

# Perpetuating Crisis as a Supply Strategy: The Role of (Nativist) Populist Governments in EU Policymaking on Refugee Distribution

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## Abstract

We still know very little of how populist governments behave as compared to mainstream governments in Council decision-making. Studying the ‘crucial case’ of negotiations around refugee distribution in the EU, an issue which allows populists to mobilize both anti-EU and anti-immigrant sentiment, we demonstrate that populist governments differ from mainstream ones in three important ways: First, they reject formal and informal rules of Council decision-making if these are not conducive to their preferred outcome; second, they reject traditional means of ensuring compromise such as package-deals and side-payments; third, they reject the final solution and exploit the ensuing deadlock to prove that the EU is weak and dysfunctional. We show that populist governments adopt such a behaviour even when they would benefit from the adoption of a policy solution. However, we expect populists to engage in such political games only when the negative effects of non-decisions are not immediate.

**Keywords:** populism; Dublin IV; refugee crisis; Council; Visegrad states; Italy

## Introduction

In recent years, we have seen populist parties assuming power in European Union (EU) member states, notably in Poland, Hungary, Austria, the Czech Republic and Italy. This begs the question whether these governments have changed the flavour and content of European policymaking.

While there is a growing literature on the bottom-up politicization of EU policymaking (Bressanelli et al., 2020) and the responsiveness of governments in the Council to public opinion (Hobolt and Wratil, 2020), we still know very little about the interplay between populist and mainstream governments at the EU level and how it affects EU policymaking. Hooghe and Marks (2009, p. 18) and Schimmelfennig (2020, p. 352) expect that non-mainstream (challenger) parties are more likely to choose politicization strategies and block reforms, especially if they are aligned with the TAN side of the GAL-TAN dimension. However, we do not know whether this expectation holds empirically. Moreover, the nascent literature investigating the interaction between governments in the Council and domestic voters focuses mainly on the demand-side and less on the supply-side – that is, how governments (here populist ones) use EU policymaking to rally voters. This article closes this gap, providing a closer look into the (electoral) strategies of populist governments when engaging in EU policymaking.

We do so by studying the case of recent negotiations on intra-EU refugee redistribution. A particular focus lies on the Dublin IV negotiations, which were deadlocked between June 2018 and the end of the eighth legislature of the European Parliament (EP) in May 2019 and subsequently buried. The Dublin IV Regulation aimed to establish a redistributive mechanism to support member states receiving more asylum-seekers than they should according to a pre-defined distribution key. As the issue of quota-based refugee redistribution originated in the second relocation decision of 2015, we will analyse the debate around relocation as a ‘shadow case’ (Soifer, 2020).

The case of EU refugee redistribution is a ‘crucial case’ (Gerring, 2008, p. 659) to study the impact of populist governments on EU policymaking. Migration is an issue easily captured by populists – especially those with nativist positions, the most common type in Europe (Zulianello, 2020) – because it can be effortlessly used to illustrate the division between the ‘pure people’ (us) vs. those not being part of the group (the migrants). Debates on responsibility-sharing are also susceptible to enhancing anti-EU rhetoric. Populists often associate ‘Europe’ or ‘Brussels’ with a ‘corrupt elite’ (Pirro and Taggart, 2018). Thus, the case allows us to study differences between populist and mainstream governments along two essential conflict lines on which they are supposed to differ: a *substantive* conflict line on migration politics and an *institutional* conflict line on the competence and power of the EU.

We ask how the presence of populist governments has affected the negotiations on refugee redistribution. We argue that the long-term paralysis in this area can be understood by their use of ‘unpolitics’ (Taggart, 2018), namely, the active efforts of populist governments to maintain the EU in a state of permanent crisis, on the one hand, and the willingness of mainstream governments to sacrifice policy reforms for the sake of maintaining a fragile equilibrium on EU integration, on the other hand. Populist governments, including those whose countries would have benefitted from Dublin IV, blocked the reform to showcase their stance on the EU and make a case for the prerogative of national sovereignty. In comparison, while the issue was also highly contested among mainstream governments, the latter tried to find solutions through traditional channels of conflict resolution in the Council. Their acceptance of a persistent deadlock shows, therefore, that populist governments were very good at ‘blackmailing’ but that mainstream governments were also ready to sacrifice a common response to refugee redistribution rather than risk a major conflict that could endanger the project of European integration. Therefore, although our case focuses on nativist Eurosceptic populist governments, we expect the use of ‘unpolitics’ in EU policymaking to be a characteristic of populist governments more generally.

In this article, we ‘trace the process’ behind the negotiations of Dublin IV (Beach and Pedersen, 2019) on the basis of 19 semi-structured expert interviews conducted in 2018 and 2019 with actors involved in policymaking, relevant EU documents, as well as other published sources (especially press and observations of the European Council meetings). The interviewees include actors from the Council Secretariat, the European Commission (Commission), the EP and member states’ permanent representations, covering different regions (North, South, East, West) and preferences on the issue. The analysis of the ‘shadow case’ (relocation) is based on documents and secondary literature.

## I. Populist ‘Unpolitics’ and EU Policymaking

It has previously been shown that, in this area, positions are influenced by distributive implications (Biermann et al., 2019; Zaun 2018, 2022). Member states aim to reduce their share of asylum-seekers to cut down economic, social and political costs of hosting refugees. We argue that these distributive preferences are important but that some current dynamics cannot be reduced to this functional explanation, especially since we have seen member states blocking initiatives that would help them lower their numbers. Thus, we turn to an alternative explanation, based on the specific approach of (nativist) populist governments to EU migration policymaking. We first define how the behaviour of populist governments differs from that of mainstream governments and then assess which member states had populist governments in power, before analysing how populist dynamics affected EU policymaking on refugee distribution.

### *A Theoretical Model of Populist ‘Unpolitics’ in EU Policymaking*

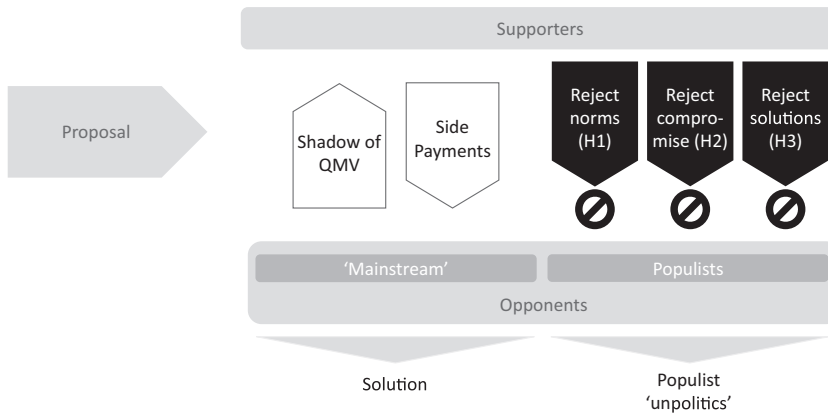
The most well-known definition understands populism as ‘a thin-centered ideology that considers society to be ultimately separated into two homogeneous and antagonistic camps, “the pure people” versus “the corrupt elite”’ and argues ‘that politics should be an expression of the *volonté générale* (general will) of the people’ (Mudde and Kaltwasser, 2017, p. 6). Considering themselves guided by the ‘unconstrained will of the people’ (Caramani, 2017, p. 55), populists oppose traditional forms of policymaking that require compromise between different actors and an understanding for what is possible, for instance taking into account existing national and international legal obligations.

This resonates with Taggart’s (2018, p. 81) concept of ‘unpolitics’, in which populist actors ‘engage [...] with politics but in a way that is at odds with that politics’ in the sense that they reject traditional forms of consensus-building or decision-making. In the context of EU policymaking, we expect (Euro-sceptic) populist governments to affect three key aspects of Council negotiations: They reject formal and informal rules of Council decision-making, they reject traditional means of ensuring compromise and, as Euro-sceptics opposing the ‘Brussels elite’, they reject the adoption of any policy that would mean a solution to major conflict at the EU level thus perpetuating the perception of an EU in crisis (see Figure 1).

In line with Figure 1, we contend that, normally, any legislative proposal will generate both supporters and opponents. Given the culture of consensus in the Council, opponents know that supporters will try to accommodate them; at the same time, supporters benefit from the shadow of qualified majority voting (QMV): if they have sufficient support, they can stop looking for consensus and force a majority vote. However, when the opposition is (partially) made up of populist governments, these will engage in ‘unpolitics’ and reject the institutional norms (QMV), the bargaining process leading to a compromise, and the attempt to find solutions.

In terms of formal rules, since 2005, Council decisions in this area are taken under QMV (Zaun, 2017, pp. 66–7). Mainstream governments do not question QMV, even if this means that they might be outvoted. Populist governments, however, can be expected to oppose it, especially if QMV leads to unfavourable outcomes for them – for instance, eroding sovereign national decision-making. As for the unwritten rules of conflict resolution, we know that controversies on legislative proposals are usually addressed at an early

Figure 1: Three Dimensions of Populist ‘Unpolitics’.



stage of decision-making so that, when final decisions are eventually agreed, most policies seem to be adopted under consensus, with member states only rarely notifying dissent (Novak et al., 2020). Of course, mainstream governments do occasionally oppose EU policies, but populists go a step further in that they are extremely vocal about their dissent, using it to further politicize the issue. Mainstream governments also often avoid implementing EU asylum policies fully, but they do so silently (Scipioni, 2018). In contrast, populists do not hesitate to politicize debates, especially if consensus appears to come in the way of the ‘unmediated’ will of the people. Mainstream governments might even accept this behaviour if the continuation of the EU project is ensured. Kelemen (2020) has argued that mainstream governments accept that challengers continuously question the core values of the EU (for example, rule of law) as long as they do not jeopardize day-to-day decision-making, which he refers to as the ‘authoritarian equilibrium’.

*H1:* Populist governments are more likely to break formal and informal rules of EU policymaking and to do so explicitly (reject norms).

Supporters of a proposal know that they have to accommodate opponents, and this is usually done either by forging package deals and offering side-payments or by watering-down a proposal (Martin, 1992). Mainstream governments opposing a proposal know that, under QMV, they are easily outvoted and only benefit from package deals or side-payments if they are ready to compromise early enough. Yet, populist governments tend to defend maximum positions with little consideration for compromise, as this would imply betraying key principles which garner them support, namely the defence of ‘pure’ and ‘uncompromised’ positions.

*H2:* Populist governments are less likely to compromise than mainstream governments and stick with their maximum positions (reject compromise).

Finally, populists exert ‘unpolitics’ also in their rejection of solutions to common problems. Doing so helps them perpetuate crises and ‘create’ (or supply) new demand for

populism and Euroscepticism (Mudde and Rovira Kaltwasser, 2018; van Kessel, 2015). Several authors have underlined the importance of crises for populist actors, showing how it contributes to a sense of instability and urgency that benefits populist tropes (Moffitt, 2015; Taggart, 2000). This is epitomized by former AfD press officer Christian Lüth's statement that 'the worse Germany is doing, the better it is for the AfD' (Fuchs, 2020). Propagating crises 'allows populists a method for dividing "the people" against a dangerous other, for presenting themselves as the sovereign voice of "the people" and for radically simplifying political procedures and institutions' (Moffitt, 2015, p. 210). In the EU's context, Hodson and Puetter (2019) have shown how the adoption of suboptimal solutions at the European level has fostered more Euroscepticism and the rise of challenger parties like the Alternative für Deutschland (AfD) in Germany. The result is a permanent state of disequilibrium that encourages disintegration and violations against the normative pillars of the political system. We expect similar dynamics in the negotiations on refugee quotas, where non-decisions are used strategically by populists to underline the incapacity of the EU to solve the crisis. Populist governments that do not benefit in distributive terms from refugee distribution can use stasis and deadlock to demonstrate their own strength and ability to preserve the national interest. Populist governments whose countries would benefit from refugee distribution can use deadlock to show that the EU is useless and unable to respond to their needs. Both strategies aim to garner public support for populist governments, not only by criticizing the EU's dysfunctionality, but also by sustaining the perception of an unresolved 'refugee crisis'. Mainstream governments, in turn, are under pressure to show that traditional ways of EU policymaking are capable of finding solutions. This is particularly true for governments that domestically face the opposition of populist challengers.

*H3: Populist governments tend to use non-decisions by the EU strategically to show that the EU is weak and useless (reject solutions).*

### *Who Are the Populist Governments Deciding on Refugee Distribution?*

There are increasing efforts by scholars to systematically categorize European populist parties according to their ideological stance and other criteria (Rooduijn et al., 2019; Taggart and Pirro, 2021; van Kessel, 2015; Zulianello, 2020). One important example is the PopuList, which assesses whether a populist party is far-left or far-right or whether it adopts Eurosceptic positions (Rooduijn et al., 2019). Zulianello (2020) has shown that some parties can be considered 'valence' populists, since they do not follow a clear ideology but focus on non-positional issues instead. These categories often face limitations due to the highly adaptive and chameleonic nature of populist parties (Taggart, 2000): for instance, Taggart and Pirro (2021, p. 288) underline how the 2015 asylum crisis led to a 'rallying around the [identity] flag' among many populist parties, meaning that they took clearer stances on immigration than before. This suggests that, while general classifications are helpful to compare populist parties, their positions often fluctuate and individual topics might not immediately fit them.

Moreover, we do not consider actors as either populist or mainstream in a black and white fashion but understand them to be on a continuum (Heinisch and Mazzoleni, 2017,

p. 107), especially since nativist populists have become (part of) governments and mainstream parties (or individuals within these parties) have started to engage with and copy their rhetoric (Akkerman and Rooduijn, 2015; Meguid, 2005; van Spanje and de Graaf, 2018). On these grounds, Zulianello (2018) has argued that these parties cannot be considered anti-system but rather ‘halfway house’ parties that have been integrated in the system, from where they can continue to oppose shared metanorms (in our case, European integration and cooperation in migration policymaking).

This is particularly important in our case: given our focus on EU migration policies, we concentrate on nativist and Eurosceptic populist parties in government. We offer a more detailed description of the populist parties involved and their role in the respective governments in Annex-Table 1. Generally, our classification overlaps with the abovementioned tools but we see some differences linked to the nature of this policy issue. Indeed, several authors have argued that nativist populist parties are only found in the centre rather than the periphery of Europe (Manow, 2018; Palier et al., 2018). The centre of the EU includes countries in North-Western and Central-Eastern Europe as opposed to Southern, South-Eastern Europe, Ireland and the Baltic states (Palier et al., 2018, p. 285). According to Palier et al. (2018) this is linked to the role of the welfare state in these countries, which makes it easier to portray migrants as competitors and, hence, as a threat to the survival of said welfare state. In the periphery, especially in Southern Europe, populists are often left-leaning and they do not mobilize their voters around immigration, as their welfare states are weaker and immigrants cannot be depicted as competitors for benefits (Rodrik, 2018).

In line with Annex-Table 1, during the negotiations on the relocation decision in 2015, countries with a nativist populist coalition in government include the Czech Republic (ANO 2011), Finland (Finns Party), Hungary (Fidesz) and Slovakia. In the case of Slovakia, Prime Minister Fico, a Social Democrat, whose party is classified as populist yet not far-right in the PopuList (Rooduijn et al., 2019), adopted anti-immigrant rhetoric at repeated occasions (Socialists and Democrats, 2015). During the entire Dublin IV negotiations, Poland (PiS), the Czech Republic (ANO 2011) and Hungary (Fidesz) had populist governments in place. While PiS and Fidesz are classified as populist far-right in the PopuList, ANO 2011 is not usually classified as such (Rooduijn et al., 2019), but it has used nativist messages in electoral campaigns (Kubát et al., 2020, p. 17). In Slovakia, Fico remained in power until March 2018, from March 2016 onwards in coalition with the right-wing populist Slovenska Nacionalna Stranka (SNS). Afterwards, Peter Pellegrini (Smer-SD) toned down Fico’s anti-immigrant rhetoric. In Italy, the Movimento 5 Stelle (M5S) and Lega government came into power in June 2018. While the M5S is probably more in line with the Southern, periphery model of populism and is described as following a ‘valence’ populist ideology (Zulianello, 2020, p. 330), the far-right Lega adopted the nativist rhetoric of a central EU member state. This is arguably because Lega, the successor of Lega Nord, uses rhetoric around the competition for resources and has done so particularly in the context of the conflict between Northern (centre) and Southern Italy (periphery) (McDonnell, 2006).

In Bulgaria, the right-wing populist Volya Movement (VP) was in power starting in May 2017 but, given that the leading party (GERB) is strongly pro-European, their effect on the government is expected to be small. The Eesti Keskerakond (EK) in Estonia and

Syriza in Greece are not expected to have any negative effects, as these are left-leaning parties from periphery countries. The Austrian government, consisting of the Österreichische Volkspartei (ÖVP) and the Freiheitliche Partei Österreichs (FPÖ) assumed power in December 2017 and can be classified as populist too, mainly because the minor coalition partner FPÖ and chancellor Kurz held strong right-wing populist positions (see Wolkenstein, 2019, p. 62). The German Interior Minister used populist rhetoric in the 2015 crisis and often parroted Kurz's positions, notably on maximum quotas for refugee admissions (Zaun, 2018).

Overall, this classification suggests that the main nativist populist governments during the negotiations included the Visegrad countries and Italy. Certainly, there is variance regarding the degree of populism and nativism. The far-right single-party PiS government and the far-right Fidesz coalition government were certainly more consistently nativist populist than the ANO 2011 government in the Czech Republic or the M5S/Lega coalition government in Italy. At the same time, we will demonstrate that even a minor coalition partner such as Lega can heavily influence a government's policy, especially if they occupy key portfolios. Except for the Czech and the Slovakian governments, all of these governments are classified Eurosceptic in the PopuList (Rooduijn et al., 2019). Even ANO and Smer-SD have occasionally adopted Eurosceptic positions, particularly in the case of refugee quotas (Hanley and Vachudova, 2018; Mravcová and Havlík, 2022).

## II. Negotiating Refugee Relocation and Dublin IV

The positions of individual member states are presented in Table 1, distinguishing four different groups: the strong supporters, the supporters, the opponents and the strong

Table 1: Positions of Member States during the Negotiations

	<i>Strong supporters</i>	<i>Supporters</i>	<i>Opponents</i>	<i>Strong opponents</i>
Relocation II <sup>1</sup> (Sept 2015)	AUT, DEU, SWE, GRE, ITA, MLT, CYP, NLD,	HRV, ESP, LUX, BEL, IRE, PRT, FRA	FIN, BGR, POL, LTV, LIT, EST, SLV	<b>CZE, HUN, SLK, ROU</b>
Dublin IV (May 2016–June 2018) <sup>2</sup>	(ITA; 2016–June 2018), ESP, GRE, MLT, CYP, DEU, FRA, NLD, SWE, AUT (before Dec 2017)	PRT, IRE, BEL, LUX, FIN, HRV	LIT, EST, ROU, BLG, SLV, LTV	<b>(AUT, Dec 2017), (ITA, starting June 2018), CZE, HUN, POL, SLK, DEU (June 2018, Interior Minister Seehofer)</b>

<sup>1</sup>CZE, HUN, SLK, ROU, FIN, POL: Šelo Šabič (2017); PRT: Jurriens (2017); DEU, SWE, NLD: Duszczczyk, Podgórniska and Pszczółkowska (2020); SLV: Slovenia Times (2015), LTV: The Baltic Times (2015). HRV: Reuters (2016). FRA, DEU, MLT, ITA: Willshire and Kirchgaessner (2015). ESP: The Local (2015). LUX: Deutsche Welle (2015). LIT: Pankūnas and Rumšienė (2021). BEL, SLK, POL, CZE, LIT, EST, LTV, HUN: Lyman (2015). IRE: Guild et al. (2017, p. 14). FIN: Wahlbeck (2019). France took a lead but was not enthusiastic about the reference to quotas. The Spanish government could be considered a reluctant supporter. <sup>2</sup>For BGR, HUN: Vass (2018); SLV: Total Slovenia News (2018). CZE, HUN, POL, SLK, CYP, DEU, SWE, NLD, LUX, PRT, EST, ITA, FIN, MLT, ESP, GRE, CYP, FRA, LTV (Interview-PermReps#1–11; Interview COM#1). AUT Dec 2017: Deutsche Welle (2017); AUT before Dec2017, LTV, LIT, EST: Ö1 (2017). For ITA before March 2018: ANSA (2017), for ITA after March 2018: Fassini (2018); Huffpost (2018); Magnani (2018). There is no evidence for the Romanian and the Croatian position having changed over time.

opponents. Those strongly supporting or strongly opposing the idea were very active in the negotiations and had a vested interest in the adoption/non-adoption of Dublin IV and refugee relocation. Broadly speaking, the supporters are member states that would benefit in distributive terms from refugee redistribution, while those that opposed it were countries for whom quotas would have negative distributive consequences (see Biermann et al., 2019; Zaun, 2018, 2022). Yet, the intensity of opposition and an unwillingness to compromise seems to be strongest among populist governments. Note that almost all the strong opponents to both instruments had populist governments (highlighted in bold) and several of them had supported quotas under a mainstream government (for example Austria and Italy).

### *Negotiating and Implementing Refugee Relocation*

In September 2015, when Italy and Greece were unable to cope with the growing inflow of asylum-seekers, the Commission submitted two proposals for relocation. Unlike the first proposal, the second one, submitted by the Commission in September 2015, suggested the additional distribution of 120,000 asylum-seekers from Greece, Italy and Hungary, based on automatic and mandatory quotas, leaving member states no discretion to decide how many asylum-seekers they were going to receive (Council of the European Union, 2015). The Visegrad countries, in particular, but also the Baltic states, Bulgaria and Romania opposed the idea of an automatic (compulsory) distribution (Šabić, 2017). While Poland later joined the countries supporting the scheme, Slovakia, the Czech Republic, Hungary and Romania voted against it and Finland abstained. Hungary and Slovakia even challenged the decision before the Court of Justice of the European Union, but the case was dismissed in 2017 (Šabić, 2017). Poland suspended the implementation of the decision in April 2016 and stopped relocating asylum-seekers. Hungary did not relocate a single asylum-seeker, the Czech Republic relocated only 1.9 per cent of its share and Slovakia 3.3 per cent (Guild et al., 2017, p. 28).

Most of these positions (see Table 1) can be explained through populist dynamics. The moderate government of Poland initially opposed quota-based relocation. Yet, it was open to compromise and supported its adoption in the end (Šabić, 2017). Hungary, which would have been a beneficiary of the scheme, blocked it. Prime minister Orbán even used the issue to mobilize against the EU by holding a referendum on refugee quotas on 2 October 2016 (Bayer, 2016; Végh, 2016). This demonstrates that populist governments prioritise the potential for political mobilization that opposition to refugee distribution brings over the distributive benefits relocation has for their country.

Austria is also an interesting case. The country made a U-turn from a strong promoter of quota-based relocation (Zaun, 2018) to a laggard in implementation and an open opponent of solidarity when Sozialdemokratische Partei Österreichs (SPÖ) chancellor Faymann resigned in March 2017 (Guild et al., 2017). Faymann had been substantially weakened by populists within the ÖVP, his coalition partner, who criticized his liberal approach and close cooperation with German chancellor Merkel in the 2015 crisis (Gruber, 2017).

Finland abstained because of the different agendas of the coalition parties in government, with the Centre Party wanting to show its commitment to European solidarity and the populist Finn's Party openly opposing the idea of refugee distribution (Wahlbeck, 2019, pp. 306–7; Interview PermRep#3).



In comparison, Romania had blocked the adoption of permanent refugee quotas in 2015 but, unlike the V4, later accepted the implementation of the decision, because it did not want to be seen as being in league with Slovakia and Hungary. As Prime Minister Ponta put it: ‘[...] we were right to support the principle of not having compulsory quotas, but [...] we made a mistake by voting along with Hungary and Slovakia, contrary to the rest of the European Union, and I do believe that it is the time to have [...] a European, constructive and solidary position’ (Guvernul României, 2015). This shows that moderate governments prioritise the continuation of constructive relationships in the framework of European integration even if it means sacrificing policy priorities.

### *Negotiating Dublin IV*

On 4 May 2016, the Commission (2016) presented the Dublin IV legislative proposal. The most important novelty was the introduction of a relocation mechanism for situations of high asylum-seeker inflows. The relocation mechanism was supposed to be enacted based on a reference key taking into consideration a country’s wealth (in GDP) and size (in population). This arguably helped mainly frontline countries and possibly also the main asylum-seeker destinations in North-Western Europe. As a compensatory measure for supporters of the current Dublin regime (a built-in side-payment), the proposal introduced time limits for sending Dublin transfer requests, receiving replies and carrying out transfers aiming to strengthen the credibility of the Dublin system.

Although the EP confirmed a mandate for interinstitutional negotiations on 6 November 2017, these never took place, as the proposal was deadlocked in the Council (Interview MEP#1/2019; Interview PermRep#5/2019). In December 2017, the Estonian Presidency tried to consolidate an agreement on the more consensual items. When the Bulgarian Presidency took over in January 2018, it pushed a consensus at the expert level and prepared a political compromise to be ready for the Justice and Home Affairs (JHA) Council on 4 and 5 June 2018, keeping discussions on the reference key for the end of their presidency; thereby, it aimed to reach a broad consensus that could be supported by the European Council in late June 2018.

### *Rejecting Compromises in the Dublin IV Regulation*

The Bulgarian Presidency’s final proposal tried to accommodate the concerns of those opposing automatic forms of asylum-seeker redistribution. Briefly, the proposal gave complete discretion to member states to decide whether to relocate asylum-seekers or give financial support until one country received 140 per cent of its share under the reference key. But even when this threshold was reached, member states could still opt for alternative measures, such as getting a buyout for 25 per cent of its share, paying 25,000 Euros per asylum-seeker not relocated. Any additional person not relocated would cost 35,000 Euros, which is a much lower penalty than the initially envisaged 250,000 Euros per person (Council of the European Union, 2018). Overall, the scheme gave substantial discretion to member states strictly opposed to automatic relocation, while still offering more support for countries facing disproportionate levels of asylum-seekers as compared to the *status quo*. It was, hence, a watered-down compromise trying to accommodate both concerns. While this helped to address the worries of member states that opposed Dublin IV due to its redistributive implications, populist governments remained critical. The V4,

in particular, did not move an inch in their opposition and Austria, previously a supporter of refugee quotas under the Faymann government, started to oppose refugee quotas after the Kurz government came into power in December 2017 (Deutsche Welle, 2017).

The Bulgarian presidency also watered-down the duration of stable responsibility under Dublin IV to further accommodate those asking for more solidarity, which the Commission proposal (in line with the preferences of North-Western member states) had set at ten years. In April 2018, the Med5 had criticized this proposal and suggested this be reduced to two years (Cyprus, Greece, Italy, Malta and Spain, 2018). While Cyprus, Malta and Greece supported the Bulgarian compromise of eight years, Spain and Italy remained critical (Abellán, 2018). Yet, despite their criticism, their mainstream governments were strongly in favour of finding a compromise by June 2018, as the incoming Austrian presidency was doubted to assume the role of an honest broker, given its own strongly negative views on the reform (Paravicini and Herszenhorn, 2018; Interview Council Secretariat#1; Interview PermRep#4). For instance, one diplomat from a Med5 country, arguably Italy, said that if they did not 'get a deal by the summer, [the government would] lose credibility vis-à-vis public opinion', something they could not afford, 'because it would fuel support for populist and extremist parties across the country' (Paravicini and Herszenhorn, 2018). This was a concern shared by many moderate governments including the German one, which was particularly keen to demonstrate that the EU was functional and able to solve the perceived refugee crisis (Interview PermRep#4).

Given the fierce opposition of the V4 and Austria, now being joined by Italy, Germany, Spain and the Baltic states (Carretta and Maugeri, 2018; Interview PermRep#4; PermRep#5), member states were unable to find a compromise in the run-up to the JHA Council on 4 and 5 June 2018 in Luxembourg. Spain and the Baltic states did not take a leading role in this opposition and were generally open to compromise, which we argue is typical for mainstream governments. The Baltic States were never strong supporters of mandatory quotas due to their redistributive implications and hence bandwagoned with those now opposing it but remained open to finding a compromise (Interview PermRep#2). Spain became increasingly upset with the tone of the German government (and others with a similar view), especially regarding the long duration of responsibility for Dublin cases and its insistence on the need to strengthen compliance, despite the dire need to first and foremost strengthen solidarity (Interview PermRep#9; Paravicini and Herszenhorn, 2018). Yet, Spain continued supporting a common European solution and mainly used its opposition to further shorten the responsibility period (La Moncloa, 2018).

### *Rejecting Solutions to Perpetuate the Crisis*

Although their motivations differed, the V4 and Italy created an 'strategic alliance' to fight the Bulgarian compromise (Farruggia, 2018; Interview Council Secretariat#1; Ludlow, 2018a, p. 4). The V4 had vocally opposed the idea of refugee distribution, including the watered-down Bulgarian proposal, although some observers suggest that the Czech Republic and Slovakia, whose governments we classified as less populist, were a little more open to compromise than Poland and Hungary (Interview COM#3). Part of the V4's politicization strategy and rhetoric lied in their presenting quotas as a policy that undermined their national sovereignty, something that resonated domestically, given their

shared history as post-Soviet nations (Interview PermRep#6; Interview PermRep#9). By opposing quotas, their governments showed that they would stand up against any interference into national sovereignty and that they were ‘strong enough to block the EU to go any further on [an unpopular issue]’ (Interview PermRep#4), thus gaining further electoral support (Ripoll Servent, 2019b).

The M5S/Lega government in Italy also used the deadlock to garner electoral support, but they focused on the EU’s weakness, signalling to voters that they should support the government ‘who [is] against the EU, because it [the EU] cannot solve our problem’ (Interview PermRep#4). Especially, Italian Interior Minister Matteo Salvini, entering office in June 2018, argued that the compromise did not go far enough, suggesting that he preferred the proposal made in the EP, which proposed to end the first-country-of-entry principle (Interview MEP#1; Interview Council1; Interview PermRep#4; Fassini, 2018). Certainly, previous Italian Prime and Interior Ministers had criticized this principle as well as the lack of solidarity with frontline countries more generally, but they had always signalled a readiness for compromise (ANSA, 2016, 2017; also Piero Fassino in Parlamento Italiano, 2018). Salvini, however, showed no interest in cooperating and insisted on the abolition of the first-country-of-entry principle, despite the fact that Lega had abstained and the M5S had voted against this proposal in the EP (Votewatch, 2017; Laura Boldrini in Parlamento Italiano, 2018). This suggests that his insistence was rather tactical, aiming to further politicize the issue, as he also did when he suggested that ‘Sicily was done being Europe’s refugee camp’, concealing that numbers of boat arrivals had significantly declined in the past months (Gagliardi, 2018; also Micinski, 2022). Arguably, with the actual Italian ‘refugee crisis’ fading, Salvini needed to maintain the political crisis. This strategy of assertive politicization was also mirrored in the disembarkation crisis, where he refused to take in any asylum-seekers arriving to Italy by boat (The Guardian, 2018). This not only helped him create a perception of Italy facing immense migratory pressure but also allowed him to strengthen his populist profile, claiming to act for ‘the good of the Italian people’.

Therefore, undermining solidarity benefitted Salvini’s Lega, since it helped to maintain artificially the state of crisis and helped to mobilize voters in Italy against a dysfunctional EU (Interview PermRep#3, Interview PermRep4) – a dysfunctionality that was mainly the result of populist governments blocking the agreement (Interview PermRep#3). Observers confirm these tactical considerations, arguing that Salvini made ‘every indication of not wanting to resolve a crisis from which he and his party have profited so much’ (Ludlow, 2018c, p. 2; Interview PermRep#4) and that he did not have ‘any interest in further EU success in managing the migration crisis when [he] derives so much political advantage [...] from posing as the tragic victim of the Union’s bungling and lack of solidarity. Good news in Brussels and for Italy is bad news for those in power in Rome’ (Ludlow, 2018b, p. 36).

Nevertheless, Italy clearly was offered side-payments: The Conclusions of the June 2018 European Council (2018, para. 12) expressly noted that the Dublin reform also needed to take into account ‘persons disembarked following Search and Rescue operations’. Moreover, in July 2018, Italy started receiving financial help through the European Refugee Fund, something Salvini never publicly conceded (Cusumano and Gombeer, 2020, p. 252).

The nativist populist Lega, and especially Interior Minister Salvini, rather than the ideologically ‘valence’ M5S was the driving force behind Italy’s stance on Dublin IV and Prime Minister Conte (M5S) was often described as Salvini’s ‘puppet’ (Verhofstadt in European Parliament, 2019). For instance, Conte took a much more cooperative stance on migration and supported multilateralism and the signature of the Global Compact on Migration, which Salvini refused to do (Colombo and Palm, 2018, p. 24; La Repubblica, 2018; Piero Luca in Parlamento Italiano, 2019). Moreover, Salvini met with Conte’s Hungarian counterpart, Prime Minister Victor Orbán, in August 2018 to declare that Dublin was not to be touched again and to suggest that the EU should exclusively focus on border control (Legagni, 2018). This shows that, despite very different substantial preferences, populist governments aligned to undermine refugee distribution through Dublin IV, creating deadlock for deadlock’s sake – that is, to perpetuate the perception of a ‘refugee crisis’ which generated ‘much of the political support on which they depend’ (Ludlow, 2018c, p. 3; Ludlow and Ludlow, 2018, p. 4).

The opposition of the V4 and Italy was helped by the sudden obstruction of Horst Seehofer, German Interior Minister (Carretta and Maugeri, 2018), who insisted on additional commitments on responsibility. His actions can only be understood on the background of domestic politics: in 2018, Seehofer – concerned about the upcoming elections in his *Land*, Bavaria, where the AfD was gaining ground – took radical positions on asylum suggesting that Bavaria would return asylum-seekers at the border, regardless of the Dublin Regulation. He even threatened to resign unless Merkel persuaded other member states to take back previously registered asylum-seekers. This was mainly tactical and not a response to high inflows of asylum-seekers, as numbers in Germany had been declining as well (Besch et al., 2018).

Merkel, whose position in her own party had been weakened after her openness towards migration in 2015, was under severe pressure to get concessions on responsibility from other member states, at a time when the conflict between the V4 and the Med5 was already heated. The fact that Germany introduced this additional dimension to the conflict certainly made negotiations harder; to ensure Seehofer’s concerns on responsibility were heard, Merkel convened a mini-summit with a group of like-minded member states ahead of the European Council on 28 June 2018, where member states agreed to commit – very generally – to responsibility and preventing secondary movements (Ludlow, 2018b, p. 3). Moreover, Germany adopted bilateral agreements with Spain, Greece and Italy on taking back asylum-seekers that had engaged in secondary movements to Germany, which Seehofer could sell as a success (von Lieben, 2018).

### *Rejecting Norms: Venue-Shopping to Impose Unanimity (and Deadlock)*

As the deadlock on Dublin IV was not overcome at the JHA Council in June 2018, the issue remained on the agenda of the European Council, where no progress was made. Instead, the V4 put the final nail into the coffin by suggesting that Council decisions on Dublin IV were to be taken under ‘consensus’ (Interview PermRep#6; Interview PermRep#4), a formulation that made it into the European Council Conclusions (European Council, 2018). Certainly, as we have shown, consensus-oriented decision-making is common in EU policymaking; however, the V4 and its supporters interpreted consensus as ‘unanimity’ (Interview PermRep#8; Interview COM#2), thus eliminating the usual

‘shadow of QMV’. Observers argue that this was a clear case of venue-shopping: With an increasing number of member states being accommodated through side-payments, the V4, Italy and Austria could not build a blocking minority by themselves in the Council. By pushing for the notion of consensus to be included in the European Council Conclusions – a venue where decisions are taken under unanimity – the V4 managed to circumvent qualified majority and ensured that the Bulgarian compromise could be effectively blocked (Interview PermRep#4). Indeed, an observer of the European Council in Salzburg suggests that the asylum crisis ‘increasingly transmuted into a political crisis, in which existential questions regarding the fundamental objectives and political character of the EU occupy centre stage’ (Ludlow, 2018c, p. 3). This is a good example of ‘unpolitics’, where populists reject the shared norms of the game and provide new interpretations to reinforce their opposition both towards redistribution (substantive dimension) and common European solutions (integration dimension).

The Austrian government in the second half of 2018 did not prioritise the CEAS reform, as it opposed the adoption of quotas itself (Interview PermRep#5; Interview COM#3). The proposal was then taken up by the Romanian presidency (January–June 2019), which focused on advancing as much as possible the other files in the asylum reform package before the upcoming EP elections in May 2019. Yet, the deadlock on Dublin IV spilled over to the entire reform package, which remained deadlocked by the end of the eighth legislature (Ripoll Servent, 2019a; Zaun, 2022). While many aspects of Dublin IV were included in the Commission’s proposal for a Migration Pact of September 2020, the Commission decided against re-submitting a new proposal for the Dublin reform, highlighting the success of the populist deadlock.

## Conclusion

This article set out to investigate the different behaviour and strategies of populist *vis-à-vis* mainstream governments in EU policymaking, focusing on the case of EU policies on refugee distribution and particularly the failed Dublin IV reform.

In line with the concept of ‘unpolitics’, we have shown how the populist governments in Italy and the V4 used deadlock to further the conflict and increasingly politicize the issue, potentially benefitting the most from this politicization by increasing their popular support. We find that populist and mainstream governments share one important communality in this area, namely they prioritise their position on EU integration over the substantive dimension on EU migration policy. The reason for this is that the costs of non-solution to the asylum crisis are relatively low, despite the high level of politicization around this issue. Both mainstream and populist governments prefer receiving fewer asylum-seekers; hence, their positions often depended on whether Dublin IV would help them achieve this aim. However, mainstream governments were more ready to accept concessions and package deals than populist governments (H2). The latter opposed any policy not reflecting their maximum position. They used their opposition to further politicize the issue and demonstrate that the EU is weak and incompetent. Therefore, fostering deadlock fed the public perception of a crisis, of which populists are the primary beneficiaries (H3). To achieve this, populist governments were ready to break formal and informal rules of EU policymaking, even turning some of the informal rules meant to help finding compromises on their head and using them to block any potential decision.

Shifting decisions to the European Council allowed them to bypass the shadow of QMV and forced an interpretation of consensus as unanimity, even if the latter went against the formal rules foreseen in the Lisbon Treaty (H1).

This is a central distinction between mainstream and populist governments: mainstream governments do block policies, but this is done generally to prevent a policy seen as prejudicial for their country. Populists, we argue, block a policy to show discontent with the polity and obstruct and undermine the political process. This shows that, while integrated into the system, they still oppose its core metanorms, such as furthering European integration and working together to find solutions to common problems. At the same time, we should not absolve mainstream governments from their responsibility: they accepted both the deadlock and the challenging of long-standing institutional norms and did not force a vote through qualified majority, even in the absence of an actual blocking minority of countries with populist governments. Arguably, mainstream governments were afraid to deepen the conflict on European integration that had emerged back in 2015; however, by going along, they played into the hands of populist governments, who used the deadlock on Dublin IV and refugee redistribution to demonstrate the weakness of the EU and its inability to address the perceived refugee crisis.

Given that the area of migration and asylum is particularly prone to capture by (nativist) populist parties, it would be interesting to investigate whether these patterns can also be observed in other areas of EU policymaking. We would expect that they do, but mainly in areas of ‘low risk’ and ‘high gain’ – namely, in areas where the harm provided by a non-decision is neither immediate nor blatant (low risk) and areas that are more easily politicized than purely technical legislative proposals (high gain). This might be the case, for instance, of climate change policies (Huber et al., 2021). In comparison, we have seen how, in the Eurozone crisis, where a non-decision would be extremely harmful and costly (in Italy, for instance), even the populist governments accepted a compromise (Hodson and Puetter, 2019; Schimmelfennig, 2018). This might also explain why populism has not been as prominent in the Covid-19 (economic) crisis (Teschke, 2022, p. 4). Therefore, explaining variation across policy fields can help us better understand the conditions under which (different types of) populist governments can use ‘unpolitics’ to foster crises and perpetuate a state of uncertainty and anti-European sentiment as well as confirm or refine the three mechanisms (rejecting norms, compromises and solutions) that we have developed to further conceptualize the use of ‘unpolitics’ in EU policymaking. This is particularly important in the current context, where we tend to focus on demand for populism and bottom-up processes of politicization but less on top-down processes that use the EU to supply conflicts related both to the substantive and the integration dimension. In addition, we need to understand supply as a game played by populist governments with the acquiescence of mainstream governments. This shows how the constraining dissensus does not work on the domestic level alone but has expanded to the EU, squeezing mainstream governments between domestic and European populist games and making it increasingly difficult to use EU policymaking to escape populist constraints.

## Acknowledgments

We would like to thank the participants involved in the project ‘The future of the Area of Freedom, Security and Justice in times of populism and political uncertainty’, participants of the Sciences Po

General Seminar series, the ACELG/ACES Lecture at the University of Amsterdam and the VirEuS seminar series for their valuable feedback on earlier versions of this paper. Special thanks go to Saskia Bonjour, Helena Farrand Carrapiço, Virginie Guiraudon, Adrienne Héritier, Marie Moncada, Christof Roos, Natasha Wunsch and Jonathan Zeitlin as well as two anonymous reviewers for their very helpful comments. We thank Daniela Movileanu for research assistance and our interview partners for sharing their insights.

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## Supporting Information

Additional supporting information may be found online in the Supporting Information section at the end of the article.

**Data S1.** Supporting Information.