



Crossing the Border: The Connection Between EU Defense and Humanitarian Policy Leading Up-to and During the European Refugee Crisis.

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Crossing the Border: The Connection Between EU Defense
and Humanitarian Policy Leading up-to and During the European Refugee Crisis.

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Abstract

This thesis investigates the overlap of EU defense and humanitarian policy prior to and during the European Refugee Crisis beginning in 2011. It uses a historical lens to determine whether the EU has attempted to establish federative authority over issues of defense and immigration and to what extent policy has come to fruition on the ground. It also seeks shed light on the influence that outside organizations, the North Atlantic Treaty Organization in specific, have had in determining the establishment of federative EU capabilities.

I also compare the different responses of three EU border countries to the influx of refugees during the European Refugee Crisis and seek to determine whether these responses were impacted by EU federative capabilities, or whether these responses would have occurred even without greater assistance from the EU.

This research determined that the EU has for decades attempted to establish its own defense force that would exist separately from, while operating in conjunction with, NATO capabilities. Given NATO's lack of interest in responding with substantial force during the crisis, an EU force could have been used to ensure ample assistance to countries facing overwhelming immigration and would have ensured greater compliance with EU immigration and asylum policy.

I sought to determine the impact of the EU's insufficient resource coordination on the responses of individual nations, and what impact the individual responses had on the status of refugees and EU policy.

My research found that individual states reacted to a lack of assistance from the EU by implementing their own policies often in violation of EU law and that the EU has responded by attempting to implement further federative policies.

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List of Commonly Used Acronyms

EU	European Union
US	United States
UN	United Nations
GDP	Gross Domestic Product
NATO	North Atlantic Treaty Organization
IDP	Internally Displaced Person
ERC	European Refugee Crisis
WEU	Western European Union
PT	Process Tracing
LoN	League of Nations
EDC	European Defense Community
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defense Policy
EPC	European Political Cooperation
CEAS	Common European Asylum System
UNHCR	United Nations High Commissioner for Refugees

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Chapter I

Introduction to Research

Research Problem

The Treaty of Rome, officially the Treaty establishing the European Economic Community, was signed on March 25th, 1957 to create a single European market for goods and services and to reduce protectionist economic policies around the continent.¹ The success of the treaty and globalist economic policies throughout the second half of the 20th century led to the signing of the Maastricht Treaty in 1992 which officially established the European Union (EU).² Today, the EU comprises of 28 member nations with a population of over 510 million people that produce 22.2% of the world's nominal GDP.³ While the EU has successfully migrated most economic, transportation, and civil regulatory authority to a unilateral actor, it lacks its own functional security apparatus and border control.

Due to its geographic proximity to a significant portion of the world's population, Europe has been a frequent destination of refugees fleeing conflict and persecution. However, the entirety of Union-wide border security within the EU is run by the European Border and Coast Guard Agency, most commonly referred to as Frontex - or *Frontières extérieures*, French for "external borders" – an agency with only 402

¹ Judt, Tony. "Postwar: A History of Europe since 1945". *Pimlico*. 2012

² European Union – Europa. "The History of the European Union: 1990-1999". Available from <https://europa.eu/european-union/about-eu/history/1990-1999_en >

³ European Commission. "The EU Single Market: Fewer Barriers, More Opportunities." Available from <http://ec.europa.eu/internal_market/index_en.htm>

employees as of 2016.⁴ Additionally, Frontex is only authorized to operate within the free-movement portion of the EU known as the Schengen Area which does not include most of the Baltic states. Thus, the EU lacks the ability of control over its borders and individual nations are left to provide manpower, transportation, and intelligence.

Although it has been the goal of many European policy makers for decades to have an independent European defense and border security force, the goal has been thwarted by numerous obstacles. One of those obstacles is NATO. On 20 June 2014 in a speech to the Royal Institute of International Affairs at the Chatham House in the United Kingdom, the NATO Secretary General Anders Fogh told the crowd of European political leaders that NATO will remain the foundation of Euro-Atlantic security, claiming his vision of the transatlantic relationship as the bedrock of Euro-Atlantic security and NATO as a clear response to many of today's and tomorrow's challenges.⁵ His statement was consistent with decades of international agreements that have made NATO the primary security apparatus in Western Europe. Although the EU has adopted numerous policies, statutes, and regulations throughout its history to develop a common European security apparatus, the measures have failed to establish an effective security force.

While the tacit agreement between NATO and the EU has had minimal consequences to European Security during major military operations such as Allied

⁴ European Commission. "European Agenda on Migration: Securing Europe's External Borders". 2015. Available from <<http://www.consilium.europa.eu/en/policies/migratory-pressures/history-migratory-pressures/>>

⁵ NATO. "Delivering security in the 21st century" – Speech by NATO Secretary General Anders Fogh Rasmussen, Chatham House, London. 2012. Available from <http://www.nato.int/cps/en/natohq/opinions_88886.htm>

Force- since vast military resources were dedicated by non-European powers like the United States- the lack of a cohesive security apparatus has had harmful impacts during the European Refugee Crisis (ERC). The EU has struggled to provide adequate surveillance, security, and transportation through a cohesive strategy to safely receive refugees and transport them to a host nation. Additionally, the lack of any meaningful enforcement mechanism has given individual states control over their own borders and has allowed them to disregard international laws pertaining to refugees. The crisis has created 4.6 million refugees and 6.1 million IDPs. Many of these refugees died in transit to Italy via the Aegean Sea which had inadequate Coast Guard personnel and resources allocated to it. Millions of other refugees were stranded in camps throughout Turkey with minimal accountability and safety measurements. Additionally, lacking resources have contributed to record amounts of drug smuggling and human trafficking. Although calling it the “worst humanitarian crisis Europe has witnessed since 1945,” NATO did not recognize the severity of the conflict and waited until 2016 to provide assistance, four years after the conflict began.⁶ Even then, NATO limited its contributions to intelligence, surveillance, and reconnaissance in the Aegean Sea and at the Turkey-Syria border.

Research Questions

A. Questions to be Examined

Central Question: What role does policy uniformity play in the implementation of successful border security? Did the lack of unity in policy within the EU up to and during

⁶ NATO. “Assistance for the Refugee and Migrant Crisis in the Aegean Sea”. 2016. Available from < https://www.nato.int/cps/en/natohq/topics_128746.htm?selectedLocale=uk>

the ERC play a significant role in the response of the Union and individual nations? Did it play a significant role in the outcome of the crisis as a whole?

1. What roles have NATO played in the formation of EU border security policy?
Has the existence of NATO and its growth since the end of World War II impacted EU border security policy from its original conception?
 - a. Has NATO played any role in the response to the ERC and, if so, what has that role been?
2. Given current EU security policy, what role did security forces and border control play in the ERC?
 - a. How did the EU respond from a physical border security perspective?
 - b. Did individual border nations respond differently and, if so, how so?
 - c. What role has the migration crisis played on the EU and individual nations from a physical border security perspective?
3. What was the legal framework for migration policy prior to 2011? What has the impact of migration on been on the legal framework surrounding migration policy in the EU?
 - a. Has there been a significant difference in the response from different border countries?
 - b. If there have been different responses, has the non-uniformity in response impacted the response from the EU from a legal perspective?

Research Proposition

I propose that the EU's lack of policy uniformity played a substantial role in the insufficient response to the ERC. Discrepancies in policy have historical roots: following

World War II, the goal of international organizations within Europe was to create political bodies that would ensure a European-wide coherent response to security concerns. Humanitarian policy was to follow the same course; treaties and agreements between EU nations were meant to guarantee that responses to crises would not be handled by individual states. However, the vast influence of NATO and the non-existence of policy overlapping security and humanitarian concerns have resulted in a situation where individual states, and not the EU, have ultimate control over the movement of refugees at their own borders. This gave individual states the ability to neglect existing EU policy during the ERC and forced them to come up with their own legal and physical responses. The vast differences in outcomes that ensued encouraged migration to specific countries which has created political and economic strife within the EU.

Alternate Hypotheses

- A. Lack of EU security and humanitarian capabilities resulted from internal policy as opposed to the influence of external actors. The lack of security and humanitarian development could have been impacted by budget and resource constraints within the EU or the inability of member nations to come up with a consensus. A look into internal documents and speeches during the periods of time when humanitarian policy was emplaced could provide more insight into why resources were not dedicated.
- B. The EU had purposely intended not to deploy security assets during a humanitarian crisis. This idea supposes that throughout the inception of humanitarian and security policy, the EU either did not anticipate that a crisis

like the ERC could occur or decided that the body would not have justification to act if it did. An analysis of this idea, like the one above, will require researching source documents from the period of policy inception.

- C. There has been no significant change to either the legal framework or physical security capabilities within the EU since the response: A look at EU source documents from 2011 could show that, despite the crisis, the EU has had little impetus for change. This would demonstrate that perhaps the idea of an EU-wide uniform response was never realistic in the first place.

Research Justification

My research differs from the existing body of research on this subject matter because it analyzes the outcomes of the refugee crisis through a lens of historical defense policy as it relates to immigration policy. Much research has been dedicated to both the evolution and intention of European Defense Policy, as well as the impact of the ERC on both refugees and host nations. This paper does not focus exclusively on those issues, nor does it go into substantial or unique depth on either topic. Rather, it seeks to find a relationship between the intentions of EU immigration and defense policy and the mechanisms that took place in border countries during the crisis. A review of contemporary literature on the topic found that little research exists on this relationship. This research is valuable for the following reasons:

- I expanded my analysis beyond existing research in the field by establishing a link between NATO's influence and differing outcomes in border policies.

- I based my research on decades of defense policy adaptation in the EU and used historical precedents to demonstrate a relation to a present-day humanitarian issue.
- My research is open to the degree of influence that NATO and other organizations have had on the refugee crisis, and takes into consideration additional possibilities that could have major influences.
- The outcome of the research leaves potential for recommendations on actions that the EU could take to improve its processes in the future.

The significance of this research is that it takes a unique approach to understanding why the EU has faced significant challenges in creating uniformity among its member states in response to the influx of refugees during the past six years. Substantial research and resources have been dedicated to understanding the flow of migrants, the humanitarian and economic impacts of the crisis, and the political implications of the EU's response; however, little has been dedicated to understanding the relationship between defense and immigration policy at their inception, and how they have come to impact countries during Europe's most severe refugee crisis in its history. It is my hope that this research will open the door to additional studies on the matter and will inspire reform to existing EU policy.

Chapter II

Research Methods, Analysis, and Limitations

In this chapter I discuss the methodology, mechanism, and limitations behind the research process used for this paper. I discuss why the selected research method was chosen and how it allows for the establishment of a conclusion without a substantial amount of numerical data. In addition, I discuss why certain limitations exist and how these can be addressed in future research.

Methodology

In this paper, I conducted a review of existing literature to identify contending explanations for current EU security and humanitarian policy. Actions taken during the recent refugee crisis were compared with the policy in place to demonstrate the impacts of the EU's actions. The strategy of inquiry is to build upon the existing discourse on the topic of European security while offering a process tracing lens through which to view policy as it pertains to contemporary phenomena.

Given that this paper relies, for the most part, on primary and secondary sources for evidence, the most appropriate method of investigation is Process Tracing. PT “involves the examination of “diagnostic” pieces of evidence within a case that contributes to supporting or overturning alternative explanatory hypotheses” by looking for observable impacts of given theories and scrutinizing them under a lower level of

analysis.⁷ For the purpose of this paper, PT will be the tool in which to provide evidence for the hypothesis and to evaluate the merit of alternative explanations. In order to best apply the method, the argumentation within the paper will be structured as follows:

1. Establish the background: This stage will serve as the foundation for the body of knowledge that will be used to analyze the competing arguments. Primary and secondary sources will be scrutinized at this point in the research process and the policy background will be characterized. The point of this stage is not to prove or disprove the hypothesis, but to gather and research all available documents and agreements that may be relevant the topic.
2. Examine case studies:
3. Challenge null and alternative hypotheses: To provide evidence for the null hypothesis, the PT testing method of “Smoking Gun” will be used. The basis of a Smoking Gun test is to provide evidence that supports the confirmation of a hypothesis; however, a lack of evidence to support the hypothesis does not rule it out. Figure 1 below charts the different tests used for PT. Bennett uses the example that “a smoking gun in the suspect’s hands right after a murder strongly implicates the suspect, but the absence of such a gun does not exonerate a suspect.”⁸ For the test, the important factor is the relationship between the evidence and the hypotheses rather than the overall quantity of evidence. To make a confident assertion that the null hypothesis is true requires eliminating the possibility of alternative explanations. There are a couple of options within process tracing to analyze alternative

⁷ Andrew Bennett. “Process Tracing and Causal Inference”. 2010. Chapter 10. 2nd ed. Pg. 3

⁸ Andrew Bennett, “Process Tracing and Causal Interference”, Pg.8

hypotheses: a Doubly-Decisive test and a Hoop Test. A Doubly-Decisive test simultaneously proves the null hypothesis and disproves the alternative, akin to catching a robber on camera while he or she is robbing a store thus eliminating the possibility that someone else committed the crime. For obvious reasons, this would be the preferred method. However, due to the need to substantial data with a low margin of error, “such tests are rare in the social sciences, yet a hoop test and a smoking gun test together accomplish the same analytic goal.”⁹ A hoop test eliminates alternative hypotheses but does not provide direct supportive evidence for a hypothesis that is not eliminated. Bennett uses the idea that a hypothesis must “jump through the hoop” to remain in contention.

Sufficient To Establish Causation (b)		
	No	Yes
Necessary to Establish Causation	Straw in the Wind	Smoking Gun
No	<i>Passing</i> affirms relevance of hypothesis but does not confirm it. <i>Failing</i> suggests hypothesis may not be relevant, but does not eliminate it.	<i>Passing</i> confirms hypothesis. <i>Failing</i> does not eliminate it.
Yes	Hoop	Doubly Decisive
and	<i>Passing</i> affirms relevance of hypothesis but does not confirm it. <i>Failing</i> eliminates it.	<i>Passing</i> confirms hypothesis eliminates others. <i>Failing</i> eliminates it

Table 1

4. Draw Conclusions: The final section will look at the preponderance of evidence to make justified conclusions about the state of EU humanitarian and security policy

⁹ Andrew Bennett, “Process Tracing and Causal Interference”, Pg.5

leading up-to and during the ERC. If the Smoking Gun Test provides substantial evidence for the null and the Hoop tests cast doubt on the alternative hypotheses, the null will be confirmed. If one of the alternative hypotheses has promising justification, the conclusion could be a combination of the null and alternative hypotheses. And finally, the null could be rejected if the research shows unsubstantial influence of international bodies.

Research Limitations

Research for this paper will be limited to the periods of inception for the 1951 Treaty of Paris, which established the EU precursory European Coal and Steel Community, and the 1949 signing of the North Atlantic Treaty, which created NATO. I will not address in my research the international organizations or treaties that were put into place between the end of World War I and the beginning of World War II, such as the LoN or the original Geneva Conventions. Following World War I, international actors set out to prevent a conflict of such magnitude from ever occurring again which demanded diplomatic relations between geographically close enemy nations. This led to the creation of the LoN, an organization with a covenant dedicated to global peace, and which operated from June 18, 1919 until April 18, 1946.¹⁰ Political and economic turmoil throughout the early 20th century that culminated in the beginning of World War II proved the organization unsuccessful, and following the conflict the LoN was disbanded and replaced with a number of other international organizations. Additionally, the

¹⁰ League of Nations. "The Covenant of the League of Nations". 1919. Available from <https://crimeofaggression.info/documents/6/1919_The_Covenant_of_the_League_of_Nations_Art_10_to_16.pdf>

Geneva Conventions were updated and others were treaties signed. Thus, the most relevant policy to the paper topic was adopted after World War II and analysis of policy prior to the conflict would likely not add substantive value.

In terms of the research method being used, Process Tracing has natural limitations and it is important to keep in mind that the method is not perfect. However, it appears to be the most appropriate method for this research project. According to Andrew Bennett, one of the creators of the method, “critics have raised two critiques of process tracing: the “infinite regress” problem and the “degrees of freedom” problem.”¹¹ In terms of the infinite regress problem, breaking down an argument into narrower and narrower detail can have the impact of never finding an end to an argument. In terms of the degrees of freedom problem, an argument such as this paper can be influenced by a large number of variables while using a smaller number of cases which can lead to a high number of degrees of freedom. This has the impact of creating a high degree of statistical variability and low degree of statistical certainty (a high p-value). While these issues are important to take into consideration, according to Bennett “not all information is of equal probative value in discriminating between alternative explanations, and a researcher does not need to examine every line of evidence in equal detail.”¹² This paper will look at the most significant cases and explanations to provide evidence, although it will not address every possible variable.

¹¹ Andrew Bennett, “Process Tracing and Causal Interference”, Pg.3

¹² *Ibid.*

Chapter III

Background of EU Defense and Immigration Policy

Defense

Realizing that times of crisis could necessitate military force, the founders of international organizations in Western Europe have been advocating for a Europe-wide defense organization since the end of the First World War. However, European policy surrounding common defense has faced consistent deviations from the original vision of early 20th century lawmakers. Power imbalances and influence from outside actors such as the United States and Russia have created a Western Europe that is reliant on military support from NATO and, more specifically, the U.S. As a result, the EU does not have the ability to draw on any reasonable military assets during times of emergency.

The original conception of a unified European state formed at the end of World War I with the establishment of the League of Nations. U.S. President Woodrow Wilson outlined a vision of “just and secure peace” and “a new balance of power” in his *Fourteen Points*, with the last point being the creation of the League.¹³ While numerous factors contributed to the ineffectiveness and eventual collapse of the League, two dilemmas created the vacuum of power that allowed Germany to rearm: first, the United States Congress, looking to calm a public exhausted of wars on foreign soil, failed to ratify the League of Nations charter leaving the world without a hegemon to enforce hard power. Second, European powers, still reconstructing from their losses throughout the

¹³ President Woodrow Wilson. “Fourteen Points.” *Library of Congress*. 1918

war, failed to prevent the re-armament of Germany and instead used clout to enforce demands of 33 billion dollars' worth of reparations from the German government.¹⁴

In 1945, following the end of WWII and the subsequent need for an improved intergovernmental organization, the UN was formed. Having learned their lesson from the Treaty of Versailles and the League of Nations, efforts were crafted to create firm policy that would prevent German rearmament. The 1948 Treaty of Brussels was the first major step towards common European defense, creating the structure for common military organization under the Western Union Defense Organization, or WUDO.

WUDO was Europe's first mutual defense agreement, promising states would provide "all the military and other aid and assistance in their power" to a state facing attack.¹⁵

The intent of WUDO was to provide a Europe-only response to crises and it was a tacit requirement of the U.S. that a "credible defense organization" was in place in Western Europe before the nation would support any trans-Atlantic treaty.¹⁶ However, the threat of expansion from the USSR caused tensions to grow between the West and the Soviets, particularly over the annexation of Estonia, Latvia, and other Eastern European states, and it became clear that WUDO would not have the sole power to combat the Soviets. In a meeting with U.S. policy makers in the summer of 1948, British Secretary of State for Foreign Affairs Ernest Bevin stated that "the resolve of the European countries to resist

¹⁴ Ruth Henig. "Versailles and After: 1919-1933." *Routledge*. 1995.

¹⁵ "The Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence (Brussels Treaty)." Signed 17 March 1948.

¹⁶ Lawrence S. Kaplan. "NATO 1948: The Birth of the Transatlantic Alliance." *Rowman and Littlefield*. 2007.

aggression could be effective only with American help.”¹⁷ These sentiments, in stark contrast to the views of European policy makers who had argued for an independent European force, held significant weight with French Foreign Minister Georges Bidault whom, with the help of U.S. Secretary of State George Marshall, convinced the U.S. Congress to pass the Vandenberg Resolution.¹⁸ The resolution proved to be “a striking evolution in American foreign and defense policy” in that it allowed, for the first time, the U.S. to enter into an Atlantic military alliance.¹⁹

The NATO treaty was signed on April 14th, 1949 and all existing WUDO infrastructure was incorporated into NATO causing WUDO to dissolve. The dissolution of WUDO did not end the push for a European defense force; in 1952 Rene Plevin, the Defense Minister of France under Charles de Gaulle, introduced a plan to create an independent Europe force called the European Defense Community that would integrate a re-armed West Germany as opposed to allowing the country to join NATO.²⁰ Signees to the agreement, with the exclusion of West Germany, were told that they would retain ownership and reporting authority over their military assets while the agreement would allow for centralized budget measures, procurement, and institutions.²¹ Although many aspects of the EDC were later incorporated into the WEU and the Common Foreign and Security Policy, the EDC went much further at creating a significant Western European

¹⁷ Lord Ismay, Secretary General of NATO (1952-1957). “Origins of the North Atlantic Treaty Organization.” *NATO Archives*. Updated 2001.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ Josef Joffe. “Europe’s American Pacifier.” *Foreign Policy*. Spring 1984.

²¹ Edward Fursdon. “The European Defense Community: A History.” *Springer*. 1980

military force than any future plan; it gave the EDC the authority to draw on resources “necessary to meet the position” in the case of “grave and urgent necessity.”²² However, the plan faced strong opposition from the U.S. and British leaders and it failed to get the support needed. As a result, Germany was incorporated into NATO and the U.S. began to fill a military power vacuum in Western Europe with the accelerated construction of military bases on the continent.

The next attempt to establish European defense capabilities occurred in 1954 with the negotiation of an eventual signing of the Modified Treaty of Brussels. The new treaty established, among other things, the WEU which was without a doubt that most successful attempt at a security agreement since the end of World War II, making “multilateral, permanent, collective defense a reality in Europe for the first time in history.”²³ While the WEU would, in-principle, set up a standalone European military to work alongside NATO, the implementation never came to fruition. The continued existential threat posed by the USSR combined with rapid growth in the already dominant U.S. military industrial complex left implementation of WEU defense articles “de facto led by NATO to which all WEU members belonged” and the WEU became mostly “a forum for consultation and discussion, making significant contributions to the dialogue on European security and defense.”²⁴ Realizing the failure of the WEU to create tangible military structure, leaders still intent on having an independent European defense force tried once again to create one. The Fouchet Committee, organized by Charles de

²² Ibid

²³ Alyson Bailes. “Death of an Institution: The end for Western European Union, a Future for European Defense?” *Royal Institute for International Relations*. May 2011

²⁴ European Union External Action. “Shaping of a Common Security and Defense Policy.” *European Union*. August 2016

Gualle, organized in 1961 to create a ‘union of states’ as opposed to more loosely organized European committees, which had succeeded at creating economic integration in Western Europe but had failed in other realms such as defense. The plan failed and the WEU continued to operate under its 1954 parameters.

In 1970, European leaders signed the European Political Cooperation agreement to streamline mutual defense policy. The committee in drafting the agreement came together after being instructed by their heads of government to “study the best way of achieving progress in the matter of political unification, within the context of enlargement.”²⁵ The resulting plan resembled the earlier Fouchet plan in many ways but kept less power in the hands of individual nations like France and Britain. However, the agreement was really just a method for communication between nations and did not go further at setting up a Western European crisis force; Michael E. Smith notes this in his book *Europe’s Foreign and Security Policy*, concluding that “intergovernmental conferences usually only codify existing arrangements; they rarely lead to major innovations.”²⁶ The EPC lasted until 1993 with the signing of the Maastricht Treaty formally establishing the EU. Under Maastricht, security policy coordination became the responsibility of the Common Foreign and Security Policy and, in tangent, the Common Security and Defense Policy. The implementation of the CFSP, which is responsible for issues of foreign policy and defense diplomacy, shows just how evolved the issue of collective European defense has become; the policy sees NATO as responsible for

²⁵ Michael E. Smith. “Europe’s Foreign and Security Policy: The Institutionalization of Cooperation.” *Cambridge University Press*. 2004.

²⁶ Michael E. Smith. “Europe’s Foreign and Security Policy: The Institutionalization of Cooperation.” *Cambridge University Press*. 2004.

territorial defense of EU, while the EU is responsible for peacekeeping missions and defense of treaties.²⁷

The CSDP, which is responsible for military policy and civilian crisis management, differs from the CFSP in that it has no formal ties to NATO and is responsible for defense cooperation between all EU nations, not all of which belong to NATO. The Petersberg Tasks of 1992 have become the guiding documents for the CSDP and are the first to put in writing the availability of collective military forces for issues other than the protection of state sovereignty. Article 2 section 4 states the following:

Apart from contributing to the common defence in accordance with Article 5 of the Washington Treaty and Article V of the modified Brussels Treaty respectively, military units of WEU member States, acting under the authority of WEU, could be employed for: - humanitarian and rescue tasks; - peacekeeping tasks; - tasks of combat forces in crisis management, including peacemaking.²⁸

While the Petersberg Tasks explicitly call out where European defense resources are to be used, they have not done much in the way of establishing collective military resources and the de facto actor for the CSDP continues to be NATO. The articles were absorbed into the 2007 Treaty of Lisbon, which was the second major EU treaty following the signing of Maastricht in 1992. The Lisbon Treaty, which encompasses issues ranging from banking to environmental concerns, attempts to consolidate EU defense policy under a single treaty. It created a High Representative of the Union for Foreign Affairs and Security Policy responsible for executing CSDP articles, proposing security missions, and serving as administrator of the European Defense Agency.²⁹ The Treaty follows

²⁷ Colin Robinson. "The European Union's Headline Goal: Current Status." *Center for Defense Innovation*. May 2002.

²⁸ Western European Council of Ministers. "Petersberg Declaration." 19 June 1992

²⁹ Honor Mahony. "EU Leaders Scrape Treaty Deal at 11th Hour." *EU Observer*. 26 June 2007

Article V of the Brussels Treaty and the intent of the Petersberg Tasks, stating that “member states should assist if a member state is subject to a terrorist attack or the victim of a natural or man-made disaster” although it takes into account certain national concerns that may exist.³⁰

Although EU forces through participation by member states have contributed to international and domestic conflicts, such as the Yugoslav Wars, most of the participation of EU forces in issues of conflict have been through NATO operations. Decades of evolved policy have created an EU that calls for mutual defense in issues of crisis but lacks the military infrastructure to do so without the help of NATO. The lack of mechanism for the EU to call on forces during times of crisis became a major issue during the ERC and EU leaders failed to convince NATO leaders to provide ample resources. Although calling it the “worst humanitarian crisis Europe has witnessed since 1945,” NATO did not recognize the severity of the conflict and waited until 2016 to provide assistance, four years after the conflict began.³¹ Even then, NATO limited its contributions to intelligence, surveillance, and reconnaissance in the Aegean Sea and at the Turkey-Syria border.

In a rush to find some common EU solution to the border immigration problem, the EU began to rapidly expand resources to its European Border and Coast Guard Agency, of Frontex as it has come to be known. The organization was founded in 2005 to coordinate border control efforts between nations, but it’s mission was expanded in 2015

³⁰ Article 222 of consolidated "Functioning of the European Union"

³¹ Retrieved from NATO website. “Assistance for the Refugee and Migrant Crisis in the Aegean Sea” (2016).

to serve as a full-fledged border control agency in response to the ERC.³² However, in 2016 the agency still only had 402 employees and an operating budget of 254 million USD, not nearly enough to coordinate efforts for the more than one million refugees attempting to cross into Europe.³³ Without an operational border force and without military assets in which to call on, border control efforts in Europe became the responsibility of individual border nations, the results of which will be discussed in this paper.

Borders and Immigration

Policy regarding the movements of individuals, whether citizens of Western Europe or non-citizens, has not faced nearly the level of osmosis that defense policy has faced. However, it's implementation has shared many of the same issues, namely that the lack of an enforcement mechanism has allowed nations to ignore aspects of EU policies and their international obligations without major repercussions.

The foundation for treatment of refugees within Western Europe stems from the 1951 Geneva Convention Statute Relating to the Status of Refugees which defines refugee status and specifies how refugees ought to be treated when away from their nation of citizenship. The Convention defines a refugee as someone with

Well-founded fear of being persecuted for reasons race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former

³² "European Agenda on Migration: Securing Europe's External Borders". *europa.eu*. European Commission. Retrieved 15 December 2015.

³³ Retrieved from the European Commission. "European Agenda on Migration: Securing Europe's External Borders." *Europa EU* (2015).

habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.³⁴

The Convention also goes into depth in dictating the treatment of refugees, saying that refugees should have “as favorable access as possible” to things like housing, courts, and rights to earn wages.³⁵

The next major piece of legislation meant to clarify treatment of refugees was the 1990 Dublin Regulation. The Dublin Regulation’s significance is that it identifies which nation is responsible for examining an application of asylum and prevents a refugee from applying in more than one country. According to the regulation, under most circumstances the country in which a refugee first applies for asylum is responsible for processing the application and determining whether to grant them status.³⁶ However, under the Dublin Regulation a nation can choose to return the applicant to the country upon which they first entered insofar as that nation has a functioning asylum system.³⁷ In order to consolidate these policies and create a unified asylum system across the EU, the Common European Asylum System was adopted in 2005. The system has and continues to evolve based on the political climate, but it’s function is to create minimum standards and procedures for processing and deciding asylum applications, and for the treatment of both asylum seekers and those who are recognized as refugees.³⁸ The CEAS has also

³⁴ Geneva Convention. “1951 Convention and Protocol Relating to the Status of Refugees.” Geneva, Switzerland.

³⁵ Ibid.

³⁶ Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities - Dublin Convention. 1990.

³⁷ Ibid.

³⁸ European Commission. Completing the reform of the Common European Asylum System: towards an efficient, fair and humane asylum policy. July 2016.

been used to create a database for the asylum process in order to create uniformity across the EU.

The most important legislation for the principle of movement in the EU, and one of the most critical foundations of the EU, is the 1985 Schengen Agreement. The original agreement included aspects on reducing speed vehicle checks to allow vehicles to cross borders without stopping, allowing residents in border areas to cross borders away from fixed checkpoints, created standard visa policies.³⁹ A 1990 supplement to the agreement created a common EU visa policy and abolished internal border controls across the entire EU.⁴⁰ The agreement mostly pertains to the 400 million people who live in the Schengen Area, but also allows foreigners and refugees to traverse the Schengen Area without being subject to documentation checks at borders.

While EU policy surrounding refugees and the movement of individuals was set up in a very liberal manner, with the policy advocating for fair treatment of refugees and the free movement of individuals, the ERC has tested the ability of EU policy to hold up in the face of crisis. Border nations have been dealt the majority burden for processing and housing refugees which, due to the sheer number of people trying to cross into Europe, has caused them to ignore many aspects of EU policy. The UN High Commissioner for Refugees recently criticized a deal proposed by the EU and Turkey that would send thousands of refugees back to Turkey in exchange for more money for the Turkish government.⁴¹ Eastern European countries with more conservative

³⁹ 1985 Schengen Agreement.

⁴⁰ 1990 Schengen Convention.

⁴¹ Al Jazeera. UN says EU-Turkey refugee deal would violate EU law. March 2016.

governments have responded by building additional border infrastructure such as fences with razor wire, rather than processing asylum applications. Meanwhile, European countries have asked the European Commission for pauses to the Schengen Agreement; by June 2016, six countries had re-instituted temporary border checks.⁴² The rest of this paper will look at case studies to determine how, despite EU policy, border nations have managed to ignore policies and what they have implemented to deal with the influx of refugees.

⁴² Lorne Cook. "Refugee crisis: Six countries in Schengen now have border checks in place." *Independent*. January 2016

Chapter IV

Case Studies

Introduction

The response of individual EU states to an increasing flow of migrants through their borders demonstrate the vast differences in priorities across nations. For instance, an increase in humanitarian assistance from the EU in 2015 through the means of Frontex, a move which was seen as too little, too late from the perspective Italy's center-left government, was widely seen as an overreach by the right-leaning government of Hungary. Such differences in perspective show the difficulty in implementing uniform policy throughout the EU to address the differing needs of individual states. Moreover, the lack of success resulting from the difficulty of establishing, and more so enforcing, uniform policy begins to shed light on why countries would begin to take measures into their own hands. The following section will look at three EU border states to address the differences in policy implementation and enforcement: Italy, Hungary, and Greece. A look into the responses by each of these heavily-impacted states and the support given to them by the EU will help show which discrepancies exist between states and from EU policy writ-large.

Italy

Following the Great Recession in the U.S., which had particularly harmful and lingering impacts on much of Europe including Italy, the Italian public switched support

for center-left politicians as opposed to the center-right ideology that had dominated much of the 2000s. With the election of center-left prime ministers and coalition governments with center-left majorities in parliament, the Italian government began to implement policies seen as more progressive, pro-EU, and pro-immigration than their center-right counterparts. The shift of government in Italy led to notably substantial differences in policy. As the crisis began to unfold in 2011 while still under the leadership of notorious conservative politician Silvio Berlusconi, the Prime Minister referred to a group of 6,000 migrants who had landed off the coast of Lampedusa as “poor wretches” and, after landing on the island to give a speech, promised that “in 48 to 60 hours Lampedusa will be inhabited only by Lampedusans”.⁴³

Berlusconi’s words were supported by his actions; despite pleas by NGOs for increased sanitary and humanitarian conditions for refugee camps in Italy, the government instead focused on sending migrants back to North Africa. In April 2011, the Italian Interior Minister Roberto Maroni promised increased surveillance, instituted a 150% increase in police presence, established a horse-back security force to patrol camp perimeters, and created other measures included in agreements with regional governments.⁴⁴ In March 2011, at the time Berlusconi gave his speech on the island of Lampedusa, only 20,000 migrants from North Africa had crossed the Mediterranean into Italy via means of improvised sea transport-vessels, most of whom wanted to use Italy as a means to get to France. Prior to this point in time the EU had not dedicated much in the

⁴³ BBC News. “Berlusconi: Migrants have to Leave Lampedusa in 48 Hours.” 2011. Available from <http://www.bbc.com/news/world-europe-12903771>

⁴⁴ Simon McMahon. “Italy is Failing North Africa’s Refugees.” *The Guardian*. 2011

way of resources to the conflict other than a \$25M emergency fund package and the establishment of a task force on migration into the EU.⁴⁵ However, the Dublin Regulation required the Italian Government to process asylum applications and thus take responsibility for refugees crossing into Italy, a policy which Berlusconi and his conservative government opposed. Without much in the way of interest or support from the EU and without a desire to contribute substantial assistance to refugees or take responsibility for their asylum applications, the Berlusconi government focused its efforts on ensuring refugees could not enter Italy in the first place.

Attitudes of the Italian government changed in late 2011 with the resignation of Berlusconi and the implementation of center-left governments. In addition, a 2012 ruling by the European Court of Human Rights in *Hirsi Jamaa and Others v. Italy*, found that Berlusconi's policy of returning migrants to Libya had violated the European Convention of Human Rights which gave credence to future Italian regimes in changing policy.⁴⁶ Decreased tensions in North Africa as a result of defusing tensions surrounding the Arab Spring led to decreased rates of migration into Italy, at least in the short term. In 2012, Italy saw 3500 boat arrivals as opposed to 50,000 arrivals in 2011, most of which were processed through the EU asylum system, although there were numerous reports by NGOs on the ground of dozens of migrants being turned back to Africa.⁴⁷ In July 2012, Council of Europe Commissioner for Human Rights Nils Muižnieks claimed that "the

⁴⁵ BBC News, "Berlusconi: Migrants have to Leave Lampedusa in 48 Hours"

⁴⁶ European Court of Human Rights. "Hirsi Jamaa and Others v. Italy." *ECHR 075 Application no. 27765/09*. 2012. Available from [https://hudoc.echr.coe.int/eng-press#{"display":\["1"\],"dmdocnumber":\["901572"\]}](https://hudoc.echr.coe.int/eng-press#{)

⁴⁷ Ozan Selcik. "Migration and a New Destination for African Migrants: Lampedusa Island." *European Academic Research*. Vol. 3(5). 2015.

Italian government has been giving signs of a shift in policy” and that “what Italy needs now is for these signs to be transformed into concrete, unambiguous policies and actions.”⁴⁸ While the statements by the Commissioner were pertinent, many of the ambiguities in policy would have to be addressed at the European level, not at the individual nation level.

As tensions began to resurface in Libya and Tunisia during 2013, due in large part to the power vacuum and subsequent civil war ignited by the 2011 NATO bombing of Libya, arrivals into Italy began to increase once again. The first half of 2013 saw twice the number of arrivals into Italy as the same time in 2012 and the year began to have many similarities to 2011. However, instead of responding with anti-refugee policies, the Italian government instead ramped up humanitarian missions through the implementation of Mare Nostrum. Started in October 2013 to address the sharp rise in wreckages of crafts carrying migrants in the Mediterranean, Operation Mare Nostrum dedicated \$142M and use of the Italian Air Force and Navy to rescue and process asylum applications for refugees crossing the Mediterranean.⁴⁹ The program was adopted to address a shortfall in resources available from the EU, whose Frontex organization had less than 300 personnel for the entirety of Europe at the time. Although Italy reached out for assistance in funding

⁴⁸ Council of Europe, Commissioner for Human Rights. “For Human Rights Protection, Italy Needs a Clear Break with Past Practices.” 2012. Available from <<https://www.coe.int/en/web/commissioner/-/for-human-rights-protection-italy-needs-a-clear-break-with-past-practices>>

⁴⁹ Ella Ide. “Italy Ignores Pleas, End Boat Migrant Rescue Operation.” *Agence France Press*. 2014.

the operation, as the government saw the protection of Europe's borders to be a European issue, the EU dedicated only \$2.5M from its limited External Borders Fund.⁵⁰

2014 became a major turning point in the refugee crisis as images of refugees crossing the Mediterranean in makeshift boats with nothing more than life vests flooded media outlets throughout the world. It was also the year in which the refugee crisis began to take on the qualities of a major international crisis as the Mediterranean sea route from Libya to Italy saw 100,000 crossings during the calendar year, a number which set the precedent for 2015 and 2016.⁵¹ The large increase in the number of refugees crossing the sea route came as a result of both the rapidly escalating violence in Syria and North Africa and the decision of many European states to begin implementing more stringent immigration controls. However, while countries throughout Europe tightened their immigration measures and began to make a push towards internal border controls, the Italian government intensified support for Mare Nostrum which, during 2013 and 2014, is credited with having saved the lives of 100,000 migrants.⁵²

While Mare Nostrum enjoyed a reputation of being a crucial program as it continued to save lives in the Mediterranean, its seven-million-dollar monthly price tag and the increased financial pressure faced by the Italian government of processing so many refugees caused its support to dwindle. The Italian government announced in 2014

⁵⁰ European Commission. "Frontex Joint Operation 'Triton' – Concerted Efforts to Manage Migration in the Central Mediterranean". 2014. Available from < http://europa.eu/rapid/press-release_MEMO-14-566_en.htm>

⁵¹ Frontex – European Border and Coast Guard Agency. "Central Mediterranean Route". 2018. Available from < <http://frontex.europa.eu/trends-and-routes/central-mediterranean-route/>>

⁵² Steve Scherer and Massimiliano Di Giorgio. "Italy to end Sea Rescue Mission that Saved 100,000 Migrants". *Reuters*. 2014.

that it could no longer support unilateral support for the program and challenged the EU to step-up. The EU agreed and implemented the Triton program via Frontex, an organization that had only a few months prior had its mission expanded to include the physical patrol of borders. The program, which was allocated only a third of the budget of Mare Nostrum, continued to operate in the Mediterranean in conjunction with a more-limited Italian Navy.⁵³ The result of scaling back support in the Mediterranean was deadly; more than 2000 refugees died crossing the Mediterranean in the first half of 2015. While Mare Nostrum had numerous vessels, dozens of aircraft, and nearly 900 personnel in which to conduct search and rescue missions, Triton only had seven vessels, five aircraft, and 65 support officers.⁵⁴

In response to the increase in deaths at sea, and in response to the increase in refugee crossings which stood at 91,302 in the first half of 2015 alone, the EU increased the budget of Triton to \$9.9 million dollars which put it in line with the scale of Mare Nostrum. However, a major difference existed between the two programs: Frontex's Operations Manager Klaus Rosler made it clear that "Triton is not a replacement for Mare Nostrum...Frontex is not a coordinating body for search and rescue operations."⁵⁵ While the Italian government followed the policy of bringing in and processing groups of refugees that it came across, the EU took on a less humanitarian standard and often returned refugees back to North Africa. However, thousands of migrants continued to

⁵³ Lizzy Davies and Arthur Nelsen. "Italy: End of Sea Rescue Mission puts Thousands at Risk". *The Guardian*. 2014.

⁵⁴ *Ibid.*

⁵⁵ Sabine Llewellyn. "Search and Rescue in Central Mediterranean Sea". *Mission Echanges et Partenariats – Migreurop*. 2015.

cross into Europe through support of EU operations in the Mediterranean which, as British Foreign Officer Minister Lady Anelay stated in a speech after the British government pulled support for the Triton program, created “an unintended ‘pull factor’, encouraging more migrants to attempt the dangerous sea crossing and thereby leading to more tragic and unnecessary deaths”.⁵⁶ While the exact merits of this claim can be debated, the Minister was at least partially correct: 2015 and 2016 continued to see increases in migration levels from previous years.

Despite efforts by the EU to both counter refugee crossings and illegal criminal networks formed to smuggle refugees across the Mediterranean, EU funding and resources proved to be insufficient to solve the problem. In February 2016, the governments of Greece, Turkey, and Germany requested formal help from NATO⁵⁷, which had been dedicating its resources to North Africa and trying to reduce immigration by destroying terrorist organizations (which proved ineffective). NATO referred to the Berlin Plus agreement, which allows the EU to make use of NATO assets, and agreed to support the EU in the Mediterranean. While the EU was authorized to use NATO resources, NATO leaders still had authority under the Berlin Plus agreement to identify terms and the quantity of resources allocated. Throughout 2016, NATO dedicated its resources in the region, starting with support only in the Aegean Sea but eventually expanding to Italian and EU-led Operation Sophia Mediterranean. However, the operations utilized only a limited quantity of NATO naval and air resources available

⁵⁶ Alan Travis. “UK axes Support for Mediterranean Migrant Rescue Operation”. *The Guardian*. 2014.

⁵⁷ University of Edinburgh. “NATO’s Role in the Refugee Crisis: Building Bridges with the EU”. 2016. Available from < <http://www.europeanfutures.ed.ac.uk/article-3187>>

throughout the globe with only Germany, Canada, Greece, Turkey, Italy, and the United Kingdom offering vessels.⁵⁸ In addition, NATO support for the operation has been limited to identifying and removing traffic lanes used for human trafficking as opposed to transporting refugees and processing them.⁵⁹ The U.S., which has by far the most substantial quantity of resources and the most in-depth infrastructure in the region with dozens of military bases throughout Europe and 11,500 military personnel in Italy alone, promised its abilities towards combating terrorism in Syria and North Africa instead.⁶⁰

Italy's policy of working with its own navy and supporting, or at least not prohibiting, efforts by various NGO's to aid refugees in crossing the Mediterranean started to give way to more restrictive policies following the escalation of refugee crossings in 2014 and 2015. The Italian public began to withdraw support for the humanitarian demeanor of the government due to the increase of migrants staying in Italy as opposed to moving on to other countries. EU asylum policy dictates that the country upon which refugees enter is responsible for processing asylum and supporting refugees as they move through the system. To compensate, other EU nations to the north are supposed to take in a proportionate number of refugees. However, many countries ignored the policy and by 2017 only 20% of processed refugees in Italy had moved on to other countries.⁶¹ To avoid dealing with a broken Italian asylum system that was

⁵⁸ Michael Ignatieff, Juliette Keeley, Betsy Ribble, Keith McCammon. "The United States and the European Refugee Crisis: Standing with Allies". *Harvard Kennedy School*. 2016.

⁵⁹ *Ibid.*

⁶⁰ David Vine. "Where in the World is the U.S. Military?" *Politico*. 2015.

⁶¹ Deutsche Welle. "Migration Crisis: Italy's Threats a Plea for Help". 2017. Available from <http://www.dw.com/en/migration-crisis-italys-threats-a-plea-for-help/a-39546938>

becoming stricter, thousands of refugees began to move throughout Italy and into Europe without applying for asylum. The problem became so severe that in July of 2017 Austrian Interior Minister Wolfgang Sobotka threatened to close Austria's southern border with Italy to all movement. Meanwhile, Italian Deputy Foreign Minister Mario Giro informed his EU counterparts that he was considering exploiting European Council Directive 2001/55, a regulation established in 2001 following the Balkan crisis to grant temporary EU entry permits to displaced victims of war.⁶² Granting the permits would encourage refugees to move throughout Europe, where they would evade threat of being deported, instead of staying in Italy. While the regulation planned for a limited number of permits upon its establishment, Giro threatened to administer 200,000 of them to North African refugees if the EU did not increase support.⁶³

At the beginning of the crisis, Italy had a center-right government focused on expelling refugees and restoring conditions on the islands boats were landing upon. The center-left government that took over focused its efforts instead on ensuring the safety and legal rights of migrants; that is until the number of refugees crossing the Mediterranean grew without adequate support from NATO or the EU. What started as an admirable response to the refugee crisis via Mare Nostrum grew into a human rights catastrophe. While the government maintained, for the most part, its pro-refugee and pro-EU stance, the situation on the ground and the lack of funding and support deteriorated public support for programs and the EU asylum system. As a result, the Italian

⁶² Belinda Robinson. "Italy set to Invoke Wartime law to let 200,000 Migrants head for UK, Germany and France". *Daily Express*. 2017

⁶³ *Ibid.*

government was unable to process all of its refugees and conditions began to dwindle, with thousands of migrants moving north having not been processed.

Hungary

Hungary's role as a destination for Syrian refugees has changed throughout the crisis. While the country was initially seen as a semi-prosperous end destination for refugees seeking permanent residence in the EU, far-right policies have since closed it off.

Refugees from Syria typically take one of two routes to reach the EU: either they take boats headed across the Mediterranean to Greece, or they travel into Turkey, through Bulgaria or Macedonia to Serbia, and then cross into Hungary. While Bulgaria is a member of the EU and thus technically responsible for processing asylum applications and providing basic human rights, Balkan countries have been notorious for providing little to the refugees. The less advanced economies of the Balkans in contrast to their Western European counterparts has made Bulgaria less appealing to migrants than Germany. Attitudes among Bulgarians regarding refugees have also been severe, with a 2016 study commissioned by the Bulgarian Economics and International Relations Institute finding that 47% of Bulgarian citizens take the most extreme view provided on the survey that the EU should not help refugees seeking asylum on its territory.⁶⁴ Thus, Bulgaria is seen as a less prosperous and more dangerous option and while 4500 refugees

⁶⁴ Lyubomir Kyuchukov. "Impact of the Refugee Crisis on Bulgarian Society and Politics". *Friedrich Ebert Stiftung – Office Bulgaria*. 2016.

crossed into Bulgaria during the first half of 2016, only 700 of them remained there.⁶⁵

Serbia's status as a non-EU member, which means it has no responsibility to process asylum requests based on EU-law, and the similar views of its citizens and government to that of Bulgaria have made it a pass-through state as opposed to an end point as well.

Hungary's government has differed substantially from Italy's throughout the crisis and it has faced a much different timeline regarding the flow of migrants across its borders. The former USSR controlled country had a severe fiscal crisis following the 2008 Great Recession in the U.S. and, as a result, in 2010 the country replaced its socialist government led by Prime Minister Gordon Bajnai with the far-right Viktor Orbán. His government, which has for the past seven years been a coalition between the far-right populist Fidesz Party and the right-wing Christian Democratic People's Party, has had the public support to implement the policies of its choice. Early in the crisis, migration into Hungary was not significant and thus not a major concern to the government; according to official statistics provided by the Hungarian Immigration and Asylum office, Budapest received only 1,693 requests for asylum in 2011, 2,157 in 2012 and 18,900 in 2013.⁶⁶ The nearly 800% increase from 2012 to 2013 was a result of the emergence of the Syrian Civil War in 2013 and marked the Hungarian Government's first major actions regarding the crisis.

⁶⁵ Deutsche Welle. "Why few Refugees want to Stay in Bulgaria". 2016. Available from <<http://www.dw.com/en/why-few-refugees-want-to-stay-in-bulgaria/a-19218637>>

⁶⁶Government of Hungary – Office of Immigration and Asylum. "Aliens Policing, Refugee Affairs Statistics". 2011-2013. Available from <http://www.bmbah.hu/index.php?option=com_k2&view=item&layout=item&id=492&Itemid=1259&lang=en#statistics>

The Hungarian government initially complied with the majority of EU regulation and the Dublin Agreement, processing thousands of refugee applications and going so far as to construct temporary housing facilities even without full support from the EU Refugee Fund.⁶⁷ However, as the number of applications surged, the response from the government changed; in July of 2013 the Hungarian government introduced legislation enabling the government to detain refugees, with Hungary's Office of Immigration and Nationality director claiming the purpose was to "combat abuse of the asylum system."⁶⁸ As the crisis worsened into 2014 and 2015, the government began to take more extreme measures often in violation of EU law. In 2014 Hungary received 41,215 applications for asylum, 174,435 in 2015, and in the first half of 2015 alone Hungary saw an additional 102,342 illegal crossings into the country.⁶⁹ The conservative Hungarian government took the approach of processing very few of these applications to incentive refugees to move on to Germany; in 2014 the Hungarian government approved asylum for only 9% of applicants in opposition to the EU average of 45%.⁷⁰

With little financial and physical support from Frontex, Viktor Orbán responded to the 2015 increases by building a barbed-wire fence across Hungary's southern border with Serbia and changing Hungarian immigration law to consider Serbia a "safe third

⁶⁷ Valentina Jovanovski. "Europe's Border Nations: We're not Ready for more Syrian Refugees". *Christian Science Monitor*. 2013.

⁶⁸ *Ibid.*

⁶⁹ European Union, EuroStat Organization. "Record Number of over 1.2 Million First Time Asylum Seekers Registered in 2015". 2016. Available from <<http://ec.europa.eu/eurostat/documents/2995521/7203832/3-04032016-AP-EN.pdf/>>

⁷⁰ Hungarian Helsinki Committee. "New asylum rules deny protection to refugees and lead to unprecedented human rights violations in Hungary". 2015. Available from http://helsinki.hu/wp-content/uploads/HHC_Hungary_Info_Note_Sept_2015_No_country_for_refugees.pdf

country” for refugees, the impact of which meant that it was legal for Hungarian border patrol to return migrants to Serbia. The decision to build the fence and change procedures was chastised by the UN High Commissioner of Refugees, whom stated the decisions violated EU law, and was advised against by Hungary’s Supreme Court, however the UN and EU lacked political motivation and resources to substantially pressure Hungary’s government otherwise.⁷¹ While such moves began to disincentive refugees from crossing in to Hungary, German Chancellor Angela Merkel’s statement in 2015 that her country would accept one million refugees continues to make Hungary a hot spot for transit into Germany.

The continued influx of refugees into Hungary despite the barbed wire fence and the government’s heated rhetoric on the topic began to form public opinion and justify continued actions to close off the country from refugee crossings. A 2015 public opinion survey of Hungarian citizens conducted by the European Commission found that 46% of Hungarians believed that no asylum seeker should be allowed entrance to Hungary while refugees were banned from boarding westbound trains towards Germany in direct violation of the Schengen Agreement.⁷² A 2016 poll of Hungarian Citizens conducted by Pew Research found that 82% of Hungarians believed refugees were a “burden on our country because they take our jobs and social benefits” and 76% believed refugees would “increase the likelihood of terrorism” in Hungary.⁷³ As a result, the Hungarian

⁷¹ *Ibid.*

⁷² The Guardian. “Hungary Begins Work on Border Fence to Keep Out Migrants”. 2015. Available from < <https://www.theguardian.com/world/2015/jul/13/hungary-begins-work-on-border-fence-to-keep-out-migrants>>

⁷³ Richard Wike, Bruce Stokes, and Katie Simmons. “Europeans Fear Wave of Refugees will mean more Terrorism, Fewer Jobs”. *Pew Research Center*. 2016.

Government held a referendum asking citizens asking the following question: Do you want the EU to be entitled to prescribe the mandatory settlement of non-Hungarian citizens in Hungary without the consent of parliament?” with the wording drawing severe criticism for its bias.⁷⁴ Another 2016 referendum proposed that Hungary oppose the EU’s plan to implement quotas and relocate 120,000 migrants from Italy, Greece, and Hungary to other EU countries leaving Hungary responsible for 1294 refugees from other states.⁷⁵ Although 98% of the voting bloc supported Orbán in the referendum by voting “no”, less than 50% of the public voted which invalidated the result.

Orbán’s strict policies against refugee crossings have become even more severe during 2017. In a March 2017 speech to a new group of “Border Hunters” established and armed by the government to expel refugees back to Serbia, the Prime Minister stated that Muslim migrants were acting as “trojan horse terrorists” and posed a deep threat to the safety of Hungary.⁷⁶ The border force, of which members are paid well above Hungarian minimum wage to incentivize recruitment, is now 3000 members strong and each recruit is provided with a pistol containing live ammunition and night vision goggles. Following the speech, the government signed a new law allowing refugees to be detained in camps near the Hungarian border, in violation of the European Convention on Human Rights.⁷⁷

Doctors Without Borders, a non-profit providing medical care to refugees throughout EU

⁷⁴ Lili Bayer. “Hungary’s ‘Zero Refugee’ Strategy”. *Politico*. 2016.

⁷⁵ British Broadcasting Corporation. “Migrant Crisis: EU Ministers Approve Disputed Quota Plan”. 2015. Available from < <http://www.bbc.com/news/world-europe-34329825>>

⁷⁶ Krisztina Than. “Hungary to arm new ‘Border Hunters’ After Six-Month Crash Course”. *Reuters*. 2017

⁷⁷ *Ibid.*

border states, has reported a significant increase in human rights violations following the establishment of the border hunters and camps.⁷⁸

Meanwhile, efforts by outside organizations to assist Hungary in border protection and ensure compliance with EU law have lacked necessary resources. Frontex Operation Staff Exchange, which has a mission of “improvement of the existing Local Coordinators Network. Enhance cooperation and exchange of information as well as best practices among the Focal Points”, was allocated a budget of only €46,189 in 2015 for action in 10 countries.⁷⁹ Joint Operation Focal Points, which has a mission of “establishing Focal Points at hot spots at external land borders and using them as platforms for joint operations and information gathering”, was allocated only €2,984,456 for action in 12 countries.⁸⁰ NATO has also been absent in issues of immigration and human trafficking: despite the existence of NATO’s Civil Emergency Planning Committee, with a goal to provide “essential civilian expertise and capabilities in the fields of terrorism preparedness . . . humanitarian and disaster response and protecting critical infrastructure”, and despite the existence of a NATO Euro-Atlantic Disaster Response Coordination Center tasked with coordinating with the UN Office for the Coordination of Humanitarian Affairs, the organization has mostly stayed out of civil immigration issues in Hungary.⁸¹ Thus, without ample physical support from the EU and

⁷⁸ *Ibid.*

⁷⁹ Frontex – European Border and Coast Guard Agency. “Archive of Operations”. Available from <<http://frontex.europa.eu/operations/archive-of-operations/twulXA>>

⁸⁰ Frontex – European Border and Coast Guard Agency. “Archive of Operations”. Available from <http://frontex.europa.eu/operations/archive-of-operations/7Q2XxG>

⁸¹ Judy Dempsey. “NATO’s Absence in the Refugee Crisis”. *Carnegie Europe*. 2015. *** (shows that NATO has supported civil operation in the past)***

NATO, and equipped with a right-wing government that faces little consequence for violation EU immigration law, the Hungarian government has resorted to using its own armed border forces to ensure it keeps out a maximum number of refugees.

Greece

The most popular EU entrance destination for refugees, Greece saw 857,000 refugee and migrant crossings during 2015 alone.⁸² Its border to the west of Turkey and location on the Mediterranean has given it a unique condition of being both a common destination by sea and by land. The country has been directly in the hotspot of the refugee crisis and has been a major recipient of assistance from the UN, the EU, and NATO which makes it an important case study.

Greece has witnessed significant political turmoil over the last decade due to significant fallout from the Great Recession in the U.S. after which Greece's debt hit 175% of GDP and youth unemployment hit 59% by 2015.⁸³ The country was subject to a multi-year economic battle with the EU, the culmination of which was a decision led by Germany to provide the its economy with a multibillion-dollar bailout. As such, Greece has had frequent changes in government and has lacked the resources to provide the hundreds of thousands of refugees crossing its borders with adequate legal and material care. Greece accounted for roughly half of refugee crossings into the EU during 2011 and

⁸² European Commission – European Civil Protection and Humanitarian Aid Operations. “Echo Factsheet”. Available from < http://ec.europa.eu/echo/files/aid/countries/factsheets/greece_en.pdf>

⁸³ The Economist. “Greece Exits Recession but its Misery Continues”. 2015. Available from <https://www.economist.com/blogs/graphicdetail/2015/03/daily-chart-0>

2012, with 57,000 and 37,200 crossings respectively.⁸⁴ Greece has a history of high-volume immigration; Greece saw 39,975 crossings in 2009 and 55,688 crossings in 2010, two years before the uprising in Syria even began. Those numbers stayed relatively consistent throughout the first few years of the conflict with 24,800 in 2013 and 50,800 in 2014.⁸⁵ Despite being accustomed to higher than typical levels of immigration, the Greek asylum system struggled to process applications throughout the crisis; a report published by the UN High Commissioner for Refugees found that 37,000 asylum requests were backlogged as of the end of 2014.⁸⁶

During the early years of the crisis, the government of Greece acted by attempting to dissuade refugees from coming through its borders. With Turkey not being a member of the EU and thus not a member of the Schengen Area, Greece saw an opportunity in strengthening protections at the border; in 2011 the government launched the \$3.1 million dollar Evros Fence project which constructed a fortified border fence 10.5 kilometers spanning the border Greece shares with Turkey not marked by the Evros river.⁸⁷ The only assistance given to Greece by the EU, despite pleas by Greek government officials for EU assistance in border affairs, was the partial funding of 23 cameras placed along the fence.⁸⁸ The European Commission decried the project, but without support from the EU

⁸⁴ European Stability Initiative. “The Refugee Crisis Through Statistics – A Compilation for Politicians, Journalists, and other Concerned Citizens”. 2017. Available from <<http://www.esiweb.org/pdf/ESI%20-%20The%20refugee%20crisis%20through%20statistics%20-%2030%20Jan%202017.pdf>>

⁸⁵ *Ibid.*

⁸⁶ United Nations High Commissioner for Refugees. UNHCR observations on the current situation of asylum in Greece December 2014. 2015. Available from <<https://reliefweb.int/report/greece/unhcr-observations-current-situation-asylum-greece-december-2014>>

⁸⁷ Pallister Wilkins. Evros’ Anti-Migrant Border Fence. *The Guardian*. 2013.

⁸⁸ Nikolaj Nielsen. “Fortress Europe: A Greek Wall Close-up”. *EU Observer*. 2012.

and financially devastated the Greek government saw the fence as the most cost effective method to reduce immigration. Along with the fence came deployment of Greek military to the popular border crossing area which meant that Greece was conducting a militarization of border affairs. While the militarization and fence reduced crossings at the site, it had human rights consequences; the previously unfenced border area was the safest crossing, as it was covered in fields, and refugees now to opt for more dangerous routes such as the Aegean Sea.

During the first years of the crisis, Greece maintained the status quo of its immigration system that had been in place for years. With a struggling economy and the attention of its public focused more on domestic economic issues as opposed to immigration, Greek border forces focused on expelling migrants and either immediately deporting them or detaining them in detention camps. In 2014, Doctors Without Borders published a report on experiences of their volunteers working in the country since 2012, which noted that migrants without papers were detained and left without proper medical care leading to thousands of preventable deaths.⁸⁹ In 2012 the Greek government implemented Operation Xenios Zeus, named after the Greek god of hospitality, with the goal of conducting thousands of random document checks on non-Greek citizens. In justifying the operation, Greek Public Order Minister Nikos Dendias stated that “the country is being lost...since the Dorian invasion some 3,000 years ago, the country has never received such a flow of immigration.”⁹⁰ In addition, Greece allowed

⁸⁹ Doctors Without Borders. “Prolonged and systematic detention of migrants and asylum seekers in substandard conditions in Greece”. Available from http://cdn.doctorswithoutborders.org/sites/usa/files/attachments/invisible_suffering.pdf

⁹⁰ Independent. “Thousands of Illegal Immigrants Rounded up in Greece”. 2012. Available from < <http://www.independent.co.uk/news/world/europe/thousands-of-illegal-immigrants-rounded-up-in-greece-8010219.html>>

“administrative detention” of migrants for up to 18 months and Doctors Without Borders found that refugees were detained for up to 15 months while their asylum applications were being processed.⁹¹ A report released by the European Center for Disease Prevention and Control found that refugees detained in Greek camps were at “increased risk for communicable diseases mainly linked to severe overcrowding, lack of hygiene, lack of basic supplies, lack of the possibility for outdoor activities and the long duration of detention.”⁹²

In July of 2014, Operation Xenios Zeus was incorporated into normal operating procedures for Greek police and was renamed Operation Theseus which has authorized police checkpoints and profiling with the aim of reducing illegal crime networks and detaining migrants without proper documentation.⁹³ The methods that Greece maintained during the first years of the crisis were frequently found to violate EU immigration law: the European Court of Human Rights found Greece responsible for inhumane treatment of refugees prior to December 2013. Charges included “totally unacceptable” conditions, detainment for times longer than permitted by EU law, and others.⁹⁴ Despite indictments from the EU and UN, Greece was given little physical support from the EU which justified unilateral decision making by the Greek government. The EU attempted to

⁹¹ Doctors Without Borders, “Prolonged and systematic detention of migrants and asylum seekers in substandard conditions in Greece”.

⁹² *Ibid.*

⁹³ Danai Angeli, Anna Triandafyllidou, and Angeliki Dimitriadi. “Assessing the Cost-effectiveness of Irregular Migration Control Policies in Greece”. *Migration and Detention Assessment – Global Governance Program*. 2014.

⁹⁴ Human Rights Watch. “World Report 2015”. Available from < <https://www.hrw.org/world-report/2015>>

provide oversight and assistance to Greece by deploying 175 Rapid Border Intervention Teams (RABITs) with the goal of identifying migrant routes and providing intel, along with the establishment of a Frontex Operation Office within Greece at the port of Piraeus.⁹⁵ However, the RABITs did not have sufficient scope or personnel to directly aid Greek security forces and the FOO had no equipment of its own as of 2011. In addition, Frontex operatives were tasked with aiding Greece in providing security to the EU as opposed to ensuring compliance with EU asylum and security procedures.

Significant changes to Greek immigration and EU intervention came in 2016 with the EU-Turkey agreement. Witnessing a substantial rise in the number of migrants crossing through Turkey and Greece during 2015, and thus a rise of migrants crossing into the greater EU, the EU sent negotiators to Ankara to find a solution. The deal established the following provisions:⁹⁶

1. All refugees and irregular migrants crossing into Greek islands would be returned to Turkey.
2. One refugee would be resettled in the EU for each refugee returned to Turkey.
3. The EU would provide €3 Billion in assistance to Turkey
4. Issues of future Turkish membership in the EU and free-movement for Turkish nationals would be revisited

⁹⁵ FIDH, Migreurop, EMHRN. "Frontex Between Greece and Turkey: At the Border of Denial". 2013. Available from < <https://www.frontexit.org/en/docs/49-frontexbetween-greece-and-turkey-the-border-of-denial/file>>

⁹⁶ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/eu_turkey_statement_17032017_en.pdf

From 2015 to 2016, the deal led to a 97% drop in daily crossings into Greece, relocated an additional 8800 refugees, and doubled the number of irregular migrants returned to Turkey, although that number was only 4% of the total number of refugees that had arrived in Greece since the beginning of the conflict.⁹⁷ The decision was supported by Greece's highest court on a narrow 13-12 decision which determined Turkey to be a "safe third country" and allowed refugees to be forcibly returned to Turkey.⁹⁸ However, conditions in Turkey have been found by numerous organization to violate international humanitarian laws and the country has illegally deported refugees. The 2016 Turkish coup allowed the more centralized government to declare a state of emergency on terrorist organizations, enabled by Executive Order 676 which removed safeguards against refoulment and expanded search procedures for foreign nationals.⁹⁹

Financial and physical support from outside organizations has been given to Greece in a limited capacity. Like its presence in the Italian Mediterranean, NATO has committed maritime support in the Aegean Sea to assist the EU in identifying and disabling terrorist organization and human trafficking networks. NATO deployed a Standing Maritime Group (SMG) to the Aegean Sea following requests from multiple EU states; however, the SMG includes support only from Canada, Germany, Greece, and

⁹⁷ European Commission. "EU-Turkey Statement: One Year on". 2016. Available from <https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/eu_turkey_statement_17032017_en.pdf>

⁹⁸ Amnesty International. "Greece: Court decisions pave way for first forcible returns of asylum-seekers under EU-Turkey deal". 2017. Available from <<https://www.amnesty.org/en/latest/news/2017/09/greece-court-decisions-pave-way-for-first-forcible-returns-of-asylum-seekers-under-eu-turkey-deal/>>

⁹⁹ Decree of the Law on the Restructuring of some Regulations Within the Scope of Extremely Hal, Decision Number KHK/676. 2016. Available from <http://www.resmigazete.gov.tr/eskiler/2016/10/20161029-5.htm>

Turkey while NATO Secretary General Jens Stoltenberg has made it clear that NATO is not in the Aegean to serve a role as a coast guard agency.¹⁰⁰ When asked why NATO did not engage in the conflict earlier, former U.S. Ambassador to NATO and president of the Chicago Council on Global Affairs claimed that the EU had expressed unilateral control over the situation.¹⁰¹ However, it became clear in 2015 and 2016 that the EU and Frontex did not have the necessary infrastructure or funding to control the humanitarian and human traffic crisis in the Aegean as 3080 people died via drowning and criminal networks expanded during 2015.¹⁰²

The EU did begin to provide financial support the Greece in 2014, and as of 2017 the EU had committed €294M for Asylum, Migration, and Immigration fund with an additional €15M to its Internal Security Fund for years 2014-2020.¹⁰³ The funds have contributed to improved bureaucratic and humanitarian situations in Greece as the government began to open additional reception centers in 2017. Additionally, the Greek government overhauled its asylum system following the EU-Turkey deal in 2016; Presidential Decree 114/2010 and L 4375/2016 allow such provisions as providing two-year humanitarian permits to refugees with asylum application older than five years,

¹⁰⁰ North Atlantic Treaty Organization. NATO and Europe's Refugee and Migrant Crisis - Opinion piece by NATO Secretary General Jens Stoltenberg. 2016. Available from https://www.nato.int/cps/en/natohq/opinions_128645.htm

¹⁰¹ Michael Schmidt and Sewell Chan. "NATO will send Ships to Aegean Sea to Deter Human Trafficking". *The New York Times*. 2016.

¹⁰² *Ibid.*

¹⁰³ European Commission. "Managing the Refugee Crisis: EU Financial Support to Greece". 2017. Available from <https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/20170126_factsheet_managing_refugee_crisis_eu_financial_support_greece_-_update_en.pdf>

introducing a fast-track border procedure for refugees subject to the EU-Turkey deal, and expanding Dublin Procedure compliance with support of the European Asylum Support Office (EASO).¹⁰⁴ However, the revamped system and financial support have not been enough to quell substandard humanitarian conditions and criminal networks. As of September 2017 only 29,000 of the agreed-to 106,000 refugees had been relocated to other EU countries.¹⁰⁵ In addition, Greece experienced a spike in refugee crossings during the first half of 2017 with an average of 200 people registering in the asylum system per day, numbers which have contributed to additional backlogs.¹⁰⁶ Thus, while the EU has made a strong attempt to assist Greece in managing the crisis, the assistance has come too little, too late to ensure adequate humanitarian conditions and complete compliance with EU immigration law.

¹⁰⁴ Greek Council for Refugees. "Overview of the Asylum Process". Available from <<http://www.asylumineurope.org/reports/country/greece/asylum-procedure/general/short-overview-asylum-procedure>>

¹⁰⁵ Helena Smith. "Surge in Migration to Greece Fuels Misery in Migration Camps". *The Guardian*. 2017.

¹⁰⁶ *Ibid.*

Chapter V

Research Findings and Discussion

Introduction

This chapter uses the findings from the historical policy background and the case studies to answer the null and alternative hypotheses. It looks at the degree to which policy uniformity plays a role in successful outcomes during a crisis, whether the EU had established policy uniformity, and why certain attempts at policy infirmity failed, as well as their impacts. It also questions other factors that may have played a role in the EU's response to the refugee crisis and the limitations that even successful policy uniformity can have.

Question I: To what degree was there immigration policy uniformity prior to the refugee crisis?

This question determines to what extent immigration policy uniformity played a role in the vision of EU policy makers and provides an answer to the alternative hypothesis that policy uniformity was never truly established. Research into the EU policy following the 1992 signing of the Schengen Agreement shows that the EU made major attempts to establish federative policies regarding to processing and responsibility for asylum seekers after the original 1990 Dublin Regulation. Between 1999 and 2005 the EU took three major steps towards improving immigration uniformity during a six-year negotiating process leading up to the establishment of the CEAS: the European Refugee

Fund (ERF) which was replaced by the Asylum Migration and Integration Fund (AMIF) in 2014, the Temporary Protection Directive (TPD), and the Family Reunification Directive (FRD). The ERF dedicated €630M between 2008 and 2013 to focus on objectives such as “structures and training to ensure access to asylum procedures” and “resettlement or relocation (i.e. intra-EU transfer) operations” with the intention of reducing unfair burdens across the EU.¹⁰⁷ The TPD was established in 2001 to provide temporary protection and residency to asylum applicants unable to return to their home country, and applies in particular when there is a risk that the standard asylum system is struggling to cope with demand stemming from a mass influx that risks having a negative impact on the processing of claims.¹⁰⁸ The FRD, passed in 2003, establishes common rules for exercising the right to family reunification in 25 EU Member States to ensure that members of families can be sent to the same country.

The EU went further in its attempts to refine and improve the CEAS following its establishment in 2005 by releasing a 2007 study that served as the basis for a 2008 Policy Plan on Asylum. These efforts demonstrate that the EU made major attempts at creating uniformity and a system of burden-sharing regarding asylum; however, the attempts did not negate the barriers to a successful system. For example, despite successfully passing the ERF and FRD, the EU did not have unanimous support from all EU members with Denmark refusing support for the ERF and AMIF and the United Kingdom, Ireland, and

¹⁰⁷ European Commission – Migration and Home Affairs. “Refugee Fund”. Available from < <https://ec.europa.eu/home-affairs/financing/fundings/migration-asylum-borders/refugee-fund> >

¹⁰⁸ European Commission – Migration and Home Affairs. “Temporary Protection”. Available from < <https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/temporary-protection> >

Denmark withholding support for the FRD.¹⁰⁹ Meanwhile, the 2007 study on the status of the CEAS found that corrective burden-sharing procedures were needed to the Dublin Regulation to ensure that border countries would not continue to have an unfair burden in providing for asylum seekers, and that differences in handling of asylum procedures by EU states had not reduced secondary-movements in which refugees fail to apply for asylum in the first EU country that they reach.¹¹⁰ The European Commission's 2008 Policy Plan on Asylum, which served as the basis for changes to the CEAS from 2008 forward, delineated the following necessities:

- Upholding the Union's humanitarian and protection tradition and ensuring respect of fundamental rights when implementing the CEAS
- Establishing a level playing field: the EU should be ambitious and build a system where all asylum seekers will be treated in the same way, with the same high-standard guarantees and procedures, wherever in the EU they make their asylum claim
- Enhancing the efficiency of the asylum system: the CEAS should provide Member States with a series of uniform legal norms and standards, common devices and cooperation mechanisms to secure the availability of high quality protection standards throughout the asylum process

¹⁰⁹ European Commission – Migration and Home Affairs. “Family Reunification”. Available from < https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/family-reunification_en >

¹¹⁰ Commission of the European Communities. “Green Paper on the Future of the Common European Asylum System”. 2007. Available from < <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0301:FIN:EN:PDF> >

- Providing solidarity within and outside the Union: the Union should continue and intensify the provision of support to its Member States in offering protection¹¹¹

The provision outlined in the Policy Plan on Asylum, and the subsequent reforms to the Dublin Regulation in 2013, demonstrate that the EU had made significant attempts to restructure and improve a common asylum system, albeit with certain challenges.

Thus, a look at the history behind EU immigration policy, beginning with the Geneva Convention and extending into the late 20th and early 21st century with the adoption of the Dublin Regulation and the CEAS, shows a sustained attempt by the EU to establish regulations on asylum procedures that are uniform across EU states. This conclusion does not completely negate the alternative hypothesis that the EU had resisted change to its asylum procedures or that lack of change to policy was a result of individual states that never intended to follow uniform policy; after all, countries like Denmark and the UK refusing support for certain tenants of policy reforms suggests that the EU lacks federative authority to implement policy throughout the entire Union. However, countries that have chosen to deviate from certain regulations and procedures still participate in others; Denmark is still subject to international immigration law via the UN and Geneva Convention. In addition, the vast majority of EU countries have signed on to EU agreements concerning refugees demonstrating broad consensus in moving federative policies further.

While the intentions of individual countries have impacted the direction of EU asylum procedures, historical research seems to demonstrate that deviations during the

¹¹¹ *Ibid.*

refugee crisis have not resulted from a lack of policy. Rather, the EU has dedicated years and substantial resources to reforming and centralizing its asylum procedures with broad consensus from the majority of countries. Furthermore, the policy has only expanded to create further uniformity in the last two decades as opposed to giving individual countries more discrete authority.

Question II: Given EU policy meant to standardize asylum procedures and burden sharing, how were individual states able to deviate?

Political Differences

An alternative hypothesis as to the cause of deviations from EU policy is that individual states would have deviated regardless of assistance from the EU or existence of a sizeable federative border force. That is, states such as Hungary had political leaders that were anti-immigration and would have violated UN and EU law whether or not the EU provided ample resources. This hypothesis has some credibility on its face value: despite being under the same immigration law and Schengen Agreement, the right-wing Hungarian government of Viktor Orbán handled the crisis in a much different manner than the Greek government. Meanwhile, Italian policy made noticeable shifts when the right-wing Berlusconi administration was replaced by a center-left government. Thus, it seems apparent that the political leaning of those in power during the crisis had significant sway over the degree of deviance from EU border policy and the security assets deployed to borders.

Although it can be said with certainty that political differences did play a role, it is important not to overstate their influence. The reality of EU politics is that, given the

cultural and political variation of EU countries, political differences often exist. The 1993 Copenhagen Agreements outlined requirements for nations to join the EU and include aspects such as functional democratic governance, adherence to the Geneva Convention and the European Convention on Human Rights, and economic criteria such as a market economy that are governed mostly under Eurozone regulations (although it is important to note that not all EU states are members of the Eurozone).¹¹² These requirements necessitated countries with political differences to adopt EU policy in order to become members, giving the EU leverage over governments that disagreed to certain policies. For example, Hungary had to make concessions regarding its domestic textiles, transportation, and agriculture sectors to gain membership in the EU. Although the country's leaders knew those domestic industries would suffer as a result of open trade, they knew taking a loss was required for the benefits of being in the EU.¹¹³

The EU also has consistent leverage over political differences for countries that are already members of the EU and Eurozone. In 2013, the right-wing government of Hungary was forced to make constitutional amendments on free press and campaign finance following threats of legal action by the European Commission.¹¹⁴ The EU and Eurozone have leverage over Greek law regarding taxes and pensions resulting from economic deals over the past few years; the organizations use loans as leverage to ensure

¹¹² Copenhagen European Council. "Presidency Conclusions – Relations with the Countries of Central and Eastern Europe. 1993. Available from < http://www.europarl.europa.eu/enlargement/ec/pdf/cop_en.pdf>

¹¹³ Nick Thorpe. "Hungarians Luke Warm about the EU". *The Guardian*. 2003.

¹¹⁴ Gábor Pákozdi. "Hungary Backtracks on Reform After EU Pressure". *Budapest Business Journal*. 2013.

that Greece pays its debtors.¹¹⁵ Many more examples exist of situations in which the EU has used economic and/or legal leverage to ensure compliance with EU laws and regulations. Thus, despite political differences between nations, the EU has the ability in many situations to force compliance.

Immigration and asylum law are just as clear in their requirements as EU economic and humanitarian policy. And, given that the EU can use leverage to maintain compliance with economic and humanitarian policy, it could theoretically do the same in regards to maintain compliance regarding asylum policy. However, as demonstrated in the case studies, the EU did very little in the first years of the refugee crisis to ensure compliance with EU asylum procedures and despite dedicating more substantial resources later in the crisis, still failed to ensure countries were meeting all expectations. My conclusion on the lack of enforcement regarding common EU asylum procedures is not that political differences caused countries to deviate, although it had a role; rather, I propose that the EU lacked leverage due to its failure to provide civil and military resources that could have removed the need for individual states to use their own resources. My proposition is that if the EU had a federative force it could have deployed to respond to the crisis, the force would have been much more likely to comply with EU regulations and there would have been a more unified response, despite political differences.

¹¹⁵ James Kanter and Niki Kitsantonis. "E.U. Reaches Debt Deal for Greece Worth 8.5 Billion Euros". *The New York Times*. 2017.

Lack of EU assets

In order to decide whether the EU could have used leverage to enforce its common asylum and immigration procedures, it needs to be determined whether defense resources could have been used to handle the refugee crisis if said resources existed.

The background research on defense policy demonstrates consistent attempts by Western Europe to establish a defense force equipped to provide a European response to existential threats. These existential threats in the early years of the United Nations were military in nature; specifically, the WEU had in its core a mission to deter Soviet aggression and much of the defense policy in the 1950's was established to deter German expansion. However, it appears that the establishment of a European defense force was not under the exclusive intention of defending and deterring against military aggression. As stated in the defense background, the Petersberg Tasks in conjunction with the Washington Treaty and the Modified Treaty of Brussels states that defense resources are authorized for humanitarian and rescue, peacekeeping tasks, and tasks of combat forces in crisis management, including peacemaking.¹¹⁶

This policy makes sense as military resources are often in preferable positions during times of civilian crisis. A report released by the European Civil Protection and Humanitarian Aid Operations, formerly known as the European Community Humanitarian Aid Office (ECHO), gives a few reasons for why military assets could be useful in humanitarian crises: first, military forces are often well-placed and ready to act in a short period of time. Second, most forces within the EU are mandated by their

¹¹⁶ Western European Council of Ministers. "Petersberg Declaration." 1992. Available from < <http://www.weu.int/documents/920619peten.pdf> >

governments to act as first responders to crises. Finally, many bilateral military agreements exist which make the sharing of resources and bases simple. Where as Frontex had to take years and millions of Euro's in investment to expand, military resources would have already been in place (and were in place across dozens of bases in Europe if considering NATO). This idea is not purely theoretical; the EU has deployed military assets in numerous occasions to assist in civil emergencies. Operation Artemis, which was the first EU military operation outside of Europe, saw 1400 EU troops deployed to the Democratic Republic of the Congo for both military and humanitarian purposes.¹¹⁷ In 2007, the EU deployed 4300 troops to Chad and the Central African Republic under Operation EUFOR Tchad/RCA with the mission of combat, training police, and improving judicial infrastructure.¹¹⁸ Domestically, the EU has conducted six operations on the European continent, including the 2005 EU Border Assistance Mission to Moldova and Ukraine (EUBAM Moldova and Ukraine) in which 221 staff members were deployed to harmonize border control and reduce cross-border crime.¹¹⁹

The Role of NATO

It has been established thus far that the EU intended uniform asylum and immigration procedures and set policy in place to have a defensive response force for

¹¹⁷ Jonathan Steele. "UN Sends Troops to Stop Congo Massacres". *The Guardian*. 2003

¹¹⁸ United Nations Security Council. "SC/9454". 2008. Available from <<https://reliefweb.int/report/central-african-republic/security-council-adopts-resolution-extending-mandate-un-mission>>

¹¹⁹ Union Border Assistance Mission to Moldova and Ukraine. "Activity Report of the Head of EUBAM, Mr. Udo Burkholder, to the OSCE Permanent Council". 2013. Available from <<http://www.osce.org/pc/97531?download=true>>

both domestic and international crises. Thus it seems that the logical, and legal, response to the substantial influx of refugees and the humanitarian disasters that ensued as a result would have been to deploy EU military assets to assist border countries in ensuring compliance with EU law and deterring crimes. However, the EU responded instead by marginally increasing the mission and size of Frontex while providing financial support to border states. In cases where it was possible, EU states coordinated military responses (such as Operation Sophia) but the assets provided were nowhere near substantial enough. I propose that the reason for the EU's failure to have a defense force in place at the onset of the refugee crisis stems from decades of lackluster fiscal planning and budget acquisition for its defense forces. That is, despite having clear policy in place for decades via the Petersberg Tasks, WUDO, CDSP, and others stated in the defense background, the EU never created sufficient budgetary cooperation to procure military equipment. Since 1995 the highest yearly defense allocation across the EU was \$270B in 2009 while the U.S. spent \$515.4B that year.¹²⁰ That means EU defense spending was at 1.8% of GDP for 2009 while the U.S. allocated nearly twice that.¹²¹ The EU continued to cut its military expenditures and by 2014 the budget was \$235B. Furthermore, these budget allocations are the expenditures of individual countries and not the EU as a whole; while military assets are almost exclusively federative in the U.S., defense allocations at the EU level are for operations, where as the actual assets are expected to come from either NATO or EU members. As a result, assets mostly come from EU countries like

¹²⁰ Stockholm International Peace Research Institute. "SIPRI Military Expenditure Database". Available from < <https://www.sipri.org/databases/milex>

¹²¹ The White House Archives. "Fiscal Year 2009". Available from < <https://georgewbush-whitehouse.archives.gov/infocus/budget/2009/>>

Germany, Greece, and France, which in 2010 were the only countries to spend at least 2% of their GDP on defense.¹²²

The EU, in realizing the inefficiencies and lack of authority resultant from not having control over its own defense assets, went further in establishing a common EU force. In 2016 the EU Parliament voted 369-255 in favor of a more structured defense union and the establishment of an EU military headquarters, and in 2017 23 of 28 member states signed onto a plan for investment in joint EU capabilities, including a \$5.8B weapons and operations finance fund.¹²³ In regards to the moves, German Chancellor Angela Merkel states that “the era in which we could fully rely on others is over to some extent”.¹²⁴ Her statement summarizes very well the issues reliance that the EU has had on NATO for decades and how that reliance prevented the EU from successfully implementing its coordinated defense policies in full. For example, not only were the bulk of warfare operations during the 1990’s Balkan crises led by NATO, but so were the humanitarian responses; NATO coordinated the relocation of 200,000 refugees during the crisis and set up makeshift camps and provided millions of dollars in humanitarian supplies. The U.S. alone, under the Clinton Administration, pledged to take in 20,000 refugees.¹²⁵ The thousands of airlifts, supplies disbursement, and refugee housing were made possible by the vast infrastructure of budget of NATO, most of which

¹²² Blanca Ballester. “The Cost of Non-Europe in Common Security and Defense Policy”. *European Parliamentary Research Service*. 2013

¹²³ Steven Erlanger. “E.U. Moves Closer to a Joint Military Force. *The New York Times*. 2017.

¹²⁴ *Ibid.*

¹²⁵ William Branigin and William Claiborne. “Refugee Airlift Begins in Balkans”. *The Washington Post*. 1999.

were assets of the U.S. Without the support of NATO during the crisis, the EU would have faced a much more substantial refugee crisis and may have been forced to implement a higher centralized defense budget much earlier than 2017.

In addition, NATO has served as a direct barrier to the EU establishing its own vast defense assets. As noted during several occasions in the defense background, NATO has taken the lead role in trans-Atlantic defense and has broadened its mission over time to include the vision of itself as the primary defense of Europe. While this started in the mid-20th century as opposition to German rearmament, it grew primarily in response to the growth of the Soviet Union. NATO did not want to be undermined by a substantial EU defense force and thus used policy leverage to force buy-in to NATO assets as opposed to EU assets. This continued to be the case through 2012 when NATO Secretary General Anders Fogh made it clear that NATO would remain the primary military force of Europe.¹²⁶ However, a sign from the U.S. that NATO was disinterested in providing humanitarian response without a tangential military crisis demonstrated to European leaders that perhaps the time has come for the EU to invest in its own capabilities.

Conclusion

The conclusion, therefore, is fourfold: First, European leaders have long sought to establish a European defense force capable of supplying ample assets during times of crisis. Second, those limited resources are intended to, and have been used for, both humanitarian and combat purposes. Third, with ample resources the EU could have deployed military personnel to the borders of countries impacted by the migrant crisis to

¹²⁶ North Atlantic Treaty Organization. "NATO – Delivering Security in the 21st Century". 2012. Available from < https://www.nato.int/cps/en/natohq/opinions_88886.htm >

ensure compliance with EU humanitarian and asylum procedures. And finally, EU reliance on NATO, both directly through NATO opposition and indirectly through a reliance on existing NATO assets provided primarily by the U.S., have prevented the EU from actually obtaining necessary resources.

Chapter VI

Research Conclusions

This chapter presents conclusions from the research and offers final thoughts on the empirical findings. It summarizes the overall thesis objective and research questions, followed by a discussion on the implications for future policy and suggestions for a path forward regarding future research.

Research Objectives

This research sought to determine the overlap of EU humanitarian and defense policy and the role of NATO during the ERC. Its purpose was to find out why the EU's response to the influx of refugees was non-federative in nature, what the outcomes of non-federative policy were in different countries, and what the consequences of individual responses were to policy and individuals. My research proposition was that while nearly a century of policy implementation in Western Europe sought to establish a unified and independent defense force that could be utilized in times of crisis, theoretically including the ERC, that the broad authority of NATO created a barrier for said force to ever be instigated.

As part of the research process I used a method called Process Tracing which requires an analysis of alternate hypotheses, which included in this case:

- That other factors as opposes to the influence of outside actors, including resource constraints and political differences between individual states,

played the more significant role in the EU's failure to establish its own defense force

- That an EU defense force, even if it existed, could not or would not have been utilized for humanitarian purposes
- That policy uniformity was never established and federative responses to humanitarian crises were not the goal of the EU

To analyze and provide answers to the research questions, the research targeted the following questions:

- What has been the intent of defense and immigration policy throughout the existence of Western Europe and how has NATO influenced policy?
- Did the defense and immigration forces of border states respond in a similar or different manner to the refugee crisis, and why did they respond in the way they did?
- How did the EU respond to the crisis from during its early years and how has that response changed over time? Has this had any impact to policy?

This research determined that while policy has attempted to establish a capable EU defense force, NATO has played a significant role in preventing the EU from establishing its own force through two mechanisms: the EU's reliance on NATO assets has created a situation in which very little funds are dedicated to central EU procurement, and second the expansion of NATO over time along with the perceived threat of Germany and the USSR have encouraged NATO leaders to oppose attempts by EU leaders to establish a force of similar prowess. As a result, the EU had no centralized defense assets to draw on during the ERC, an act which the Petersberg Tasks and

precedent would have allowed to occur. To fill the void, individual nations responded in different ways to the crisis using their own forces which had detrimental impacts to human rights in many circumstances and broke down relations between EU countries, including a temporary pause of the Schengen Agreement. The response of the EU was to substantially increase the size and mission of Frontex, streamline the CEAS, allocate funds to Turkey, and push once again for a centralized defense force.

This is not to discount entirely the alternative hypotheses; the EU has traditionally allocated less of its budget to defense than the US and even if a defense force had existed there is no guarantee that it would have been as well equipped as stronger nations. In addition, political differences would have almost certainly impacted outcomes regardless of EU defense capabilities. However, the research has demonstrated that an EU force could still have been sizeable, with the EU members allocating roughly \$250B on average over the past decade for defense, and the leverage of such a force could have diminished the ability of Hungary and other countries to violate EU immigration policy. Thus, while many factors have played into the differences in responses between EU countries, it can be said with confidence that those differences would have been less pronounced given a federative EU force.

Implications

The ideas characterized in this considered in this thesis could have considerable implications in academia and for policy makers. From an academic perspective, my research supports the idea that international organizations can play a substantial role in situations on the ground, even if those organizations do not play a direct role in specific

conflicts. For instance, NATO's decision not to provide humanitarian support during the ERC as it did during the Balkan crises played a significant role on where refugees migrated to and how states responded. Had NATO acted with considerable resources, or had the EU had a force equipped to respond, it is likely that the process would have been more streamlined from the beginning and many of the humanitarian disasters could have been avoided. The support of this theory could have implications in research on other matters.

The implications of this research to policy has already been felt in some ways. Many policy makers in the EU have recently come to the realization that NATO will not agree to act in every international event and that the only option for the EU to control crises internal and external to its borders is to have its own resources. For the future, policy makers can use this research to target areas in which there were strong deviations from EU immigration and asylum policy during the ERC and determine how centralized resources could be used to guarantee those deviations do not occur again. In order to ensure a better response, the EU needs to commit significant resources to secure its own capabilities and must deploy them early in a crisis before member nations are forced to enact their own policies that undermine the EU.

Recommendations for Future Research

Given the ongoing nature of the ERC, the likelihood similar events to occur in the future, and the rapidly changing structure of the EU, the possibilities for future research on this topic are broad. Academia and policy makers would benefit from a deeper look into how differences in asylum procedures at EU points of entry impact the flow of

migrants and criminal networks, such as human trafficking. Perhaps the greatest existential threat to migrants who choose to pursue residence in the EU are smugglers and human traffickers, who adapt quickly to changes in immigration pathways. As the EU is in the middle of its resettlement program, it would also be interesting to see how effective the CEAS and other EU policies regarding resettlement are in allocating resources to different states and ensuring fair-share policies in resettling refugees across the EU. This could demonstrate areas in which the EU needs to adapt its immigration policy.

In addition, further research could take an approach less focused on historical policy precedent and more focused on differences in actions on the ground. More specifically, it would be useful to contact and visit different entry points in the EU and see how the CEAS and state-specific policies are implemented within and between border countries to determine why deviations exist, which human and policy factors play significant roles, and how those factors could be adapted to ensure equitable outcomes in the future. Finally, as years pass and immigration numbers rise and fall, it would be useful to compare the response of the EU during this crisis to the response of the EU to a crisis in the future. The outcome that research would demonstrate where policy changes in the EU are effective and where they are not.

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