States as Gatekeepers in EU Asylum Politics: Explaining the Non-Adoption of a Refugee Quota System

Natascha Zaun

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ABSTRACT

Building on Moravcsik's Liberal Intergovernmentalism, I offer an explanation of the non-decision on permanent EU refugee quotas. Some traditionally influential Member States in EU asylum politics, e.g. Germany, Austria and Sweden, received large numbers of refugees and faced strong domestic pressures to engage other Member States in responsibility-sharing. Yet, governments of Member States with small application numbers (among whom several Eastern European governments were particularly vocal) had incentives to undercut responsibility-sharing to avoid similar pressures. Having a better alternative to the potentially negotiated agreement, these governments successfully blocked the introduction of permanent refugee quotas. Besides explaining the absence of an effective response to one of the root causes of the asylum crisis (i.e. unequal strains) through asymmetrical interdependence, the article further develops Liberal Intergovernmentalist arguments and shows how national electorates influence positions taken by governments at the EU level when they are mobilised by right-wing populist parties.

KEY WORDS: Liberal Intergovernmentalism, populism, refugee crisis, responsibility-sharing

Introduction

The 'refugee crisis' not only represents a key challenge for the European Union (EU), but also has the potential to fundamentally harm the European integration project. The lack of effective co-operation, particularly on responsibility-sharing, has led to unilateral suspensions of the Schengen regime by several EU Member States, including Sweden, Denmark, Germany and Austria (Traynor, 2016), thus challenging the idea of freedom of movement in Europe without border controls. This not only negatively affects intra-EU trade, but also sends a negative signal about the status of the European integration project, of which freedom of movement is an important cornerstone.

Although much is at stake and the Dublin III Regulation clearly failed, the EU has not been able to agree on a fair distribution of refugees. At the height of the crisis in September 2015, the European Commission proposed the relocation of 120,000 asylum-seekers from Greece, Hungary and Italy based on the criteria laid down in the introduction of this special issue (Niemann and Zaun, this volume). While the Council agreed to this proposal with the backing of the European Parliament, the proposal also recommended discussions on a permanent quota system relying on the same parameters. This proposal, however, remained unsuccessful and much less integrative mechanisms have been under discussion since May 2016. These include 1) a revised version of the Dublin Regulation (Dublin IV) with a corrective mechanism for crisis situations (see Niemann and Zaun, this volume) but without any sovereignty transfers to the EU level and 2) the idea of 'flexible solidarity' promoted by the Visegrad countries at the European Council in Bratislava in September 2016. According to the latter, the distribution of refugees would be purely voluntary, allowing Member States to refrain from receiving any additional refugees and contributing financial support and expertise instead. While discussions are still ongoing and time will tell which (if any) of these two proposals will be eventually adopted, mandatory and automatic quotas have been clearly abandoned.

The decision to retain the *status quo* with the Dublin system, in particular, may surprise. The malfunctioning of Dublin was at the heart of the 2015/16 crisis when border countries were unable to deal with the massive strain on their already weak asylum systems and asylum-seekers would largely self-relocate to other Member States (Costello and Mouzourakis, 2016). Drawing on Moravcsik's Liberal Intergovernmentalism, this article explains why Member States refrained from adopting a capacity-based quota system, which would have implied more predictability and an insurance against extremely unequal strains, and why they instead opted to maintain (and slightly adapt) an obviously ill-functioning system.

I argue that while in some Member States— especially the traditional asylum recipients Germany, Austria, and Sweden — there was a high demand for such a solidarity instrument to alleviate domestic pressures preferring a reduction of the asylum-seeker inflow, most Member States opposed further EU asylum cooperation to avoid similar pressures. This group, which is reported to comprise as many as fifteen Member States (Ludlow, 2016, p. 23) and of which the Visegrad countries were the most vocal, opposed the quota system and further communitarization, which would have implied a rise in asylum applications for them. Having a better alternative to the negotiated agreement, these Member States blocked the introduction of a refugee quota system (i.e. they 'threatened with non-agreement').

The contribution of this article is two-fold. Empirically, I explain the failure of the permanent EU refugee quota system, which could have been a durable solution to long-standing issues of refugee distribution in the EU, based on asymmetrical interdependence. I thus build on findings of Moravcsik and Nicolaïdis (1999, p. 63) who highlight that differences in both the volume of Member States' intake of asylum-seekers and their ability to control their external borders could explain their support for communitarization during the negotiations around the Amsterdam

Treaty. Second, the paper also opens the 'black box' of preference formation in selected Member States, demonstrating that understanding dynamics at the national level is crucial to understanding EU asylum politics. Thus, the paper further develops the Liberal Intergovernmentalist argument that voters play an important role in government's preference formation, because "[t]he primary interest of governments is to maintain themselves in office" (Moravcsik 1993: 484) and links it to findings on the role of the electorate in domestic migration policy-making.

To provide evidence for my argument, I investigate EU level bargaining dynamics, while linking (changes in) Member State's positions to national politics. In a first step, I analyse national political and media discourse in Member States, focusing particularly on Germany, Austria and Sweden on the one hand and the Visegrad countries on the other hand as the most vocal supporters and critics, respectively, of the introduction of refugee quotas. In a second step, I investigate EU level negotiations around permanent EU refugee quotas to see how asymmetric interdependence influences the legislative output of EU policy-making on refugee quotas. The refugee quota system represents a case of unsuccessful EU policy-making or a 'non-decision'. Non-decisions are heavily understudied, although they can provide important insights into bargaining dynamics (Scharpf, 1999, p. 76-77). Since physical responsibility-sharing is an important if not *the* key pillar of EU asylum policy, whose general purpose is a more equitable distribution of refugees (Thielemann and Dewan, 2006, p. 360), understanding decision-making in this case will help understand the broader dynamics in this policy area. Applying Liberal Intergovernmentalism to decision-making below the level of treaty reform, moreover, helps to assess Moravcik's and Schimmelfennig's (2016) recent claim that the theory can be applied to day-to-day decision-making at the EU level and not only to treaty reforms, to which the theory had been originally applied (see also Schimmelfennig, 2015). The data I use for my analysis are national surveys, EU documents, (press) reports, as well as eleven semi-structured expert interviews[1] conducted with individuals from the EU institutions (particularly the Council and the Commission), selected Permanent Representations of Member States representing different positions towards refugee quotas and relevant NGOs in October 2016.

Liberal Intergovernmentalism in EU refugee policies

Liberal Intergovernmentalism embeds a liberal theory of state preferences and state preference formation in a setting of international interdependence and institutions (Schimmelfennig, 2015, p. 178). According to Moravcsik, "a tripartite explanation of integration – (economic) interests, relative power and credible commitments – accounts for the form, substance, and timing of major steps towards European integration" (Moravcsik, 1998, p. 4). Liberal Intergovernmentalism understands European integration as "a series of rational choices made by national leaders in response to international interdependence" (Schimmelfennig, 2015, p. 178; Moravcsik, 1998, p. 18). It is better placed to explain a non-decision and an absence of an 'upgrading of the common interest'/further integration than, for instance, Neofunctionalism. Neofunctionalism would generally expect integration and has been convincingly applied to the different stages of the incremental communitarization of asylum policies with the Amsterdam and Lisbon Treaties (Niemann, 2006; Andersson, 2016). Yet, I will demonstrate that Member States are less willing to transfer additional powers to supranational institutions in a highly politicised crisis situation where the issue at stake exclusively concerns the (re-)distribution of asylum-seekers between Member States rather than regulatory questions of policy harmonisation (Interview NGO).

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[1] I would like to thank Arne Niemann for conducting these interviews and sharing the interview data.

Liberal Intergovernmentalism has three core assumptions. First, state preferences are the result of a national preference formation process. Second, power differentials between Member States decide which preferences shape EU policy. Third, the institutional framework that comes with EU policy is an expression of Member States' (un)willingness to make credible commitments and ensure enforceability.

National preference formation in EU asylum policies

Drawing on liberal theories of international relations, which concentrate on state-society relations, Liberal Intergovernmentalism considers foreign policy goals of national governments the result of national preference formation processes. Governments identify the potential benefits of EU cooperation in response to societal interests (demand), whereas a process of interstate strategic interaction defines the potential responses of the EU architecture to pressures from individual governments (supply) (Moravcsik 1993, p. 481). Liberal Intergovernmentalism suggests that national preferences are formed in response to pressures from domestic groups, whose preferences are aggregated through political institutions. Domestic politics are the 'transmission belt' (Moravcsik 1993, p. 483) through which societal interests influence governments and ultimately EU policy-making. Understanding domestic politics is therefore a precondition for the analysis of strategic interaction among states (Ibid., p. 481). National economic interests reflect "primarily the commercial interests of powerful economic producers" (Moravcsik, 1998, pp. 3, 26). This strong focus on economic interests can be understood through Moravcsik's initial research focus on EU integration until the Maastricht Treaty. However, Moravcsik has always linked governments' responsiveness to societal interests to their interest in pleasing voters and maintaining themselves in office (Moravcsik, 1993, p. 484). While voters are usually a barely organised group and as such cannot exert influence over governments, their positions become more influential if they are mobilised by political parties. This dynamic has been extensively researched by scholars working on national immigration politics (e.g. Howard, 2010; Kitschelt, 1997). According to Howard (2010), governments are pressured into adopting restrictive policies if right-wing populist parties gain electoral ground from mobilizing latent anti-immigrant sentiment among voters who feel insufficiently represented by mainstream political parties.

Overall, there is a tendency for governments to adopt a restrictive approach towards immigration and asylum. The reason is that large parts of the European electorates from across the political spectrum (except for the more cosmopolitan Green electorate) hold latent anti-immigrant attitudes (Alonso and Claro da Fonseca, 2010; Howard, 2010, pp. 744-745). Still, tolerance levels towards immigration vary significantly between Member States and some electorates are generally more open to receiving larger numbers of refugees than others. Electorates of countries with traditionally low levels of immigration can be expected to have more restrictive preferences than those of countries with a longer history of immigration, as nationals have had little personal contact to foreigners. Personal contact has been found to be a crucial determinant of openness towards foreigners (on the 'contact hypothesis' see Berg, 2009, p. 43).[2] On the other hand, some states such as Sweden are generally willing to receive larger numbers of refugees than other states as they consider this part of their humanitarian commitment, which has also a strong backing in their societies (Thielemann, 2003, p. 267-8).

However, when numbers of asylum applications are significantly increasing as compared to a previously tolerated level, electorates are likely to demand more restrictive policies to decrease them again. Yet, these demands can be only expected to translate into policy change if met by a supply from an electorally significant right-wing populist party (see Kitschelt, 1997, pp. 4-19). If right-wing populists are able to expand their electorate at the expense of the government (and other moderate political parties) and if they mobilise voters with anti-immigrant preferences by blaming the government for its lenient policies, they can exert substantial pressure on governments (see also Harteveld et al., this volume). In response to these pressures, governments tend to adopt similar positions and implement policies that aim to minimise the intake of asylum-seekers in order not to lose electoral support (see Massey, 1999, p. 313).

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[2] This does not imply that societies with larger numbers of asylum applications are more open towards additional asylum applications, but the positive effect of contact requires a time lag.

In an area of free movement such as Schengen, unilateral policies to reduce an intake of asylum-seekers are likely to be less successful (at least, if one intends to maintain the Schengen regime) and top recipient countries need the support of their fellow Member States. Top recipients therefore can be expected to try to use the EU level to respond to domestic pressures for reducing asylum applications numbers and to make other states commit to receiving larger numbers of refugees (see Slominski and Trauner, this volume). Governments of states with few applications, on the other hand, have few incentives to receive larger application numbers which could put them in an equally unfavourable position *vis-à-vis* their voters as current top recipients. They are hence critical of cooperation, which would imply having to host more asylum-seekers, and prefer the maintenance of the *status quo*.

Bargaining power and the intensity of preferences

Bargaining theories have identified several factors that influence bargaining outcomes. Three important determinants of bargaining power are 1) unilateral policy alternatives ('threats of non-agreement'), 2) alternative coalitions ('threats of exclusion'), and 3) the potential for compromise and linkage (Moravcsik 1993, p. 499). For the study of the non-decision on refugee quotas threats of non-agreement are the most crucial. An agreement among rational actors is usually only to be expected if the benefits of cooperation are preferable of the best alternative to the negotiated agreement (BATNA) to all Member States (under unanimity) or a substantial majority (under qualified majority voting) (Moravcsik, 1997, p. 523). Where there exists a more desirable alternative than cooperation for a government, it will threaten with non-agreement. This provides it with substantial leverage (Moravcsik, 1993, p. 499).

Betts (2009) has demonstrated that the Suasion Game can explain ineffective cooperation on refugee protection at the global level. I argue that the Suasion Game dynamics also apply to EU asylum policy-making. The game envisages two states, the host-state and the non-host state. Of course, these are ideal types, as in practice most states receive some refugees. Yet, some countries are clearly top recipients whereas others, in comparison, receive few refugees.

The non-host state has two options: to offer responsibility-sharing (cooperation) or not to offer it (defection). Following the assumption that Member States prefer a low or stable intake of refugees, however, non-hosts have no incentive to receive (additional) refugees and prefer unilateral action or the *status quo* to cooperation. While host states, particularly those whose governments face pressures to minimise the inflow of asylum-seekers, also want to minimise their intake of refugees and responsibility-sharing would be a viable option for them to achieve this aim, they have nothing to offer in return and are hence in a less favourable bargaining position. The host state therefore faces two different options: to offer asylum (cooperation) or not to offer it (defection). Yet, while the non-host state's commitment to responsibility-sharing is discretionary, host states have no alternative but to cooperate. This is so both because it is a host state's obligation under international law to process asylum claims made on its territory and because of an inherent threat to security and stability in the host state if there are large numbers of people on its territory deprived of access to any civil or social rights (Betts, 2003, p. 276-77; Roper and Barria, 2010, p. 624). Based on this power asymmetry, the equilibrium is Cooperate-Defect, i.e. the host-state opts for protection whereas the non-host state defects from cooperation and refrains from offering responsibility-sharing.

The institutional design

When negotiating the substantive terms of a policy, governments also negotiate its institutional design. The institutional design is always an expression of the Member States' preferences and bargaining powers. The extent to which governments are in favour of ceding competences to supranational organizations depends on the value they place on the substantive outcomes in question as well as on their uncertainty about the future behaviour of other governments (Moravcsik, 1998, pp. 9, 486-7). States with a strong interest in sharing refugees therefore prefer an automatic system, which by default assigns refugees to countries based on a quota system. States with no interest in any further cooperation are likely to oppose an automatic system and are keener to retain as much sovereignty as possible. 'Pro-sharing' countries (e.g. host states whose governments face pressures to decrease the numbers of asylum-seekers) want to ensure enhanced credibility of commitment and try to intercept any gatekeeping from Member States through an automatic system. 'Anti-sharing' countries (e.g. non-host states whose governments face pressures to keep numbers stable) fear such commitment and prefer the *status quo* of flexible or non-cooperation.

Member States with no interest in cooperation, being more 'patient' and less dependent on EU responsibility-sharing, have a better bargaining position than those with an interest in cooperation. The likely result of the negotiations is therefore the *status quo* with no additional commitment and integration.

Forming national preferences

I will now examine the national preference formation of both host states and non-host states. Table 1 shows that Germany received almost half of the asylum-seeker population entering the

EU during the 'crisis' (i.e. in 2015 and 2016). No other Member State receiving a comparable share. Controlling for the size of the population, the five top recipients are Hungary, Sweden, Austria and Germany. Other Member States, including France, the Visegrad (except for Hungary) and the Baltic states received a much smaller share. Italy and Greece received a negligible share of asylum applications. Although both are important first entry points for many asylum-seekers, these generally consider them transit countries or countries where they 'get stuck' (Zaun, 2017, p. 221). Italy and Greece generally 'waive [asylum-seekers] through' so they can reach other Member States in North-Western Europe (Costello and Mouzourakis, 2016).

Table 1: Asylum statistics

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While Hungary had been among the top recipients of asylum-seekers in 2015, several German courts had ruled practices in Hungary unlawful (European Law Database, 2015). Subsequently, Germany suspended the Dublin Regulation in the case of Syrian refugees in late August 2015 and temporarily opened its borders for asylum-seekers staying in Hungary (Hall and Lichfield, 2015). This led to large numbers of refugees leaving Hungary for Germany (Blume et al., 2016) or traveling further to Sweden. Thus, in September 2015, Hungary turned from a host to a non-host country, which is also illustrated by Figure 1.

Figure 1: Asylum-seekers in Hungary

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National preferences of the host countries

Top host countries faced strong pressures to reduce their share of refugees, particularly when right-wing populist parties gained electoral ground. Hungary, governed by the right-wing populist Fidesz Party, adopted an extreme and rights-violating approach towards asylum-seekers who were therefore allowed into Germany and Austria (cf. European Asylum Database, 2015). Hungary was thus able to reduce its application numbers quickly. Germany, Austria and Sweden, which did not recur to such obvious human rights violations, tried to reduce their share of applications by promoting the redistribution of asylum-seekers at the EU level.

At the beginning of the crisis, Germany presented itself as a country welcoming refugees and international press reported volunteers "greet[ing] refugees with help and kindness" at train stations (Connolly, 2015; Niemann and Zaun, this volume). Yet, the right-wing populist party *Alternative für Deutschland* (Alternative for Germany, AfD) had increasingly gained electoral ground, which it further extended during the crisis in 2016 to Sachsen-Anhalt (24.2% of the votes), Mecklenburg-Vorpommern (20.8% of the votes), Berlin (14.2% of the votes) and even to Western German *Länder* such as Rheinland-Pfalz (12.6% of the votes) and Baden-Württemberg (15.1% of the votes), which are usually considered less amenable to right wing populism. Harsh criticism for Merkel's temporary open border policy, portraying her as a "facilitator of illegal entry" not only came from the AfD (Die Welt, 2015) but also from the Christian Democrat's Bavarian sister party, the conservative *Christlich Soziale Union* (Christian Social Union/CSU). The CSU's leader and Bavarian Prime Minister, Horst Seehofer, for instance, repeatedly proposed a cap for receiving refugees (Neue Zürcher Zeitung, 2016). He thus tried to fish for votes from the AfD, being partly successful (Nürnberger Nachrichten, 2016; Infratest Dimap, 2016a, p. 8). Support for Merkel's policy among the electorate quickly diminished and her statement "Wir schaffen das" ("We'll manage") was criticised for being evidence of her lack of a plan on how to integrate the largest number of third country refugees the country had ever hosted in its history. In a survey from December 2015 every second respondent was confident that Germany could cope with the inflow of asylum-seekers. Yet, this confidence melted down to 37% after large-scale sexual assaults and robberies on New Year's Eve in Cologne, reportedly committed by Northern African men, among whom there were also asylum-seekers (cf. Forschungsgruppe Wahlen e.V., 2016). Opinion polls suggest that Merkel's initial open borders policy implied potential long-standing electoral costs for her. Merkel became increasingly unpopular from summer 2015 to early 2016, whereas Seehofer's strategy to mobilise those unhappy with Merkel's policy seemed to play out, as he gained support during the same time frame (Infratest Dimap, 2016b). Interestingly, in March 2016, Merkel's popularity again surpassed that of Seehofer (Ibid.). This was arguably related to several measures adopted under Merkel. These included policy restrictions through an asylum law reform (*Asylpaket II*), which had been debated since 2015 and was adopted in February 2016, and the EU-Turkey Statement of March 2016, which was supported by 46% of the electorate (Infratest Dimap, 2016c).

In a nutshell, significant parts of the German electorate, further incited through populism, favoured a reduction of the number of asylum-seekers and put the government under pressure to act accordingly. This not only entailed several restrictions at the national level as well as the reintroduction of border controls. It also forced Merkel, who was becoming increasingly isolated in her own party, to initiate policy at the EU level that could reduce the numbers of asylum-seekers. This approach was also supported by many voters, of whom 77% preferred a European solution to a national one (Infratest Dimap, 2016d). Perceptions among business associations were similar to those of the wider electorate. Initially open towards refugees who were considered a positive addition to the labour market by some (Deutsche Welle, 2015), business associations were becoming increasingly critical of the high inflow of refugees over time, arguing that the skill levels of refugees did not match the demands of the German labour market. In a joint declaration, the Federation of the German Industry, the Federation of German Employers and the German Federation of Skilled Crafts therefore called for a European solution. The EU-Turkey Statement was also strongly supported by these organizations (Federation of the German Industry, 2016).

Given its strong right-wing populist FPÖ (*Freiheitliche Partei Österreichs*, Freedom Party of Austria), Austria generally adopts a comparatively restrictive approach to asylum. While support for the three biggest parties, the Social Democrat SPÖ (*Sozialdemokratische Partei Österreichs*), the conservative ÖVP (*Österreichische Volkspartei*) and the FPÖ had reached similar levels in spring and summer 2015, the FPÖ became the strongest party in opinion polls after the SPÖ/ÖVP government followed Germany's example of opening its borders to asylum-seekers arriving from Hungary. From October 2015 until late 2016, its support rose to 35% while the government parties had little more than 25% (Institut für empirische Sozialforschung, 2017). This can explain the shift of the SPÖ/ÖVP government towards a hardliner position in Europe supporting fences to keep refugees out and promoting the idea of yearly caps (see Gruber, 2017, p. 49-50). It can also explain why Austria, a country that like Germany usually defended the Dublin Regulation, now instead promoted a permanent refugee quota system. Chancellor Faymann's initial welcoming approach towards refugees and his later change of policy eventually weakened his position so that he resigned in May 2016 (Gruber, 2017, p. 53).

Pressures for restriction in Sweden might not have been as significant as in Germany or Austria (Interview PermRep#1) because of the deal made among all moderate parties to exclude right-wing populist parties from government at least until 2022. In 2014, the Swedish Social Democrat/Green government evoked new elections after moderate conservative parties and the right-wing populist *Sverigedemokraterna* (Sweden Democrats, SD) had aligned against them on budgetary policies. After making several concessions to the moderate conservatives, however, these new elections were cancelled. Instead, the government and the moderate conservatives agreed on a deal to keep the anti-immigrant SD out of the government until the end of the following legislative period (Die Tageszeitung, 2014). Yet, this cannot conceal that populism in Sweden is on the rise. Since 2014, the Sweden Democrats are the third largest party in the Swedish Parliament with a 14% share of seats. During the crisis, their support rose to 25.2% (YouGov, 2015). Moreover, several attacks on refugee reception centres and refugee pupils in October 2015 increased the pressure on Prime Minister Löfven (Ludlow 2015b, p. 6). At the height of the crisis, the country which has one of the most liberal asylum systems in Europe, also re-introduced border controls and adopted restrictive policies with the expressed aim to provide only the European minimum standard and thus become less attractive to refugees. Conceding that this was “a terrible decision”, the Swedish government also said that as a country of eight million inhabitants receiving around 10,000 new asylum-seekers a day during the crisis, it simply could not do more unless the EU agreed to a more even distribution of asylum-seekers (Crouch, 2015).

Italy and Greece clearly preferred permanent refugee quotas over the Dublin system, which placed all the responsibility on them. But they took a less active role in the negotiations as compared to Austria, Germany and Sweden. In Italy, the populist Cinque Strelle (Five Stars) movement, which scored high in opinion polls (e.g. 30.6% in July 2016, thus surpassing Prime Minister Renzi’s Democrats which was supported by 29.8% of the respondents; Jones, 2016), also favoured more European cooperation and supported EU funding cuts for states that were unwilling to share the responsibility (Squires, 2016). Yet, as actual numbers of asylum-seekers in these countries were relatively low (see Table 1) and the criticism of populists on this matter was directed towards the EU and other Member States rather than their national governments, these governments were not under the same pressures as those of Austria, Germany or Sweden. Additionally, permanent refugee quotas were no real solution to their actual problem of being first entry countries as the distribution key would have mainly helped countries receiving the largest application numbers.

National preferences of countries with low levels of asylum applications

Having only a recent history of immigration, and being culturally and ethnically relatively homogenous societies, the Visegrad countries were particularly vocal opponents of the quota system. In Poland, for instance, only 0.1% of the population is Muslim (Jędrzejczyk-Kuliniak and Ratajczak, 2016, p. 7). According to a survey from 2015, 52% of the respondents did not personally know at least one foreigner living in Poland (in 2010, only 26% reported personally knowing a foreigner) (CBOS 2015a). The lack of contact that people in the Visegrad countries have with immigrants can explain their particularly restrictive preferences. Having traditionally been refugee-sending countries, the Visegrad countries have, moreover, little experience in refugee protection (Jędrzejczyk-Kuliniak and Ratajczak, 2016, p. 2).

These stronger anti-immigrant preferences have been successfully mobilised by (right-wing) populists in the Visegrad countries, which in all four countries are in government. For instance, the nationalist Jobbik party is the third largest party in the Hungarian Parliament, and Prime Minister Viktor Orbán of the conservative Fidesz party has repeatedly demonstrated a strong anti-EU attitude, being also very vocal in this regard during the 2015/16 crisis. Orbán even held a referendum on the quota system, arguing that "such lifechanging decisions should not be taken over people's heads" (Deutsche Welle, 2016). In Poland the PiS party (*Prawo i Sprawiedliwość*; Law and Justice) was elected during the height of the crisis in October 2015. It took strong anti-immigrant stances towards the end of its electoral campaign and even organised a demonstration against refugees on 12 September 2015 (Frankfurter Rundschau, 2015). Overall, there were strong concerns in the Visegrad countries against hosting refugees. In a survey in 2015, 57% of the Polish, 77% of the Hungarian, 84% of the Czech and 79% of the Slovakian respondents said that they feared that their way of life was likely to deteriorate due to refugees (CBOS, 2015b, p. 3). In Slovakia, the right-wing populist *Slovenská národná strana* (SNS, Slovak National Party) gained electoral ground in the March 2016 elections, becoming part of the government coalition. This stronger position has also partly been ascribed to the European asylum crisis (Cunningham, 2016). To curtail stronger support for the SNS, Social Democratic Prime Minister Fico has adopted a very restrictive course on asylum highlighting that 'Islam ha[d] no place in Slovakia' (Chadwick, 2016). Public opinion towards refugees in the Czech Republic is the most critical towards refugees in the Visegrad countries. The Czech government is composed of Social Democrats (Česká strana sociálně demokratická, ČSSD) and the populist party ANO 2011.

ANO 2011 is led by businessman and media entrepreneur Andrej Babiš who has repeatedly criticized EU refugee quotas and has been reported to advance anti-refugee positions to mobilise the widely anti-immigrant electorate and gain additional electoral support (Hovorková, 2016). The Czech Prime Minister also adopted a clear anti-immigrant stance, calling the immigration of refugees from war-torn countries an "organised invasion" (The Telegraph, 2015).

Not only in the Visegrad states, but also in many other Member States there were no clear majorities for refugee quotas, which was also reflected in their governments' positions in the negotiations. The French government faced increasing pressures from the right-wing populist Front National. It held an ambiguous position and avoided to speak of refugee quotas publicly (Willsher and Kirchgaessner, 2015). Spain was openly opposed to quotas (Ludlow 2015a, p. 14) and so were up to other fifteen Member States. Their governments arguably wanted to avoid similar political crises as those in the top recipient countries Germany, Austria and Sweden.

Reaching a substantive bargain?

Discussions on a permanent, automatic quota system started in September 2015. While they were initially discussed as a legal instrument of their own (Council, 2015a), it became obvious in January/February 2016 that such an instrument would not materialise (Interview PermRep#3). Therefore, the Commission proposed a quota system as part of its recast Dublin proposal (Council 2016), which was also highly controversial. Since October 2016, a flexible solidarity mechanism and additional financial contributions by those Member States that were not ready to receive additional asylum-seekers are under discussion (Zalan, 2016).

Overall, the negotiations show that the expected dynamics apply. Governments of host countries such as Germany, Austria, and Sweden, needed EU cooperation to alleviate electoral pressures resulting from populist mobilisation of voters who were unhappy with high numbers of asylum applications (Interview PermRep#4; Ludlow 2015a, b, c). Their position was supported by a group of Member States that usually receive high application numbers most prominently by the BENELUX countries and Dutch Prime Minister Rutte (Ludlow 2015a, p. 13) or that as border and transit countries (such as Italy, Greece and Slovenia) were affected by larger inflows (Ludlow, 2016a, p. 30).

Yet, a group of up to fifteen Member States opposed the idea of permanent refugee quotas. Governments of non-host countries, including the Visegrad states, the Baltic states, and Spain had no incentives to support the hosts, as this would have implied to receive more asylum-seekers. These non-host countries wanted to avoid being faced with the same electoral pressures as the host countries. In the case of the Visegrad states, national electorates openly opposed quotas, which was also the line followed by their governments. France, usually a close ally of Germany, took a rather cautious position as well, not least because of the growing electoral ground of the Front National which also discursively exploited the November 2015 terrorist attacks in Paris (see Ludlow 2015c, p. 3-4).

While Tusk avoided the topic of permanent quotas in the European Council on 22 September 2015, Germany, Austria and Sweden pushed for it to be discussed in October 2015 (Interview Council, 2015d, p. 22). Controversies came up immediately both in the Council and the European Council. Some delegations in the Council wanted to discuss the results of the temporary relocation scheme before discussing the permanent relocation mechanism, whereas other delegations felt that the proposal was a good starting point for discussions, which could lead to a more solid mechanism. A third group of Member States wanted to discuss this as part of a more general reform of the Common European Asylum System (Council, 2015a). In the European Councils of 15 October and 12 November 2015, differences between the pro-quota camp, led by Merkel, and the Member States opposing quotas led to a hostile tone of the discussions (Ludlow 2015a, b, c). While the Luxembourgish Council Presidency later "supported the Presidency underlining the importance of pursuing the discussions with a view to seeking a fairer burden sharing between Member States" (Council, 2015b, p. 2), discussions on a distribution key were adjourned to a date after the Polish elections (Council, 2015c). This highlights the politically explosive nature of the topic which was clearly seen as having a potential impact on the results of the elections.

Poland, like several other Member States receiving comparatively low numbers of applications (including France, Spain, Romania and the Baltic states), had already been undecided over the temporary relocation scheme (Interview Council). France, for instance, had only signalled its willingness to accept temporary quotas at a later stage of the discussions (Traynor et al., 2015). Despite this lack of enthusiasm for the proposal, Member States could still agree on the crisis relocation scheme, as it was only temporary and considered by most as a means to support the 'front-line' states Greece and Italy, which had been clearly overburdened by the increased inflow of asylum-seekers (Interview PermRep#3; Niemann and Zaun, this volume). Yet, even with the temporary scheme, Costello and Mouzourakis (2016) see clear benefits for the wealthier Member States Germany, Austria and Sweden, because it would stop 'self-relocation' to them rather than reducing the inflow into border countries. The permanent system was even more obviously beneficial to the actual hosts of asylum-seekers and not the transit countries Italy and Greece.

Most Member States were simply not ready to support Germany, Austria and Sweden to the same extent that they would have supported the border countries. These states were not only wealthier and more capable to receive refugees, but they were also accused of having motivated further asylum-seekers to come to Europe through their temporary open borders approach (Interview PermRep#1, Holehouse and Badcock, 2015). Therefore, countries among the non-hosts with an initially vague position on the temporary relocation scheme opposed the permanent system (Interview Council).

Permanent and automatic quotas would have also implied a regular and permanent allocation of asylum-seekers to states which otherwise would not have been responsible for them. These states would lose any control over the numbers and the process (Interview PermRep#3). Moreover, with a quota system, current top recipients would no longer have incentives to engage in the protection of Europe's external borders. Yet, the Visegrad and the Baltic states considered border protection and stopping irregular migration their key priorities, as they were also located at the EU's external border (Interview PermRep#3; Interview Council; Zalan, 2016).

With the terrorist attacks in Paris in November 2015, the support for the quota system further declined, particularly in some of the Visegrad countries where this was hotly debated (Interview PermRep#3) and Muslims were openly associated with terrorism. Hungarian Prime Minister Orbán, for instance, reacted to the terrorist attacks, suggesting that "all the terrorists are migrants" (Kaminski, 2015). The governments of the Visegrad countries could therefore present anti-immigrant sentiment and security concerns among their electorates as a national constraint for a permanent quota scheme (Interview PermRep#3). At this point, the proposal's adoption was becoming increasingly unlikely and the negotiations lost further pace (see Ludlow 2015e).

When the diminishing likelihood of a permanent quota system ever materialising became obvious in October 2015 (Interview Council) and support for German Chancellor Merkel's government was on the decline, alternative routes to alleviate electoral pressures were tested. The German Federal Chancellery (Interview PermRep#4) hence developed the idea of an EU-Turkey Deal which aimed to curtail the inflow of asylum-seekers by 'illegalizing' the applications of those that had entered Greece without authorization. Adopting an almost unilateral approach at the level of the heads of government and involving only selected Member States and the European Commission[3] in mini-summits, Merkel pursued the idea of the deal. She called three EU-Turkey summits from November 2015 until March 2016 resulting in the Joint Action Plan

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[3] This new type of cooperation in a more intergovernmental setting, outside the traditional EU decision-making architecture, seems to be part of a more general development (see Bickerton et al., 2015).

(29 November 2015) and the EU-Turkey Statement (March 2016). This unilateral approach was strongly frowned upon by other Member States and Donald Tusk (Interview PermRep#4, Ludlow 2015c, p. 2). Merkel pressured for the adoption of these instruments in mid-March, before elections were held in several German *Bundesländer* (Ludlow, 2016, p. 46). While the AfD still had substantial electoral gains in these elections, the deal seems to have had the desired effect in the long run and support for Merkel was again gradually on the rise after its adoption (Infratest Dimap, 2016b). In addition, Sweden, Austria, and Germany also closed borders unilaterally to stop any further large-scale inflow of asylum-seekers. Austria, moreover, clearly distanced itself from Germany's initially liberal position in the course of the negotiations and even reversed Merkel's initially optimist statement "wir schaffen das" by saying "wir schaffen es nicht" (we will not manage)(Ludlow, 2016, p. 50).

Institutional choice

The fact that Slovak Prime Minister and then Council President Fico declared the quota system 'finished' in October 2016 (Zalan, 2016) suggests little reform on this key issue of European asylum cooperation. The quota system would have been a strong and binding solidarity mechanism in line with art. 80 Treaty on the Functioning of the EU and a significant step towards deeper European integration. It would have enhanced credibility of commitment and added another dimension to EU asylum policy. This policy so far seeks to ensure a more even distribution of asylum-seekers either through policy harmonization or through making the 'weakest link', the border countries, responsible for asylum-seekers reaching the EU, but it lacks a capacity-based distribution mechanism.

Top hosts had a strong interest in sharing refugees and preferred an automatic system, assigning asylum-seekers to a Member State based on a quota system. Those on the low receiving end, on the contrary, benefited from the absence of a quota system and preferred flexible solutions close to the *status quo* where few asylum-seekers decided to apply with them. Given the Suasion Game dynamics, which put non-hosts in a more favourable bargaining position than hosts, no further integrative steps were taken.

Conclusion

This paper set out to explain why negotiations around the EU refugee quota system, which could have resulted in a more predictable policy, remained unsuccessful. It demonstrated that Liberal Intergovernmentalism provides important insights to explain this state of affairs. Although some traditional recipients of refugees were initially more open towards hosting additional refugees, national electoral pressures, mobilised by populist parties, eventually resulted in them trying to use the EU venue to minimise their application numbers through advocating a quota system. Countries receiving a smaller share preferred unilateral strategies and were critical of a quota system that would have allocated further responsibilities for refugees with them, as they tried to avoid similar pressures. The Visegrad states even had populist parties in power that tried to assure their position through criticising their neighbouring countries for their lenient policies. Negotiations at the EU level demonstrate that some Member States, most prominently the top hosts Germany, Austria, and Sweden, advocated the quota system. Yet, they could not find a majority for their proposal, as up to fifteen other Member States undermined the adoption of a legislative instrument on a quota system. Among them were the particularly vocal Visegrad countries and many other Member States, which kept a lower profile in media and public debates.

After almost two decades of EU asylum policy-making, still few Member States take the largest share of refugees in the EU and attitudes on responsibility-sharing among Member States have barely changed. States that receive smaller numbers of asylum-seekers are not ready to make any commitments that could raise their share of asylum-seekers in the future. Having a better alternative to the negotiated agreement, these states could threaten with non-agreement and were hence more powerful in the negotiations. Interestingly, however, even those Member States that have been strong advocates of the quota system have recently become quieter, arguably, because the numbers of asylum applications they receive and related pressures have declined. The fact that states only advocate responsibility-sharing when receiving significant shares themselves, highlights that solidarity is called upon in a rather instrumental way in the EU. Germany had already unsuccessfully proposed a distribution key in 1994, after it had received large numbers of refugees and faced heated public debates, which were considered a trigger for severe attacks on refugee reception centres and migrants' homes at that time (see Ripoll Servent, this volume). In the negotiations around the Dublin III Regulation, on the other hand, the recent keen supporters of a refugee quota system, Germany, Austria, and Sweden, were among the key blockers of an automatic solidarity mechanism (Interview PermRep#5; Interview PermRep#6).

While several Member States opposed the idea of a quota system, the Visegrad countries have been particularly vocal in their criticism. This is an interesting finding. Previous research suggests that the accession of these Member States has had little impact on EU decision-making so far, as these states are usually neither very vocal and nor do they usually act as a block with shared interests (e.g. Hagemann and De Clerck-Sachsse, 2007; Pollack, 2009). The negotiations on the quota system have challenged this assumption. No other group of Member States has so openly and strongly opposed the quota system and challenged the idea of receiving refugees from a different cultural background, thus challenging the very idea of refugee protection itself. This highlights that the accession of thirteen Member States since 2004 has clearly diversified the EU, both in terms of values and cleavages.

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ANNEXE

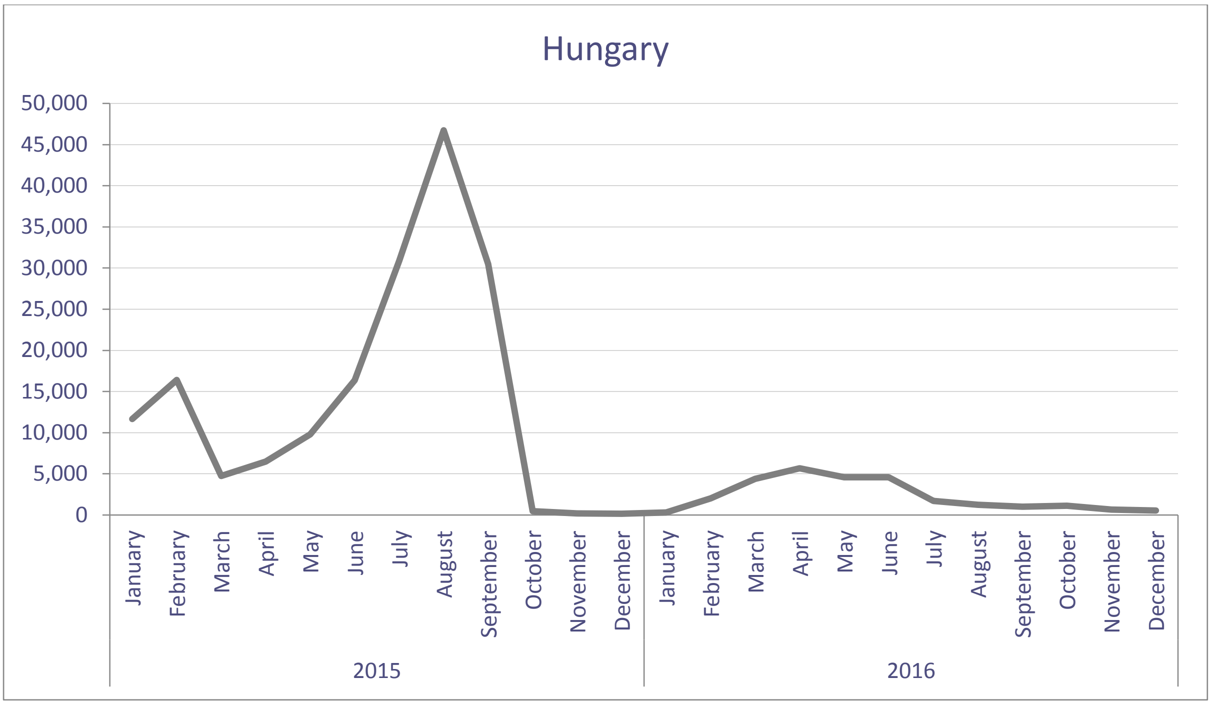
Table 1:

Member State	Total number of asylum-seekers 2015/16	Percentage of total asylum-seekers in EU*	Asylum-seekers per ths capita
Austria	125569	5.3%	14.58
Belgium	52683	2.2%	4.67
Bulgaria	38900	1.6%	5.42

Cyprus	4609	0.2%	3.96
Czech Rep.	2144	0.1%	0.20
Estonia	254	0.0%	0.19
Finland	36998	1.6%	6.75
France	144536	6.1%	2.16
Germany	1163677	48.8%	14.29
Greece	24161	1.0%	2.23
Croatia	2004	0.1%	0.47
Hungary	202321	8.5%	20.55
Ireland	5026	0.2%	1.08
Italy	204836	8.6%	3.37
Lithuania	512	0.0%	0.18
Luxembourg	3829	0.2%	6.72
Latvia	576	0.0%	0.29
Malta	3239	0.1%	7.51
Netherlands	60730	2.5%	3.59
Poland	19391	0.8%	0.51
Portugal	1973	0.1%	0.19
Romania	2228	0.1%	0.11
Spain	28929	1.2%	0.62
Slovakia	305	0.0%	0.06
Slovenia	1355	0.1%	0.66
Sweden	178100	7.5%	18.18
United Kingdom	77338	3.2%	1.19

Sources: UNHCR 2017; World Bank 2016.

Figure 1:



Source: UNHCR (2017).