overall.

For the last two decades Syria has been governed by the dictator Bashar al-Assad, who took over the authoritarian tactics of his late father’s administration.\(^7\) In the beginning of 2011, long been dominated Assad’s government faced a major uprising from Sunni Muslims in Syria, who aimed to reverse existing regime and replace it with stable democratic system across the region. The ruling government used deadly force to crush opposition forces, however, the resistance and protests demanding the president's resignation became even greater.\(^8\) Conflict have soon progressed and turned into a large-

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\(^6\) European Commission (June, 2016)

\(^7\) Britannica (January, 2019)
https://www.britannica.com/event/Syrian-Civil-War

\(^8\) BBC News (February, 2019)

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scale civil war. In 2013, United Nations officially announced that Syrian government have been exposing chemical weapons against civilians, thus killing hundreds of demonstrators and imprisoning many more. President Bashar al-Assad denied allegations and accused armed groups for these attacks. Ongoing war in Syria also witnessed violence from radical Islamic groups such as the Islamic State of Iraq and Syria (ISIS) and Al Nusra. This has led to a greater vulnerability of the Syrian population, serious violations of human rights and following demographic changes through forced evacuation.

Naturally, the first migration route for refugees became neighboring countries firs of all Turkey, Jordan and Lebanon. According to the UN statistics over 13,5 million Syrian refugees aimed for humanitarian aid, along with that over 2,5 million were hosted by Turkey, another 1,1 million were placed in Lebanon refugee camps, 700 000 in Jordan and around 130 000 in Egypt. Even though hosting countries received aid from international communities they were undoubtedly affected demographically.

Borders to the Persian Gulf states including Kuwait, Qatar, Saudi Arabia, and the UAE were not open for refugees, as a whole asylum concept itself is not actually approved in these countries. Persian Gulf states are one of the few that never actually recognized International Geneva Convention (1951) related to the status of refugees. Despite the fact, that oil-rich Gulf states have no legal obligation toward refugees whatsoever, considerable amount of financial aid was granted to the Syrian refugees through NGO's and donations to the United Nations.

Refugee camps in Turkey, Jordan and Lebanon soon became overflowed. This has had a huge impact on living conditions, therefore, refugees decided to look for another migration routes that turned out to lead through the Schengen area to Europe. Since there were not that many legal ways to get into Europe, lot of refugees have chosen to use trafficking and smuggling networks, that fraught with danger brought them through the Aegean and Mediterranean Sea routes to Europe.

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9 BBC News (September, 2013)
10 Amnesty International (February, 2016)
11 Le Journal International Archives (January, 2016)
https://www.lejournalinternational.fr/Syrian-refugees-why-won-t-the-oil-rich-Gulf-States-take-them-in_a3477.html
3.2 European Union’s migration and asylum policy

The EU's political system is a complex mechanism. Such a dynamic structure is common for the European Union’s asylum system as well, where both joint measures at supranational level and internal agreements between the Member States function together. Up to this point, the EU demonstrates very fragmented migration and refugee policy. Therefore, it is important to analyze Union’s legislative history and consequently see where lies the structural weaknesses and what kind of a role it might played during the current migrant crisis.

Migration and asylum policy is often related to human rights, security, socio-economic policies and also international relations in a broad sense. Each country in the world is affected by human migration in some sense. Therefore, migration regulations within the country is not possible without its management and cooperation on international level, especially since the emergence of the EU and Schengen area. For many years migration policy was perceived as internal interest area, left for the Member States to control, however, in the recent years, growing numbers of asylum seekers and high influx of 2015, have proved that the European Union needs more integrated CEAS rules.

The primary legal source for refugee rights was accepted in 1951 by the United Nations. Geneva Convention Relating to the status of Refugees together with its Protocol from 1967 is a multilateral treaty that defined who is a refugee and determined the rights of individuals who are granted for asylum, as well as the responsibilities of nations that grant asylum. The asylum-seeker was defined as a foreign national or person without citizenship who due to suffered harm, poverty and persecution or a possible risk to experience that, was forced to flee their home country. Such persecution is usually linked to race, religion, nationality or belonging to a particular social or political group. The Geneva Convention was not binding among the EU as such, but as its Member States share same fundamental values that recognize the significance of human rights, all of

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https://www.unhcr.org/3b66c2aa10
13 Ibid.
them ratified Geneva’s Convention, with an idea to build a common European asylum system in the future.

One of the greatest accomplishments in European Integration without doubt is free movement of people within the Union. The Schengen Agreement was signed in 1985 and led to build Europe's Schengen area without border control. The agreement also provided other measures: including a common visa system for countries whose nationals require them, and various support measures between police authorities on specific matters such as dealing with drug smuggling, the extradition of criminals and legal assistance in criminal proceedings.14 The Schengen zone was expanding together within the EU's enlargement. Today it includes 26 European Member States and 4 of them are EFTA countries that are part of the agreement.15 In 1999, when Amsterdam Treaty came into force, Schengen agreement became incorporated in the EU’s legal framework. Consequently, cooperation related to the Schengen became required for all the EU member states.

Intentions to form collective EU asylum system started in 1999, with Tampere summit, where area of freedom, security and justice were highlighted as one of the core values of the EU. In this summit Member States agreed on more integrated asylum and refugee policy that was supposed to be achieved through a joint European legislation. The Tampere Program prepared the first set of legally binding EU-level agreements on asylum.16 This included temporary protection for persons displaced by conflicts; a common understanding of refugee status and "subsidiary" protection; minimum procedural guarantees; minimum conditions for the reception of asylum seekers; and a regulation on deciding which Member State is responsible for asylum claim.17

Five years later, during the Dutch presidency of the EU, Tampere's agenda was expanded and turned into the Hague Program. It emphasized the effects of migration in security context, with a broader policy concerns after terrorist attacks in the United States on 11

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14 S. Eiriksson, 2000: 50
15 European Commission Migration and Home Affairs
16 Tampere European Council 15 and 16 October 1999 Presidency Conclusions
17 Official Journal of European Union (March, 2005)
September 2001 and in Madrid on 11 of March 2004. The purpose was to strengthen and coordinate external borders in the free area of Schengen zone. Another important goal was to fight illegal migration, thus helping non-European countries with their border issues, as well as offer third-country nationals the necessary protection and support their integration. At that time, the European Council affirmed that further development of migration and asylum related policies should be achieved within the upcoming five years. The Hague Program documents contained proposals and deadlines for the areas in which the European Council wanted to see changes. Together with common migration rules were established European management agency, named FRONTEX that coordinates the management of the EU’s external borders and EASO (the European Asylum Support Office) that fulfils practical cooperation between Member States with asylum related issues.

As mentioned above, both Tampere and Hague Programs have been working to create common guidelines for migration and asylum matters, however, practice have showed that turning agenda into further development takes a lot of time. Within the current structure of the EU foreign affairs, security and defense policies are in the shared competence sphere, therefore, the EU’s Commission coordinates and offers recommendations but Member States decide on their own how to implement it in their national policies. Meaning that, although, the EU as an international organization sets the common guidelines in this field, its Member States that still remain accountable to comply with these requirements under international human rights treaties and conventions to which they are State Parties.

In this case, the problem becomes slow implementation of community laws in the Member States. Immigration and asylum policies are not centralized decision-making area; therefore, countries cling to their sovereignty on this issue. This was precisely the case, when European Commission announced mandatory quotas for relocation of refugees (discussed in the upcoming chapters). A shared solution to distribute refugees between all the EU member states was accepted negatively with Central and Eastern

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18 Ibid.
19 The Online Journal of the Migration Policy Institute (January, 2005)
https://www.migrationpolicy.org/article/hague-program-reflects-new-european-realities
20 J. Lennart, (2012): 4
European countries claiming that this migration solution was overstepping sovereignty boundaries.

### 3.3 The Dublin System

Within the analysis of the EU’s response to the current migration crisis it is important to look into Dublin System, that is a significant part of the EU’s asylum policy. The term Dublin System is often used to refer to the set of EU law’s, that together with EURODAC’s fingerprint system determines which EU country is responsible for asylum application. A set of criteria set back in the nineties and slightly changed in 2003 and 2013 has been greatly criticized for plaguing outer-borders of EU countries in the Mediterranean Sea especially after the high influx of 2015.

The purpose of Dublin Convention, adopted in 1990, was to establish a common system and mechanisms for determining which country in European Community becomes responsible for an asylum claim. Dublin Convention was ratified in 1997 and has evolved over time. It is and assemblage of directives and regulations that prescribe the EU’s asylum protocol.\(^{21}\) The Convention has dual purpose. First of all, to protect asylum seekers by obliging responsible state to examine submitted applications. Secondly, to prevent multiple asylum applications or submissions in several Member States at the same time. International protection should be provided according to the criteria in descending precedence: primarily with the presence of a family member with refugee status in a Member State, secondly, the existence of a valid residence permit or visa; thirdly, the frontier of the Member State that an asylum applicant has irregularly crossed; fourthly, the Member State responsible for controlling the entry of the alien; and finally, the first Member State with which the asylum application is submitted.\(^{22}\)

Thereby, according to the Convention, a country that was first entered become responsible for the asylum application. In most of the cases, the asylum seeker’s first country of entry is not their desired final destination. Therefore, the Dublin Convention

\(^{21}\) L. Moses (2016): 7  
\(^{22}\) A. Hurwitz (1999): 4
has formed a concept of a safe third country. The safe third country was considered to be the one through which refugee traveled and could have found protection but did not do so. This has created a precedent, allowing Member States to expel asylum seekers to the safe “third” state outside the EU.23 In addition, the concept of a safe “third” country allowing Member States to expel asylum seekers from the EU was criticized greatly, as it led to the risk of endless displacement of refugees.

The Dublin Convention has changed gradually over time. In September 2003, it was replaced by the Dublin II Regulation and further to the Dublin Regulation III - in July 2013. After Eastern enlargement in 2004, the Regulation came into force in the new Member States. Switzerland also wanted to join the Regulation, which is why, in June 2005 a referendum was held in and Swiss citizens decided to become a part of the Schengen and Dublin agreements.24 Minor implementations has been accomplished to make the system more efficient and harmonized in all the Member States. The Dublin II Regulation aimed to prevent two of the most undesirable tendencies in the area of refugee law - ‘refugees in orbit’ (refugees circulating between Member States or within one Member State neither being allowed to stay within its territory, nor being able to leave it) and ‘asylum shopping’ (submitting applications in several Member States or choosing the one having the most permissive policy or practice in this respect).25

Together with Dublin changes was introduced EURODAC, an instrument of EU’s Asylum fingerprinting data base that started operating immediately after.26 Fingerprint database was established with a purpose to help Member States to record requests and register those attempting to enter illegally. Mandatory fingerprint system means that all the asylum seekers that submit their application for international protection can be identified and controlled more easily if they want to travel between other EU Member States.

In general, the Dublin System was established with a purpose to ensure fair, efficient and effective protection for asylum seekers in Europe. However, it is been highly criticized for its deficiencies. First of all, despite the fact that common rules came into force, there is still a huge difference of how countries deal with implementation in practice. Meaning that procedural rules and standards are not in fact the same in all the EU member states. For example, in 2007 acceptance of Iraqi asylum seekers varied in EU member states between 0% (Greece, Slovenia) and nearly 90% (Germany - 85%, Sweden - 85%).

Accordingly, some countries had to impose more strict policy in terms of recognition, while others on the contrary, substantially amend parts of its legislation in order to achieve full compliance with EU requirements. Such a situation seems to reflect practical problems, since the countries with external borders of the EU are foremost to get the largest number of asylum applications, but in most of the cases, it is not the final destination where refugees are willing to settle down.

Another weakness is the first-entry criterion. As mentioned above, the first EU country where fingerprints are taken or refugee is lodged, becomes responsible for a person's asylum request. This system, with strictly established criteria was supposed to offer a fair burden-sharing mechanism between the EU member states. However, it was clear that countries on the periphery of the EU (especially the Mediterranean region) would ultimately have to handle the greatest number of asylum applications. Therefore, we can argue, that Dublin Regulation has set uneven system, that predominantly confines southern outer-border countries. The mechanism was far from generating equitable results, both for asylum seekers and the Member States that happened to be situated along with external borders. In light of the Arab Spring, when the volume of asylum applications has increased dramatically, it became clear that system is not sustainable enough to handle large refugee influx. Greece and Italy most of all, were denouncing Dublin rules as unbalanced. Since migration crisis has accelerated in 2015, a more

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27 European Council on Refugees and Exiles, (March 2008): 2
http://www.unhcr.org/refworld/pd/d/47e1315c2.pdf
28 Ibid.
29 L. Moses (2016): 7
30 F. Pastore (2015): 1
coordinated European approach was needed to alleviate the burden of the refugee arrivals to the frontline states – Greece and Italy.

4. EU Policy Proposals

4.1 The Dublin suspension

In 2015, since the situation is Syria took a turn to the worse, refugees increasingly started making their way to Europe. In the first place, people used a land route from Turkey to Bulgaria and further to the north of Europe, and later on across the Aegean Sea to Greek islands. Migration from African continent to the shores of Italy has also increased. As already explained, majority of refugees have first entered the EU through the southern states – Greece and Italy.

Due to the Dublin System, determining the first-entry criterion, the EU’s Southern boarders suffered from congestion effect. Greek and Italian authorities struggled to register and accommodate refugees. This situation demanded an urgent response, therefore, EU foreign ministers met in Luxembourg and approved an ad hoc 10-point plan, to prevent future deadly disasters at sea, confront human traffickers, and organize emergency relocation between Member States on a voluntary basis.\(^{31}\)

Next followed responses on the national level. Slow decisions on the EU level, encouraged European countries to take their own measures. Bulgaria and Hungary started building fences along with its borders, in order to block the route leading into the EU from Turkey.\(^{32}\) While other countries, on the contrary, have offered enlarged protection. The German government have announced open door policy, with a decision to suspend Dublin Regulation temporarily. On 24th August 2015, the German Federal Office for Migration and Refugees, suspended Dublin Regulation for Syrians, processing their applications no matter where they first entered the EU.\(^{33}\) Sweden reacted equally, with a proposal of permanent residence permits for Syrian asylum seekers.\(^{34}\)

\(^{31}\) S. Šelo Šabić (2017) : 2
\(^{34}\) Sweden Will Grant Permanent Residence Permit to Syrian Refugees, (September 2013)
4.2 Refugee relocation decisions

Based on humanitarian reasons, a refugee relocation scheme was announced on July 2015. On 14 September, the Home Affairs Ministers adopted a first proposal where it was decided that 40,000 people (24,000 from Italy and 16,000 from Greece) in need of international protection would be relocated to other EU Member States over a period of two years.\textsuperscript{35} This decision was applicable only for the asylum seekers that were fingerprinted according to the Eurodac rules in Italy and Greece. Relocation solution was not binding decision whatsoever. It was based on voluntary matter, prioritizing the most vulnerable refugees during the selection process. Countries that were volunteering have automatically become responsible for asylum-seekers as according to the Dublin rules.

However, it quickly became clear, that distribution of 40,000 refugees would not resolve this crisis essentially. Further assistance was needed; therefore, the European Commission came up with a second relocation proposal of additional 120,000 asylum-seekers. Mandatory quotas have been appointed for each Member State with a specific refugee number expected to take. The distribution criteria were based on several different factors including the size of the population, countries GDP and the unemployment rate.\textsuperscript{36} It is important to stress, that Commission’s proposal this time was an \textit{ad hoc} decision, agreed upon qualified majority voting, meaning that it is a binding act for all the EU countries.\textsuperscript{37} Relocation proposal has caused a lot of controversy, since it was not voluntarily choice. Hungary, the Czech Republic, Slovakia and Romania voted against it, with Finland abstaining. Opposition to the European Agenda on Migration went forward with Hungary and Slovakia appealing against relocation to the European Court of

\textsuperscript{35} Spiegel Online (June, 2015) https://www.spiegel.de/international/europe/how-eu-promises-to-introduce-refugee-quotas-failed-a-1040226.html
\textsuperscript{37} European Commission Statement following the decision at the Extraordinary Justice and Home Affairs Council to relocate 120,000 refugees (September 2015) http://europa.eu/rapid/press-release_STATEMENT-15-5697_en.htm
Justice. Later on, the European Union’s court has dismissed this case in September 2017.\textsuperscript{38}

Finally, the relocation efforts did not meet the goal for the initially planned two-year period. Only 10,2% of the intended 160.000 refugees were relocated.\textsuperscript{39} The main obstacles that caused these results are both technical and perception effect. Technical obstacles include various elements of identification, registration, fingerprinting and selection procedures in Greece and Italy; as well as accommodation and integration related procedures in recipient countries.\textsuperscript{40} At the same time, the lack of solidarity have deepened the crisis. Some of the EU countries have started classifying refugees. For example, Eastern European countries claimed that they are going to accept only Catholic refugees, or only single women with children. Refugees themselves, have started withdrawing their applications before their relocation started, since they had no self-determination of where they could be transferred.

It is clear from the above discussion, that management technique proposed by the European Commission, brought difficult negotiations between the Member States to the light, and proved that there is no way to fully cope with the ongoing crisis, when European Community demonstrates such a fragmented perception towards relocation mechanism. Therefore, migration challenge remains outstanding and it could only be questioned whether a solution will ever be found.

\textsuperscript{40} S. Šelo Šabić (2017): 9
5. Theoretical Framework

5.1 Literature review

Since "migration wave" to Europe reach its peak in 2015, the ongoing debate about refugee crisis has been in the news for the last four years. It is important to note, that mass media was broadcasting refugee topic in a consistent matter, however, there is still a lack of academic literature in this area.

While discussing the Union's response to the migration influx, it is important to review the EU's asylum system. Many authors, analysts and policy makers accentuate controversies over the EU legalities, arguing that the European asylum law is not sustainable enough to cope with crisis of a similar nature. There is really no model available that would say how we should act in case of any state collapses. Lilian Tsourdi and Philippe De Bruycker (2015) argues that the common EU asylum and migration policy is riddled with problems that holds back its development. Common guidelines for migration and asylum matters were set, as well as agencies such as FRONTEX that coordinates the management of the EU's external borders and the European Asylum Support Office that covers practical cooperation between the Member States. So, if rules and directives do exist, why does the system fail? Tsourdi and De Bruycker are emphasizing that within a common system existing on the supranational level, the EU Member States still hold too much power in this area. And the explanation here is simple, it is because migration and asylum policies are in the shared competence sphere. Meaning that, the EU Commission coordinates and offers recommendations with migration and asylum matters, but the Member States themselves, decide on their own, on how to implement the rules in their national law's.

This leads to another important part of the Common European Asylum System - the Dublin Regulation. The majority of existing literature dealing with the Dublin System is observing it through the components of legislation and how it evolved over time. Agnes Hurwitz (1999) presents a critical assessment of the Convention in the light of State

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practice and provides some suggestions towards its improvement. She claims that besides the fact, that the Convention set out objective criteria to determine the responsible State for an asylum seeker, it still holds lot of deficiencies. Especially a concept of a safe third country, that allows Member States to expel asylum seekers from the EU, to the country which refugee have traveled before and could have found protection but did not do so. And following next to the conditions for family reunification that are too strictly defined.

One of the few scholars that analyses the Dublin System and how it was applicable during the recent crisis is Lauren Moses (2016). In this context, she refers that with a good primary intentions to ensure fair and effective protection for asylum seekers, the Dublin System evolved to a strict and complex mechanism, which placed a heavy burden on the certain EU Member States, arguing that the first-entry criterion confined asylum seekers to southern outer-border countries. Additionally, Blanca Gracés-Mascarenas (2015) outlines, that Dublin system was designed when European asylum cooperation was at the very beginning of its development. The system has indeed been beneficial for Member State communication regarding asylum claims, however, the current migration influx brought the matter into the discussion, and proved that this approach does not function in practice.

Interestingly, there is also much discussion on of the future perspectives of the Common European Asylum System, since the crisis management techniques of the EU still uphold the Dublin system as the general rule. According to Nika Bačić Selanec (2015), during the current crisis the system relied on European countries to show solidarity and go beyond the necessary requirements to relieve the burden but the purpose was not achieved.

Since the Dublin Regulation failed to keep pace with the growing numbers of asylum claims in 2015, many scholars analyze challenges of solidarity and responsibility in terms

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42 A. Hurwitz (1999): 4
43 L. Moses (2016): 7
46 N. Bačić Selanec (2015) :110
of fair sharing within the EU countries. What remains not answered is what caused different approaches towards asylum crisis and how the EU should search for future solutions? Amendments to the EU laws are vital in order to tackle asylum problems, as well as finding the way to join forces in rational and responsible decision-making. Collaboration with the third world countries is one of the tangible ideas for the EU policy action that Tsourdi and Philippe De Bruycker offer in their study.

One of the few scholars that tackle refugee crisis through historical perspective is Leo Lucassen (2017). His research shows that Europe have faced migration challenges way before. Large-scale migration has occurred after the II World War and in the 1990s during conflicts in the former Yugoslavia. The core question, that Lucassen asks, is what have changed and why did European politicians become so alarmed about 2015 crisis? According to him, religion factor plays a huge role in the recent asylum crisis. Integration pessimism in European society emerged, since it turned out, that immigrants from the former colonies in Africa and Turkey were unable or unwilling to integrate. A growing discomfort with Islam reached its peak after 9/11 attacks. Since then, immigration from Islamist countries became linked with possible security threats. Another important factor that Lucassen tackles is the rise of right-wing populism Europe. According to him, Eastern Enlargement in 2004 and global financial crisis in 2008 led to social and economic insecurity. It created negative perception of migrants and refugees. Radical populist parties have been very successful with adopting position that immigration and Muslims constitute a problem. Situation remains even more difficult since the current crisis coincides with 2015 Paris attacks and 2016 Brussels bombings. Recent terror attacks have brought along European security concerns. Therefore, it is difficult to breakdown the perception, that incoming Muslim migrants are not posing serious challenges for the Schengen area, especially when both media and politicians frame this situation negatively.

Claudia Postelnicescu (2016) and Dagi Dogahan (2017) are analyzing a European agenda on migration. Both argue that the EU's response could be described as a clash of intergovernmental and supranational perspectives. Dagi does not go deep to the

47 L. Lucassen (2017) : 397
48 Ibid. : 401
obstacles that caused refusal of a common response. He argues in general, that the absence of common solution has disintegrative impact on the Union. According to him, responses on the national level by the Western countries such as Germany or Sweden carries out numerous of risks. Therefore, there is a need to focus on Intergovernmental bargaining that in the end could be less satisfactory but at least it would not tear the Union apart. Postelnicescu agrees with these issues and adds, that in order to create more solidarity and responsibility among the EU Member States it is also crucial to change the tone of dialogue. The EU leaders have strongly criticised the Central and Eastern European states that refused to show solidarity which only deepened divergence between the both sides. Postelnicescu points out that absence of dialogue between West and East creates excellent conditions for nationalism and radical anti-immigrant parties that been lately gaining political popularity across Europe.

Rebecca Mendelsohn (2017) tackles realities of regional area and argues that nationalist backlashes in the wake of the migrant crisis spread not only in the Eastern Europe. When examining the ways in which the EU Member States reacted to the crisis, she introduces the case study of Austria and Hungary. Therefore, arguing that to a different extent, similar expressions of nationalism exists everywhere in Europe. Park (2015) adds to this issue of nationalism and points out that countries like Denmark and France also expressed dissatisfaction with the current open-door policy in the EU. The main difference between this discourse is that they did not express it in such a persistent way like Viségrad countries.

Eastern European attitudes towards refugee crisis has a lack of context in the academic literature. Gustav Gressel (2015) and Dace Dzenovska (2016) are trying to fill this gap. Dzenovska (2016) adds what is important to understand about the Eastern region is their historical past. After years of Soviet occupation all the smaller Eastern countries faced demographic crisis. At first, millions of migrants were brought in order to assimilate nations and create Soviet people out of national subjects, and most of them remained living there after the collapse of the Soviet Union. Other demographic changes followed

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49 D. Dagi (2017) : 6  
50 C. Postelnicescu (2016): 207  
51 D. Dzenovska (2016): 4
in 2004, with Eastern Enlargement of the European Union, when number of workers entered labor markets in the Western countries. Therefore, any type of demographic changes in the region are still perceived with a high alert. Social media was appealing a lot to the moral subject in the Eastern Europe but Dzenovska (2016) points out, that what sparked the oppression in the East was binding decision that came from the European Commission. In Eastern countries it was perceived as "forced" solidarity that was imposed on supranational level. Gustav Gressel (2015) adds that with very little tradition of dealing with refugees and migrants from non-European cultures, Eastern Europe region has lack of required infrastructure as well, therefore, insecurity and resentment was one of primary reactions towards refugee relocation plan.

Overall, after reviewing the literature on recent refugee crisis it could be concluded, that there is still a need for broader qualitative research in the field. Current situation has shown that European Union was not capable to formulate a common solution towards refugee crisis. Furthermore, there is a need to reform legislative system in order to strengthen the Common European Asylum System. Looking at diversity of opinions around the asylum crisis could help us to understand realities of regional area and political reflection on the future of the European Integration.

5.2 Theories of European Integration

The establishment of the EU become one of the most significant decisions in the twenty-century’s world politics. It is phenomenal example of cooperation between the European regions and countries, where sovereignty is shifted to supranational institutions. The EU has expanded over the time, and along with that it has also became more centralized. Cooperation that started within the single market, slowly stepped forward to other areas. Today, within 28 Member States, the EU is developing economic, social and legal framework based on diverse integration.

\[52\] S. Hix (2018): 77
The European integration theories is one of the tools that can explain us development and challenges of the EU. Theories analyze how integration started, who are the main actors and what is likely to happen next. Theoretical explanations vary greatly, as each theory analyses different aspects of integration. Moreover, today, the process of European integration is too complex, to use only one theoretical base. Also, no single theory is capable of explaining everything. Neofunctionalism and Intergovernmentalism are two grand theories that look at the EU cooperation process as a whole, while Supranationalism could be best described as important feature of the EU or type of governance.

Hence, the upcoming chapters will examine different approaches of European integration, and discuss how they can apply to the case of recent refugee crisis. Supranationalism, Neofunctionalism and Intergovernmentalism were chosen because it gives pertinent insights on the current migration crisis, with the explanatory power of why certain measures were taken on the supranational level, as well as of how relocation decisions were perceived through different Member States perspective.

5.2.1 Neofunctionalism

Neofunctionalism is one of the grand theories that emerged in the 1950’s and mainly sought to explain the outcome of the EU integration. Within Neofunctionalism, the process of regional integration is explained through the concept of different spillovers, and how their pressures affect European cooperation. The EU’s integration started with economic development, and ultimately prompted cooperation in other policy areas.

An example of such a scenario could be integration of free movement of people. Back in the past, when Union was trying to legalize freedom of movement and residence for the EU citizens, it was not enough just to reach an agreement and find a compromise of what was acceptable for all of the countries. Each Member State essentially faced the same problems - how to harmonize a wide range of legislation, that include different areas of public policy and services, for the ultimate goal of free movement of persons in European community. This example shows that different sectors: political, economic and social are connected to one another. That is how spillover occurs, when one area of integration is
inevitably inducing and integrating other public policies that previously have been the competence of Member States.

Another important headline that Neofunctionalists turn their attention to is the role of non-state actors in the process of European cooperation. According to Simon Hix, the political spillover is created by NGO’s and supranational institutions, who in general, play a key role in the integration process, while nation states and governmental actors become less significant, and the increasing necessity of integration generates pressures for political control to be ceded at the supranational level.53

Neofunctionalist explanation of European integration was applicable for a while as cooperation between the states occurred under this functional logic. The spillover effect can quite easily be seen in the economic, monetary and fiscal policies. Over the time, the EU expanded and became more centralized, with many more sectors being assimilated to the integration process. However, theory has been widely criticized for its overoptimistic prognosis especially in political area. The growing nationalism among the Member States, and such events as “empty chair crisis”, or Charles De Gaulle’s objection on Britain’s entry to a Common Market have challenged Neofunctionalism, and dissipated illusions about the automatic transition from the economic to the political union.54 Since then, it has been highly questioned, whether Neofunctionalist logic of integration could be applicable in the area of “high politics”.

Nevertheless, in the context of recent refugee crisis, theory does provide an interesting aspect of the EU’s crisis management. With thousands of refugees arriving to the EU’s Southern borders on a daily basis, it was clear that problems of substantial interest cannot be completely addressed at the domestic level. Overburden Greek and Italian authorities struggled to register and accommodate all refugees and asylum seekers. This produced high political pressure (spillover) for cooperation, thus adding problem-solving in the Council framework.55 Supranational activity increased (cultivated spillover) after Commission took the initiative to propose a reform. As Dublin System clearly proved to

53 Ibid.562
54 M.Eilstrup-Sangiovanni (2006): 97
55 A.Niemann and J.Speyer (2018): 26
be dysfunctional, the European Commission’s Agenda on Migration outlined medium-term reform of the Dublin system and plan for refugee relocations.\textsuperscript{56}

How can we evaluate the EC’s role in crisis management? We can argue, that based on Neofunctionalist spillover logics, it can be described as interaction of functional and cultivated spillover pressures. High authorities offered deeper integration to fix dysfunctionality but domestic response for mandatory quotas was vigorously objected. Why did Member States produce weak cooperation? Neofunctionalism would argue that weaker dynamics of integration during migration crisis might be both for economic and political reasons. First of all, countries were still economically bruised after 2008 crisis. Secondly, migration crisis has intensified electoral success for right-wing parties. Börzel explains that governments could not agree on integration in the Schengen crisis because right-wing populist parties politicized “identification patterns with regard to Community membership”.\textsuperscript{57} Finally, the European organizations such as Frontex or EASO lacked power for crisis management. While in comparison to Euro crisis, Member States relied on ECB, a powerful supranational organization, which had both the autonomy and the resources to preserve and expand supranational integration.\textsuperscript{58}

5.2.2 Supranationalism

The Supranational perception of European integration is based on the idea that state does not possess enough capability to ensure political and economic security for its population. States are highly dependent on each other, and that is what stimulates cooperation between them.\textsuperscript{59} According to Supranationalism, regional cooperation brings more benefits, and it pays off to participate in integration process, rather than not to. Countries give up their sovereignty to supranational institutions and it is seen as a step forward towards deeper integration in which the EU’s interest as a whole should be considered the most.\textsuperscript{60}

\textsuperscript{56} L.Hooghe and G.Marks (2019) : 1121
\textsuperscript{57} T. Börzel and T. Risee (2017): 5
\textsuperscript{58} F. Schimmelfennig (2018) : 2
\textsuperscript{59} D.N. Chrysssochoou (2001) : 54
\textsuperscript{60} N. Nugent (2006) : 559
Another important implication of Supranationalism is that institutions are more influential actors in the process of European integration. States are, indeed, important actors, but they are not the only ones. According to Haas, European integration as a process is mostly driven by elitist groups, like leaders of industry associations or political parties, that recognize a lack of opportunities in pursuing a shared interest only at the domestic level, for this reason, national governments shift the authority to supranational institutions.\textsuperscript{61} Decision-making process is the result of integration, where the EU institutions make decisions for the Member States. Of course, not all the decisions have binding force. Indeed, as it was discussed in the previous chapters, some decisions are merely advisory. However, there are some areas where EU holds exclusive competences, these including customs, monetary policy, common fisheries and etc.\textsuperscript{62} Here, the EU has large amount of power to decide on binding decisions that constitutes the EU law.

Bringing the Supranational debate in relation to the recent migrant crisis and refugee relocation decisions, it is necessary to capture, that migration policy was shifted from the 'low politics' to the 'high politics'.\textsuperscript{63} The EU Commission represented mandatory quotas as a binding solution in the area, where it technically should not determine decisions beyond the level of national governments. The transfer of power in the field of justice and national home affairs is problematic, even though the situation was off the high urgency. The European Commission as a supranational institution represents the interest of the EU as a whole, and in this case, it was looking for a solution and decision that could work for the greater good. Following Supranationalism, the EU Commission took the initiative in proposing a necessary action, in order to overcome this crisis. Even though, the plan for relocation was rejected, supranational cooperation was upgraded for processing immigrants and monitoring borders through Frontex with coordination of national coastal guards.\textsuperscript{64}

\begin{thebibliography}{99}
\bibitem{61} E. B. Haas (1961) : 372
\bibitem{62} N.Nugent (2006) : 559
\bibitem{63} A.M.Messina (2007) : 138
\bibitem{64} L.Hooghe and G.Marks (2019) : 1122
\end{thebibliography}
5.2.3 Intergovernmentalism

Intergovernmentalism is another important theory that is worth discussing while talking about European integration. First of all, theory represents the belief that European integration is essentially rational and pragmatic choice. Intergovernmentalism has derived from the realist tradition and unlike Supranationalism, it is centered on the view that sovereign nation states are the key actors of the integration. The whole process is controlled by the Member States and it works as a form of cooperation where the main focus is on governments and their own national interests, especially in the sphere of high politics, such as foreign policy, security and defense.\(^{65}\) According to Andrew Moravcsic, the driving force of whole European Integration process is the economic benefit. This is the only reason why countries, to some extent, are ready to cede their sovereignty for supranational institutions. Unlike Neofunctionalism, this theory does not give much importance to the influence of supranational actors and only very limited importance to NGO's.\(^{66}\) Intergovernmentalists, by contrast, see regional cooperation possible only in the economic field. As Milward states, integration has its core in economics, and it leaves states sovereignty untouched.\(^{67}\) Based on that, integration comes to a standstill once it affects high politics.\(^{68}\)

In the refugee crisis context, the EU countries that blocked the relocation decision were mostly the ones that were least affected by migratory pressures (in this case we are not talking about Hungary that received big number of applications). However, the Czech Republic, Slovakia and Romania were against the Commission’s decision, with Finland abstaining. Among less vocal ones were Baltic states.\(^{69}\) Intergovernmentalists turn their attention to the state’s preferences and the bargaining process in crisis. According to Moravcsik, those states that are hardest hit by the crisis require most support by the other Member States, while those that are least affected are most satisfied with the status quo, and best able to achieve their preferred policy and extract concessions.\(^{70}\) In

\(^{65}\) N.Nugent (2006): 565  
\(^{66}\) Ibid.: 565  
\(^{67}\) A.Milward (1992): 3  
\(^{68}\) S.Hoffmann (1966) :868  
\(^{69}\) F.Pastore (2015): 2  
\(^{70}\) A.Moravcsik (1993): 497-507
this case, Central and Eastern European countries were less affected by the refugee crisis, but the European Commission’s proposal for mandatory quotas challenged their status quo, which only made it harder to compromise reform deals at the European level. Following further, it would be correct to headline that quotas decision touched a nerve of national identity. Supranational actors took the initiative and decided who will reside in the sovereign territories. Hence, national interests and sovereignty of member states were not taken into consideration. Another point is qualified majority voting, that poses fear for intergovernmental integration in Europe. The use of qualified majority voting in a sovereignty-sensitive issue such as settlement of refugees, highlights the reason, why some of the EU countries have had contested the Commission’s reform agenda.

6. Case Studies

6.1. HUNGARY

Recent refugee crisis in Europe transformed region’s political agenda. Since 2017, the numbers for seeking refugee status has decreased vividly but the electoral success of far right and populist parties is still noticeable across East and West Europe. From the start of 2015, Hungary has experienced a huge flow of refugees and asylum seekers. In this context, Hungary’s position was distinct from other EU countries. The ruling party FIDESZ and its Prime Minister Viktor Órban opposed the Brussels reform deals on collective strategy. Moreover, increased arrivals to Hungary were used as a pretext to develop a securitarian stance on migration policies, hereby denying basic European values and overriding human rights. The Hungarian way of handling the refugee crisis proved to be extreme in many ways. Therefore, this chapter will analyze governments response, to illustrate divide across the Europe on the ongoing migration crisis that produced weak pressure for cooperation.

6.1.1 Historical background and migration trends

Hungary has always been a country of transit for refugees. Throughout history it has provided protection for different groups of people including Polish refugees during the II World War, and thousands of people from former Yugoslavian countries. But

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71 G.Veto (2016): 4
essentially, it was never a final destination country for immigrants. Despite relatively large Chinese minority, most of the immigrants settling in the country have been ethnic Hungarians from neighboring countries that returned back after regime changed.\(^\text{72}\)

After the fall of Communism, country has started its democratic transitioning. Foreign politics were always oriented towards the European integration with a purpose to join the EU one day. In order to achieve that, Hungary had to fulfill the criteria of accession. This included developing asylum system as well as it had to be fully harmonized with the *European aquis*. In 1989 country has ratified the 1951 Geneva’s Convention together with 1967 Protocol, following next, the European Convention on Human Rights and its eight Protocols that were ratified on 5 November 1992, and incorporated into the Hungarian legal system on 7 April 1993.\(^\text{73}\) It is necessary to mention that Hungary has joined the EU in 2004, without the opportunity to opt-out from CEAS, unlike Great Britain, Ireland and Denmark.\(^\text{74}\) However, one of the main goals was to become a member of the Schengen area as soon as possible and to guarantee its citizens the right of free movement within the EU. At a time, migration-related issues seemed less relevant. Country was mostly engaged to bring back the ethnic Hungarians that were forced to leave during the both World Wars and 1956 uprising.

In the context of recent migration crisis, Hungary was one of the countries to face it very quickly. In the beginning of 2015, thousands of Kosovar citizens had crossed Hungarian-Serbian border. This migration wave ended soon and Hungary as a transit country managed to deal with these flows. However, in the summer of 2015, the refugee crisis in Europe reached its peak. According to Eurostat data, Hungary was amongst those European countries to be most affected. Country received the highest number of asylum applications in proportion to its population.\(^\text{75}\) 2015 brought nearly 1,800 refugees per 100,000 of Hungary's local population.\(^\text{76}\) Second highest numbers followed in Sweden close behind with 1,667, while the EU average was 260 for every 100,000 residents.\(^\text{77}\)

\(^{72}\) A. Juhasz and B. Hunyadi (2015) : 9

\(^{73}\) B.Petra and K.Báró (2016) : 148

\(^{74}\) G.Veto (2016) : 4

\(^{75}\) BBC News (2016)


\(^{76}\) Ibid.

\(^{77}\) Ibid.
6.1.2 Party politics and immigration concerns

The right-wing populist party Fidesz started tightening immigration regulations right before the refugee crisis accelerated. Governments debate on migration issues has begun in February 2014, two months ahead of the parliamentary election. Parliamentarians spoke about the need to prepare migration strategy due to increased numbers of people.
crossing the Serbian-Hungarian border. Statements by both governing parties pushed the political discourse in a more radical direction, claiming that "Hungary does not need subsistence migrants". All asylum seekers were labeled as economic and illegal migrants.

Couple of months after, newly elected government of Fidesz and KDNP alliance organized public discussion on immigration issues in the country. This was done through a questionnaire that was sent by the post to every citizen over 18. The so called “National consultation on immigration and terrorism” was supposed to stress the importance of Hungary’s national interests. Based on this consultation, government aimed to impose stricter rules on immigration. It is important to mention, that 1 out of 10 Hungarians have participated in the discussion and expressed their opinion. However, this national survey triggered widespread criticism, as questions constantly confused different type of migration and equalized all the refugees with economic migrants. The public survey contained 12 questions and letter from Prime Minister stating that “economic migrants pretend to be refugees, though in fact, they seek for employment and social well-being”. Most of the questions were not objective and linked migration with terrorism. Stating that (e.g. question nr.3) : “According to some, immigration, which is badly handled by Brussels, is connected with expanding terrorism” - asking whether respondent agrees. Last question was (e.g.nr.12) : “Do you agree with the Hungarian government, that Hungarian families and children should be supported in the future, instead of immigrants?”. As a response to this questionnaire, a group of researchers that studied migration theory signed a letter of protest, stating that these questions "have no professional or moral basis". National consultation drew criticism from all sides of the EU as well, including the first Vice-President of the European Commission Frans

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80 G.Veto (2016) : 4
82 A. Juhasz and B. Hunyadi (2015) : 24
83 A.Bocsktor (2018) : 562
Timmermans. He announced that: “Framing immigration in the context of terrorism, depicting migrants as a threat to jobs and the livelihood of people, is malicious and simply wrong – it will only feed misconceptions and prejudice”. V.Órban opposed claiming that more restrictive policies against illegal migration are based on the public interest. The Prime Minister stressed couple of times that Hungary is open and friendly country. However, it does not seek to accept unlimited number of asylum seekers from different cultures, as it would endanger the survival of Hungarian values and culture including citizenship, freedom and Christianity.

After national consultation followed billboard campaign launched in June 2015. Different type of posters ordered by government appeared across the whole country, with the purpose to win public support. Billboard content were depicting migrants as a threat to jobs and the livelihood of Hungarian people. V.Órban explained, that these posters were just part of the survey that were sent out together with a questionnaire. Posters were saying: “If you come to Hungary don’t take the jobs of Hungarians!”, “If you come to Hungary, you have to keep our laws” or “If you come to Hungary, you have to respect our culture!”. These posters appeared only in Hungarian language meaning that the target was clearly domestic audience. As a response to that, the UNHCR launched their own set of billboards with examples of successful integration stories in Hungary.

6.1.3 Asylum policy amendments

During the same summer of 2015, Parliament voted on stricter refugee laws, that were supposed to tighten illegal entrance and asylum claiming. These new laws included authorized detention of illegal migrants during the asylum application procedure and immediate expelling once they were not granted asylum. Later followed parliamentary vote on a safe third countries. According to the new law, asylum seekers that entered

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85 B.Novak (2015)
86 M.Karnitschnig (2015)
87 BBC NEWS (2015)
88 A. Juhasz and B. Hunyadi (2015 : 25
89 Ibid.: 35

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Hungary were supposed to prove, that they did not have the possibility to apply for asylum in the other safe countries. The argumentation behind this was based on explanation, that before reaching Hungary most of the asylum seekers and refugees travel through safe countries, meaning that they should not be considered as refugees for that reason, but rather economic migrants.\footnote{Ibid.: 11} Under the EU Directive 2013/32/ on common procedures for granting and withdrawing international protection, articles 33 (1), 33(2)(b) and 38 allow the EU member states to determine the list of safe European countries where asylum seeker could be transferred.\footnote{EUR- Lex, Access to EU Law \url{https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013L0032}} This is the structural weakness of the EU law, that gives countries plenty of leeway to expel immigrants, while avoiding violation of the humanitarian principle. This way, Hungary has reduced a number of asylum applicants, simply by declaring Serbia as a safe third country.

Based on the growing numbers of refugees, on the June 17th, V.Órban has announced Hungary's decision to build a fence alongside the Hungarian-Serbian border. The border fence idea originally came from L.Torozkai, former Vice President of far-right movement party Jobbik.\footnote{A. Juhasz and B. Hunyadi (2015: 28}} It is important to stress, that anti-immigration rhetoric was very similar between both political parties (Fidesz and Jobbik), but eventually, V.Órban was trying to get electoral advantage, by outflanking Jobbik on migration policy.\footnote{Ibid.} Although fence decision was widely criticized by the Council of Europe, various MEP's, the Hungarian Helsinki Committee and even media, it was fully completed in August of the same year. Following the construction of the fence on 29th of August, most of the roads crossing the Hungarian-Serbian border were closed. Government argued that fence decision was not there to keep the refugees out. “The fence was there to ensure that refugees go to official places, where they can be registered under the Dublin regulations and get medical assistance, food, shelter and so on”- said Hungarian MEP György Schöpflin.\footnote{L.Bayer (2016) \url{https://www.politico.eu/article/hungary-zero-refugee-strategy-viktor-orban-europe-migration-crisis/}} Interestingly, however, Hungarian press agency Publicus have published a survey in September 2015 which shows that government has failed to convince public
opinion that fence between Hungary and Serbia was needed. 46% of those who answered the survey said that fence would not stop the flow of refugees, while other 21% of respondents were doubtful about the effectiveness of the fence. ⁹⁵

Next came the designation of official transit zones. Meaning that, asylum seekers were only able to submit their applications in a certain place. Alongside the Serbian border the transit zones were located in Tompa and Röszke, while along the Croatian border it was Beremend and Letenye. These zones consisted of containers and the chain of authorities that were in charge of determination procedure. The police who recorded the entry route, then, if an asylum application is submitted, a refugee officer who was supposed to accept it, and finally, a judge in a “court hearing room”, who may only be present via an internet link; in the past, a court clerk could also have issued the judgment, but as of 2018 they are no longer entitled to do so. ⁹⁶ Applications submitted not in the transit zones were automatically rejected. Although, legally refugees could have appealed the objection within seven days, most of them due to the language barrier simply followed way back to Serbia. Lot of information material at the reception centers including maps with country borders, train schedules, statements claiming that application has been accepted or exit formalities were often handed out to refugees in Hungarian language. ⁹⁷ This was reported by Hungarian Commissioner for Fundamental Rights László Székely. He reported number of breaches of CEAS Directives. The IAO response regarding discrimination against immigrants was very vague. Office claimed that all the information material for refugees were granted verbally or both in English or in a language that refugees spoke. ⁹⁸

Within years, the number of asylum seekers allowed to enter each transit zone has decreased noticeably. In 2016, only 20-30 persons per day were let in at each transit zone, from November 2016 it reduced to only 10 persons per day, due to the changes in

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⁹⁷ A. Juhasz and B. Hunyadi (2015: 36
⁹⁸ Ibid. : 36
working hours of the IAO, while in 2017, 5 person limit were reached in each transit zone and according to Hungarian Helsinki Committee in the first week of July 2018, no asylum seekers were allowed to enter into the transit zones.\textsuperscript{99} Despite the limited access to the transit zones, Hungary also adopted new 8km rule.\textsuperscript{100} This new rule allowed Police forces to push back all the asylum seekers that approached the Serbian-Hungarian or Croatian-Hungarian border fence within 8 km distance. Criminal sanctions were imposed to refugees who crossed the borders. This shows that not only Hungarian authorities lacked transparency in decision making process, but it deliberatively proceeded militarization, criminalization and isolation of refugees.

By early September, Germany have announced position to accept refugees from Syria despite the first-entry criterion. This has led to a mass march at the Keleti train station in Budapest. It was around two thousand of migrants that waited and hoped to gain passage to Germany. All trains to Western Europe had been canceled for a few days while the Hungarian parliament held an unscheduled parliament session to debate possible solutions for sudden influx of migrants. Few days after, Hungarian Minister of defense Csaba Hende announced his resignation. As tension reached its peak, the government declared a state of emergency, which allowed to send military troops to the border. Serbian border was fully sealed on the 15th of September. Next day, along the closed southern border hundreds of people attempted to break through a wire fence to enter Hungary from Serbia. However, the barrier did not appear to have been breached. On the 18th of September construction had begun on the new fence alongside the Croatian border.

\textsuperscript{99} Ibid.
\textsuperscript{100} Hungarian Helsinki Committee (2017) https://www.asylumineurope.org/reports/country/hungary/asylum-procedure/access-procedure-and-registration/access-territory-and-push
6.1.4 Mandatory quotas and Hungary’s position

On September 9, the EU Commission released emergency proposal for mandatory quota system as part of an effort to relief the burden on Greece, Italy and Hungary.\(^{101}\)

Not all the EU member states accepted Commission’s proposal. Eastern European countries complained that quotas were set under discriminatory principle. The vast majority of Central and Eastern European countries declared their engagement for a

\(^{101}\) The EU Commission (2019)
voluntary distribution and hoped to be excused from mandatory relocation. 54 000 thousand of applicants were supposed to be relocated from Hungary, however, Hungary did not want to be included in the beneficiary scheme.\textsuperscript{102} Hereby, as Hungary rejected the proposal, instead it was obliged to accept 1.294 asylum seekers into their country.\textsuperscript{103} This decision poured oil on the fire. Hungary did not agree with Germany's call to share responsibility and to accept quotas for asylum seekers. The government has railed against even though it was a small number. Peter Szijjarto, the Hungarian minister of foreign affairs and trade, called the ruling “outrageous and irresponsible” and said “the real battle is only just beginning,” insisting that no one would be relocated to Hungary against its wishes.\textsuperscript{104}

Other Visegrád countries and also Romania categorically rejected the quota system. The Commission was hopeful that Member States will uphold the ruling and accept the decision without further delay. However, Hungary and Slovakia have questioned the legality of the second relocation decision and later on appealed against to the European Court of Justice. The EU’s top court has dismissed the case, upholding Brussels’ right to force member countries to host asylum seekers.\textsuperscript{105}

As we explore Hungary’s position in the context of refugee crisis, it would make sense to question, why did Hungary refuse the original proposal? This plan would have relieved Hungary by 54 000 asylum seekers. A big part of the explanation lies in Hungary’s low refugee recognition rates. Since the beginning of refugee crisis, Hungary was amongst the EU member states with the lowest recognition percentage.\textsuperscript{106} In 2015, only 14,6% of asylums were granted international protection, while in 2016, this number dropped to merely 9%.\textsuperscript{107} On the other hand, the rejection of applicants has increased. Given the characteristic of government’s harsh anti-immigration strategy by labelling all refugees

\textsuperscript{102} Ibid.
\textsuperscript{103} Ibid.
\textsuperscript{104} The New York Times (2017)
\textsuperscript{105} Euronews (2017)
\textsuperscript{106} Hungarian Helsinki Committee (2017)
https://www.asylumineurope.org/reports/country/hungary/asylum-procedure/access-procedure-and-registration/access-territory-and-push
\textsuperscript{107} Ibid.
as illegal or economic migrants, most of the applicants were simply dismissed. So, in the end, there was almost no one to resettle. Meanwhile duty to relocate 1,294 persons was binding by Brussels ruling.

Immediately after Brussels's proposal, Hungarian Prime Minister has called a national referendum. Like previously, government financed billboard campaign and spread biased messages in the whole country saying: “Did you know that since the beginning of the immigration crisis more than 300 people died as a result of terror attacks in Europe?”, or “Did you know that Brussels wants to settle a whole city’s worth of illegal immigrants in Hungary?” and “Did you know that since the beginning of the immigration crisis the harassment of women has risen sharply in the whole Europe”? The organized referendum posed this question: "Would you like the European Union to be able to prescribe the mandatory settlement of non-Hungarian citizens in Hungary, even without

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108 Human Rights Watch (2016)
the consent of the National Assembly (Parliament)”?

Over 98 percent of voters did not consent with the EU’s proposal and supported government’s position on quotas rejection. However, referendum has failed due to insufficient number of votes. Even though the turnout stood only at 43.9%, the government has called this referendum “a sweeping victory for all those who reject the EU’s mandatory quotas”.

Governments anti-immigration narrative was strong from the very beginning of refugee crisis and public broadcast media has stimulated this negative discourse jointly. Situation has got even worse, after introduction of mandatory quotas. For example, the Hungarian Justice Minister László Trócsány spread negative comments on the EU’s quotas decision on the radio. This turned into bashing other minorities. Minister said that: “Hungary was not able to accept any more economic migrants as integration of 800 000 Roma people already posed a huge burden for the country”; and “Due to funds spent on Roma integration, the country was unable to cope with other challenges and finance other aims”. After these anti-Roma messages said on the Info-rádió, Hungarian Justice Minister was called to resign.

Unfortunately, the migrant crisis coincided in time with November 2015 shootings across Paris. Hereby, Hungary’s rhetoric on the migrant crisis has changed in the light of the terror attacks. The national security was pushed to dominate in the public discourse. Following the terrorist attack in France, the Prime Minister Orban expressed his concern over the arrivals of people from the Middle East and Africa. Since then, both governing parties and media started to link immigrants with terrorists. In one of his speeches V. Órban claimed that within introduction of mandatory quotas Europe is risking to spread terrorism: “Which approach is more humane, to close the borders in order to stop illegal immigration, or to put at risk the lives of innocent European citizens? We have warned

110 Ibid.
the leaders of the EU not to invite these people into Europe. We feel that the very existence of Europe is at stake”. Right-wing party got into the spotlight by exploiting the refugee topic. Shortly after, Fidesz started collecting signatures for a petition against quota in Hungary. Lot of biased information were purposely used in this campaign. In Fall of 2015, it was announced that 160 000 refugees would be relocated in Hungary, although it was the number of distributions throughout the whole EU over five years.115

6.1.5 Opposition and NGO’s

Opposition parties in Hungary including MSZP, LMP, PM, various NGO’s and HHC raised their voices against governments negative rhetoric on refugees. National consultation was exclusively criticized, blaming the ruling government for using political propaganda to entice radical nationalism and xenophobia. LMP leader András Schiffer called for distinction between the asylum seekers and immigrants in general, and also stated that immigrants who moved to Hungary are handling better economically than native Hungarians.116 MKKP, that is Hungarian spoof political party, condemned governments billboard campaign and as a response to this they launched their own posters. They were mostly parodying the political elite, referring to the corruption scandals, while others just ironically mocked Hungary’s migration situation by saying: “Feel free to come to Hungary, as we already work in England” or “Immigrants do not work and take our jobs”.117 The most active force amongst all NGO’s was of course HHC. They were capturing asylum procedures, checking on detention centers and reception conditions. The Committee’s goal was also to help UNHCR Hungary with investigation of violations of human rights.

In June 2018, Hungarian government passed restrictive policy changes and new legislation that poses criminal sanctions for all NGO groups that aim to help refugees and asylum seekers. Parliament adopted Bill T/333, the so-called Anti-NGO package, and the

114 EU Immigration and Asylum Law Policy (2015)
https://eumigrationlawblog.eu/hungarys-appeal-against-relocation-to-the-cjeu-upfront-attack-or-rear-guard-battle/
116 Ibid.
117 Ibid.: 28
Seventh Amendment to the Hungary’s constitution, that targeted all organizations who legitimately tried to help ‘illegal migrants’. These controversial constitutional changes breaches the EU law, that is based on the principles of liberal democratic constitutionalism. Therefore, constitutional framework particularly concerned the EU institutions that demanded to review democracy and the rule of law in Hungary. Hungarian Foreign Affair Minister Peter Szijártó described this decision as Brussels “revenge” on Hungary. The Prime Minister did not share many comments on this topic. In one of his speeches he said that: “The biggest danger is that millions of immigrants are threatening us from the South, and the leaders of Europe who joined with billionaire speculators, not to defend the borders but to let the immigrants in.” V. Orban claimed that it was necessary to introduce harsh measures against civil activists because they are allegedly promoting ‘illegal migration’. As ruling party Fidesz still holds 133 of 199 seats in Hungary’s parliament, the necessary two-third majority entitles them to change any existing laws in the country.

6.1.6 Conclusions

Hungary provides an interesting insight of current refugee crisis context. Right-wing populist party Fidesz, that governs state for the last nine years, made an explicit appeal to oppose the EU’s mandatory quota system since the beginning it was introduced. Given the characteristics of the situation in Hungary, it is clear that government used nationalistic discourse and systematically exploited refugee topic to keep up the electoral success. Perhaps the most interesting peculiarity in this situation was that two major parties in the country right- wing (Fidesz) and far-right (Jobbik) have practically traded places. Political scientists argue, that in this situation right-wing became more radical than the actual far-right. These changes in the political arena happened for a reason. Soon

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120 Ibid.
122 P. Krekó (2017) : 2
after the refugee crisis broke out, V.Órban grasped this chance to outsmart Jobbik on migration discourse. As it was mentioned above, Fidesz has implemented most of the measures proposed by the opposition party to the domestic laws. Recent constitutional changes against the NGO's proves that country has extremely strong government with authoritarian tendencies, and at the moment its hardly defeat-able without strong opposition parties existing in the country. Additionally, what is important to note, that Hungary's political tactic draw the attention of other Visegrad states. The region, eventually, developed a unified position against mandatory refugee quotas. Visegrad countries provoked a strong backlash on the ongoing crisis and stayed distanced, while the EU was looking for a common solution. Eastern European response to the refugee crisis, in a sense, challenged the EU's solidarity. It encourages us to think further about the state of the EU and how we imagine the further of European integration.

6.2 GERMANY

Regional instability in the Middle East has brought the highest levels of asylum seekers to the EU. The ongoing crisis has tested Member States capacity to deal with the growing number of migrants. Eventually, joint European solution was not achieved as lot of Member States opposed to fairly share the burden. The EU-Turkey agreement in 2016, has lowered the numbers of asylum seekers. However, the extremely challenging task to end the conflict in Syria has not been reached yet. Considering refugee crisis, for some European leaders, the focus was not the problem per se, but rather concern to protect their external borders. Many EU countries started unilaterally closing their borders, while Germany on the other hand, has expressed fundamentally different position. Instead of posing more restrictive policies against the asylum seekers, Germany decided to keep the borders open and introduced liberalizing laws that stressed beneficial aspects of integrating refugees. Analyzing the different responses over the government’s handling the refugee crisis tell us a lot about the state of the EU and helps us to better understand regional dynamics. Hereby, the upcoming chapter will examine Germany’s

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123 Ibid.
124 A. Ilgit and A.Klotz (2018) : 626
response to the refugee’s crisis and argue that country’s policy was mainly driven by humanitarian concerns and its economic interests. Eventually, emphasizing, that Germany also showed remarkable leadership for pushing a common European solution for refugee crisis.

6.2.1 Migration policies in Postwar Germany

Asylum rights in Germany were first granted after the II World War. As a recognition to the Holocaust, country made major changes in its legal system and ratified international human rights treaties. Germany’s economy grew rapidly and the 1970’s export-driven boom changed the labor market which led to bilateral agreements with neighboring countries.\textsuperscript{125} Labor force necessity was filled up with immigrants or so called “guest workers”. Most of them were unqualified workers from Turkey, Italy, Greece, or Spain. Migration flows have steadily increased during this period, rising up to 1 million of arrivals in 1970.\textsuperscript{126} Many of these immigrants entered Germany temporarily, thus, migration was perceived as supposedly temporary process, without a need to ensure worker rights or plan their integration.

Major challenges followed in the early 1990s, after reunification of Germany that brought number of ethnic Germans from Eastern side and the Balkan wars, when thousands of people from former Yugoslavian countries flee from persecution and claimed for asylum in European countries.\textsuperscript{127} In 1993, Germany implemented the so-called asylum compromise, that led to a much more restrictive approach ever since. Its purpose was to reduce the number of refugees claiming for asylum status and also minimize the risk of asylum laws being exploited.\textsuperscript{128} This law caused a drastic drop of refugees and migrants entering the country.

Vivid changes in the regulation of migration policy entered in year of 2000. Government has transformed and gradually recognized various type of legislation

\textsuperscript{125} M.M.Mayer (2016) : 1
\textsuperscript{126} V.Rietig and A.Müller (2016)
\textsuperscript{127} A. Ilgit and A.Klotz (2018) : 615
\textsuperscript{128} M.M.Mayer (2016) : 1
including employment of skilled workers and integration of immigrants seeking the entry into Germany. First of all, the residence law was liberalized. Therefore, workers were able to get longer residence permits, apply for housing and language courses. Finally, in 2009, the EU has approved “the Blue Card” and made it easier for skilled labor immigrants from the third countries to work in the EU. Germany authorized these changes in 2012, by fully harmonizing it with the European aquis.

The number of refugees claiming for asylum started to increase again in 2011. In 2013, newly formed government of CDU/CSU and SPD coalition began to implement some political and legal changes in asylum and refugee policy. Government expanded the list of safe countries of origin, thereby putting Western Balkan states to this category. There were some disagreements with deputies over this decision. The opposition of Green party challenged Balkan refugee discourse by arguing that refugees from these countries should be offered help the same way as others, while conservative critics distinguished them as more economic/poverty refugees, emphasizing that priority must be given primarily to the war-affected refugees. Despite some minor disagreement’s government agreed to proposed reforms. Reform proposal included changes containing a shortened asylum processing time to three months, abolition of residency restrictions for refugees and reduced ban on refugee employment.

6.2.2 The open-door policy and effect of the crisis

Asylum claims reached its peak in 2015, when nearly one million of people entered Germany and around half of it were able to file for asylum. According to the Federal Office for Migration and Refugees in Germany, the largest number of asylum claims were from Syria with total of 162,510 claims in 2015, then followed Albanians with 54,762, Kosovars with 37,902 and Afghans with 31,902. Recognition rates for granting asylum

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129 Ibid.: 2
130 Ibid.
131 A.Ilgit and A.Klotz (2018) : 621
132 Ibid.
133 M.M.Mayer (2016) : 3
were based on the political and security situation in the applicants country of origin. Priority was given to the people fleeing from the conflict zones. Therefore, acceptance rates were the highest for Syrians, Iraqis and Eritreans.

Once the refugee crisis broke out in the summer of 2015, Germany has announced the position to accept all the Syrian refugees, despite the first-entry criterion, meaning that Dublin procedures from now on will be suspended temporarily. Angela’s Merkel motto “we can do it!” (wir schaffen das!) was a major U-turn in the European refugee crisis. German Chancellor has declared that country will remain open for asylum seekers. State also increased migrant quotas and decided to accept around 800 000 refugees in 2015, and gradually lower the number from the next year.\textsuperscript{135} It soon became clear, that

\begin{center}
\textbf{Chart nr. 4: Origin of Asylum Seekers in Germany (2015)}
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\begin{center}
\textit{Source: Federal Office for Migration and Refugees in Germany}
\end{center}

\begin{center}
\begin{tabular}{|l|c|}
\hline
\textbf{Country} & \textbf{Number} \\
\hline
Syria & 162,510 \\
Albania & 54,762 \\
Kosovo & 37 \\
Afghanistan & 32 \\
Iraq & 31 \\
Serbia & 27 \\
Macedonia & 14 \\
Unknown & 12 \\
Eritrea & 11 \\
Pakistan & 8 \\
\hline
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\textsuperscript{135} T. Lochocki (2015)
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these numbers were not realistic or feasible. After Merkel’s statement, growing flow of people increased remarkably. If in 2014, the number of Syrian refugees was around 39,330, then in 2015 it reached up to 162,510. Increased arrivals affected administrative services as they were stretched to their limits. Government had to improve reception, legal and infrastructural services as the ongoing number of asylum seekers could not continue as it was.

The open-door policy was an ambiguous plan that naturally caused some intra-coalition clashes. Merkel’s colleagues have criticized her migration enforcement, calling it a mistake that might cause an emergency situation in Germany. The Bavarian leader Horst Seehofer has condemned this decision and insisted to bring back the border control. Subnational Länder authorities, that were responsible for the housing of asylum seekers and some other aspects of immigration policy struggled to cope with the large number of applicants. Thus, in response, all the 16 Länder leaders demanded for temporary control alongside Germany’s border with Austria. Extraordinary measures to securitize migration flows in Germany were taken into consideration. Therefore, Schengen Agreement was temporarily suspended, in order to ensure that all people were registered under regulations. Merkel was not a great fan of quotas but within pressure from her coalition partners, at the G-20 summit in Turkey, it was decided to concede with fixed numbers that Europe is willing to accept.

### 6.2.3 Asylum policy amendments

There were multiple conflicting proposals from the members of ruling coalition. CDU/CSU have offered to designate official transit zones along the Austrian border and set the stricter limits on quotas. The SPD coalition partners rejected these proposals claiming

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http://www.gmfus.org/blog/2015/09/04/germany’s-asylum-policy-moral-duty-meets-national-interests#inbox/_blank


that they were unconstitutional. Furthermore, constitutional amendment to expand the list of safe third countries was proposed simultaneously, with Bundestag initially approving Morocco, Tunisia, and Algeria as such, but later on with the German Bundesrat rejecting it.\textsuperscript{140} CSU critics went further and released additional position paper requiring more restrictive changes such as an annual 200,000 cap on asylums, a ban on wearing burqa and abolition of dual citizenship.\textsuperscript{141} Christian Democrat’s started classifying refugees, favoring Catholics, and proposing priority to accept only single women with children. At this point, there was lot of pressure on government to prevent further mass influx. Coalition acknowledged that changes were vital but disagreed substantially on how this should be done.

Over a two-year period, certain aspects of German asylum legislation have been modified. Federal government has adopted several “Asylum Packages” that were both restrictive and progressive. On the restrictive side, introduced laws aimed to ensure security, so for example “The act on the faster expulsion of criminal foreigners and extended reasons for refusing refugee recognition to criminal asylum seekers” gave state a pretext to expel those immigrants who committed certain crimes. Additionally, family reunification for those with privileged subsidiary protection has been suspended until March 2018. Asylum Seeker Benefit Act was modified too. Meaning that asylum seekers will receive less money. On the other hand, these law packages have speeded up the application process to those who were most likely to get accepted and improved some integration policies. “Orderly Return Law” toughened the rules on deportations, meaning that asylum applicants without documents cannot be deported. It was decided to terminate and void deportations of refugees to the countries with low protection rates. At the same time, since August 2016, deportation of sick refugees became reasonable. Furthermore, new residency restrictions allowed cities to move unemployed refugees back to the Länder where they first entered.\textsuperscript{142}

The following year Chancellor Merkel stressed that EU needs a joint action, so that all Member States would work on refugee burden sharing together. Commission’s

\textsuperscript{140} DW News (2016)
\textsuperscript{141} A. Ilgit and A.Klotz (2018) : 623
\textsuperscript{142} Ibid.
mandatory quotas decision was accepted with unwillingness to aid from majority of the EU Member States. Next followed, the EU-Turkey agreement negotiated in March 2016, so all illegal immigrants crossing from Turkey to the EU territory were supposed to be returned, while the EU agreed to resettle in Europe any migrants qualified for asylum in the same proportion.143 This way the EU reached a temporary solution to stop irregular migration through the Aegean Sea, and agreed to improve conditions for the refugees hosted in Turkey. Considering this plan, Germany solely has admitted 1060 Syrians from Turkey in 2016, and agreed to continue this resettlement program by extending it to 500 persons a year.144 Similarly, the EU-Libya deal was negotiated later, within the EU showing openness to fund humanitarian assistance for refugee camps. However, Libyan authorities were not capable to ensure safe conditions in camps and detention centers. In July 2019, as UNHCR captured gross human rights violations and abuse in overcrowded facilities, the EU foreign ministers issued a claim for Libya to close their migrant detention centers. At the moment the EU is trying to assure that those evacuated from detention centers are offered safe routes and regular pathways out of Libya.145

6.2.4 Immigration concerns and support for AfD

Anti-immigrant sentiments in Germany got stronger in the end of 2015. Mass sexual assaults and violence in Cologne and other German cities during the New Year’s Eve raised an immense concern, whether government is capable to cope with the crisis and ensure integration of immigrants. Fears of Islamisation sparked further, when Tunisian origin refugee committed attack in Paris police station. At the same month, perpetrator has been registered as an asylum seeker in Germany, as well as in other six countries.146

143 A.Sola (2018) : 8
These incidents have boosted various type of far-right platforms in Germany such as PEGIDA and Ultras. PEGIDA was registered as voluntarily organization that began as a Facebook group, which shared its core sentiment with the far-right party AfD. Soon it evolved into a movement with thousands of followers, who were protesting of what they say is the growing influence of Islam in Europe. As Germany experienced huge influx of refugees, PEGIDA’s movement resonated with many people in Germany. Group started organizing weekly demonstrations against refugees. Protest movements addressed dangers of multiculturalism and the importance of sustaining German values.

Interestingly, according to the survey from the German Socio-Economic Panel, concerns about immigration of the German population increased particularly in the East Germany.

Angela Markel strongly condemned attacks against refugees and right-wing extremism. PEGIDA, eventually, experienced some backlashes as well. Group founder Lutz Bauchman was convicted for spreading hate speech against refugees in social media. In response to the group’s gatherings, anti-PEGIDA marches were organized in Munich and other Western cities, to show that instead of excluding people you can invite them in, this way forcing discussion on immigration around the country. Despite, PEGIDA’s fallen popularity, the far-right sentiment has not vanished. On the contrary, the far-right party AfD gained a momentum in 2017 federal elections and entered Bundestag as the third-largest party with 12,6 % of the votes. It was a pivotal moment in German politics, as in over half of a century the far-right party managed to enter federal parliament, as the third biggest party with 94 seats.

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148 Ibid.
149 A.Sola (2018) : 30
6.2.5 NGO’s

The role of NGO’s during the refugee crisis has become increasingly important. Lot of economic actors and human rights-based organizations participated in political debates and helped government to cope with crisis. Industry leaders considered that it is economically harmful to keep restrictions on refugee employment. Integrating large refugee population into society and labor market is a certainly great challenge. In order to achieve that, it was necessary to shift certain laws and labor regulations. In 2016, federal government adopted The First Refugee Integration Law that boosted refugee recruitment process. Laws that give priorities to employ native Germans or the EU applicants were suspended for three years. In response, companies started pushing for economic liberalization and employment of well-trained refugees. Big national companies and firms such as Deutsche Ban (rail carrier), Deutsche Telekom (Internet service provider) and others started hiring refugees. Initiative known as “Us Together” (“Wir Zusammen”) unified around 100 different German business companies and firms that launched various training programs, language courses and new working opportunities for refugees. All these measures increased work opportunities and helped refugees to integrate into their host societies.

6.2.6 Conclusions

It is important to recognize, that in 2015, Germany’s policy for refugee and asylum crisis was based on decision to ‘open doors’ for migrants. Many critics claim that Chancellor Angela Merkel’s way of handling crisis has resulted her political downfall. Indeed, refugee crisis has positively affected the rise of far-right party in Germany. AfD reached success in 2017 federal elections by using a threat-based discourse to increase concerns on immigration in Germany.

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152 The Guardian (2016)
https://www.theguardian.com/world/2016/apr/14/germany-unveils-integration-law-for-refugees-migrants
Overall, refugee crisis was an emergency situation, that led to a large backlog of asylum applications. Mass influx of refugees were restrained through simultaneously tightened and improved asylum laws that were introduced in 2016. Within initiative from various NGO’s and societal actors, refugees were seen as bringing economical potential. As discussed in the case of Germany, country has been very successful with implementing all the CEAS directives in its system and even initiated joint solutions on the EU platform. In this context, some European leaders have distanced themselves from German ‘open door’ policy. Tension over refugee policy was also noticeable among the CDU/CSU coalition members, that further demanded for extraordinary measures on migration securitization. However, despite series of controversial and tactical political shifts, Germany showed remarkable leadership with welcoming an immense number of refugees. Angela Merkel stated that dealing with the migrant crisis was important for Germany’s reputation in the World and to hold Europe together.
7. Conclusions

The purpose of this thesis was to study what caused a fracture between the European Union Member States when mandatory quotas for refugee relocation were introduced as a strategic solution to fight recent refugee crisis. Within the focus of comparative case studies of Hungary and Germany, this research aimed to look into how these states managed to follow and apply the Dublin rules, and further analyze possible motivations for distinct policy approaches in both countries.

To answer the first research question: how differently the asylum crisis was perceived between the EU Member States, my findings suggest, that migration issues were perceived and tackled in quite opposite directions. I must emphasize, that varying response to the crisis may be partially explained by the issues of the Dublin System framework and weak appliance on behalf of the Member States itself. As addressed earlier, the Dublin System is a significant part of the European Union’s Common Asylum System. Based on the first entry criterion, Dublin goal was to determine country responsible for an asylum claim in order to avoid multiple applications in different Member States. In 2015, however, when large numbers of migrants were seeking for international protection, Dublin procedures pressed the burden on Greece and Italy most of all. Systematic deficiencies became notable when the EU started tackling the problem and Member States were forced to accept refugees under the mandatory quotas’ decision. While Germany showed great commitment in applying the Dublin rules, Hungary was not found to have transparent administrative practices, nor did it show initiative in taking responsibility for incoming refugees.

Broadly speaking, the whole CEAS rules were interpreted differently. As this comparative case study has shown, not all Member States were capable to offer efficient help to their applicants. Furthermore, the Dublin regulation differed somewhat between the countries. The results obtained that recognition rates, reception systems, asylum legislations and practices varied greatly between the EU countries. Given the example of Asylum Procedure Directives, particularly articles 33 (1), 33(2)(b) and 38 on common procedures for granting and withdrawing international protection, Member States were given a certain leeway to expel immigrants. This way, Hungary has reduced a number of asylum applicants, simply by shifting all responsibilities to the neighboring countries.
Germany, on the other hand, with relatively positive recognition rates faced distinct issues. As administrative services were overburdened to the limits, Germany had to suspend family reunification. Legal violation was noticeable in application of the article 27, that meant to ensure the right to appeal a transfer decision. In Germany asylum applicants were only given a week to submit such an appeal without any legal assistance provided.

Theoretical chapter of this research reflected on European integration theories and explained how they can apply to the case of recent refugee crisis. Neofunctionalism and spillover logics refer to the impact of refugee crisis, that produced high political pressure for cooperation, thus adding problem-solving in the Council’s framework. While Supranationalism captures that crisis shifted migration policies from the 'low politics' to the 'high politics and this is due to unusual emergency situation. Commission’s decision to introduce mandatory quotas represents the interest of the EU as a whole, and in this case, the EU Commission was looking for a solution and decision that could work for the greater good. Intergovernmentalism, on the other hand, explains how relocation decisions affected Member States and why this East-West fracture on the migrant crisis occurred. Intergovernmentalist argument here is that refugee crisis placed a strain upon national asylum systems, which is the reason why some of the countries attempted to protest and handle asylum crisis in their own ways. Secondly, within mandatory quotas Member States found themselves unable to decide who can enter into their territory. This proposal for mandatory quotas undoubtedly challenged the status quo, which only made it harder to compromise reform deals at the European level.

Considering other questions, what were the policies in regards to the current crisis? And what are the possible reasons for this outcome, this research discovered that refugee rights were found to be less respected in Hungary. In particular, the policy amendments undertaken by the ruling right-wing government has espoused limited aid for asylum seekers. Designated transit-zones and border barriers alongside with Serbia and Croatia, made it almost impossible for refugees to get into Hungary. As study showed, asylum recognition rates in Hungary were very low. This, combined with poor reception systems and legal enforcement of refugee deportation, is the evidence which only confirms that Hungary appeared to systematically breach multiple procedural rights. Furthermore,
government actively tried to affect public opinion through a biased consultation and billboard campaigns to prove that refugees pose a serious security threat. I would argue, that this outcome is purely interest based, nationalistic discourse that consistently exploited refugee topic to achieve the electoral success for a long-ruling Fidesz party. In contrast, the German government tackled refugee crisis through evidently humanistic approach. Being a “welcoming” country for years, Germany have had a solid experience with migration flows. Therefore, it’s not surprising that country was desired as final destination for number of people. Many of asylum seekers have made their way through several Member States to settle down in Germany. As mentioned before, unlike its southern neighbors, German authorities have cohesive administrated practices and focused on registered data provided by Eurodac. Eventually, when southern states experienced undeniable pressure on their asylum systems, Germany initiated Dublin suspension. The attempt to find a common European solution has led to an open-door policy in Germany, that was specifically introduced by Chancellor Angela Merkel. The effect of the crisis was obvious. Increased transfers affected administrative services in Germany. This led to a growing opposition both at home between the ruling coalition and from its European partners as well, that did not support such a policy approach. To a significant extent, frustration and discontent with arriving refugees have affected voting for the far-right party. During the refugee crisis AfD have shifted their focus from criticizing a single currency and the EU, to the pressing issue of immigration. Changing the course of policy action attracted new voters and AfD gained success in 2017 elections. It is important to state, that this support was mainly notable in Eastern Germany, were people tended to have more sceptic attitudes towards refugees and immigrants overall. We might consider, that this gap between the East and West Germany is due to the reunification that happened not long time ago. It is hard to claim whether AfD would have gained political success in different circumstances. Assumptions may be drawn, that refugee crisis triggered the effect on the election. To finally conclude, what where the underlying motivations for these policy approaches? This analysis may determine, that Germany’s response was driven both by national identity and country’s interests that aligned well with its leading role in the EU, hereby encouraging a common European solution and stressing beneficial aspects of refugee integration.
Based on the findings presented in this thesis, refugee crisis brings to the light what might be seen, in fact, as a fracture between the East and West on justice and home affairs policies. The case study has shown that both Hungary and Germany have experienced undeniable pressure on their asylum systems, and at the same time presented different perception in crisis management. Some of the findings were, in fact, expected, keeping in mind political situation and social climate in both countries. However, it is important to note, that CEAS and Dublin rules cannot rely on a gesture of goodwill. Directives should be equally translated into cohesive administrative practices in all the EU Member States. Consequently, the EU should address migration issues immediately by introducing major migration policy reform. Otherwise, the EU's justice and home affair policies will never lead to the further development and better future of Europe.
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64


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