



# DELEGATING RESPONSIBILITY

International  
Cooperation on  
Migration in the  
European Union

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*International Cooperation on Migration  
in the European Union*

NICHOLAS R. MICINSKI

University of Michigan Press  
Ann Arbor

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## ABBREVIATIONS

AMIF	Asylum, Migration and Integration Fund
AN	Alleanza Nazionale
ANEL	Independent Greeks (Ανεξάρτητοι Έλληνες, Anexartitoi Ellines)
CARA	Reception Centers for Asylum Seekers (Centri di Accoglienza per Richiedenti Asilo)
CAS	extraordinary reception centers (Centri di Accoglienza Straordinaria)
CCCM	camp coordination, camp management
CDA	reception centers (Centri di Accoglienza)
CDI	identification centers (Centri di Identificazione)
CEAS	Common European Asylum System
CIE	Identification and expulsion centers (Centri di identificazione ed espulsione)
Commission	European Commission
Council	Council of the European Union, also referred to as the Council of Ministers
COVID-19	coronavirus disease of 2019
CPSA	First Aid and Reception Centers (Centri di primo soccorso ed assistenza)
CPTA	Temporary accommodation centers (Centri di Permanenza Temporanea e di Assistenza)
DG-HOME	Directorate-General for Migration and Home Affairs
EASO	European Asylum Support Office
EC	European Commission
ECHO	European Civil Protection and Humanitarian Aid Operations
EEAS	European External Action Service

EKKA	National Centre for Social Solidarity (Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης)
ESI	Emergency Support Instrument
ESTIA	Emergency Support to Integration and Accommodation
EU	European Union
eu-LISA	European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice
Eurodac	European Dactylographic
EYIAPOE	National Foundation for Reception and Resettlement of Repatriate Greeks
Frontex	European Agency for the Management of Operational Cooperation at the External Borders
IO	international organization
IOM	International Organization for Migration
ISF	Internal Security Fund
IT	information technology
LAOS	Popular Orthodox Rally (Λαϊκός Ορθόδοξος Συναγερμός, Laikós Orthódoxos Synagermós)
M5S	Five Star Movement (Movimento Five Stelle)
MS	member states
ND	New Democracy (Νέα Δημοκρατία, Néa Dimokratía)
NGO	nongovernmental organization
NIMBY	not in my back yard
PA	principal-agent
PASOK	Panhellenic Socialist Party
QMV	qualified majority voting
RABIT	rapid border intervention teams
RSC	Refugee Settlement Commission
SCIFA	Strategic Committee for Immigration, Frontiers and Asylum
SIPROIMI	Protection System for holders of international protection and unaccompanied minors (Sistema di Protezione per titolari di protezione internazionale e per minori stranieri non accompagnati)
SIRENE	Supplementary Information Request at the National Entry
SIS	Schengen Information System

SMS	site management support
SOP	standard operating procedures
SPRAR	Protection System for Asylum Seekers (Sistema di Protezione per Richiedenti Asilo e Rifugiati)
SYRIZA	Coalition of the Radical Left (Synaspismos tis Rizospastikis Aristeras)
TPD	Temporary Protection Directive
VIS	Visa Information System
UN	United Nations
UNHCR	UN High Commissioner for Refugees
UNICEF	UN International Children's Emergency Fund
WASH	water, sanitation, and hygiene



## CHAPTER 1

# Introduction

One hot August morning in Athens in 2016, I arrived late to the health coordination meeting on the second floor of the Hellenic Red Cross office in the Kolonaki neighborhood. I sat down and surveyed the room of usual suspects of NGO (nongovernmental organization) representatives and UNHCR (UN High Commissioner for Refugees) officials; some doctors, others seasoned aid workers—but no Greek government officials. The discussions circled around persistent health issues in the refugee camps on the Greek mainland, like access to contraception or infant nutrition. The final discussion point by a consultant from UNICEF (UN International Children’s Emergency Fund) was that they had paid for an urgent shipment of vaccinations for a countrywide campaign in the camps but could not begin because there were no officials at the Greek Ministry of Health to sign off and receive the shipment. They were all on summer holiday.

The next day in a coordination meeting at the UNHCR headquarters in Greece, I watched as a similarly international group debated which organizations were in charge of “site management support” for each refugee camp (official documents use the term “site” in Europe as a euphemism for a refugee camp). I eventually realized that what they were really debating was who was running each refugee camp. They were working off of a list of camps issued by the Greek government with organizations assigned responsibility for camp management. Chaos ensued: everyone disagreed about the number of camps, if some camps were still active or were due to close; some organizations protested that they were never consulted before being assigned camps and had no funding or experience running camps. Again, no one from the Greek government was there. In their place was UNHCR, as chair of the meeting, taking notes and helping to coordinate some type of response.

In many ways, the responsibility for coordinating aid during the refugee crisis in Greece in 2015–17 was delegated to international organizations



(IOs). This book is about why the European Union (EU) chose to subcontract to IOs, rather than rely on EU agencies or the Greek state. It is also about when and why states cooperate on migration management. My research was partly inspired when millions of refugees walked across European borders in 2015 and EU states struggled to respond—a story that has been written in detail elsewhere.<sup>1</sup> But what I found missing from these accounts, and from the political science literature, was a systematic explanation of cooperation and noncooperation in migration policy. Furthermore, I wanted to understand how the much longer history of cooperation on migration management between EU states influenced their responses in 2015–17.

I set out in this book to do two things. First, I wanted to describe the evolution of migration management in the EU, including the evolving goals, actors, and implementation of these policies. Using a historical institutionalist approach, I analyze how EU migration institutions developed over the last three decades. The past lives of these institutions set the stage for the most recent response to refugees in Europe. Any account of the refugee situation in the EU cannot start in 2015; the events of today are institutionally linked to past interests and failed projects.

Second, it is essential to differentiate types of cooperation and noncooperation—coordination, collaboration, subcontracting, and unilateralism—based on which actors were implementing the policy. I was frustrated and confused that almost any and all interaction between states and IOs was called cooperation. This intervention corrects for the imprecise use of “international cooperation” and proposes a set of necessary conditions that lead to different types of cooperation or noncooperation. Coordination is defined as policy convergence that is implemented by states separately, collaboration is when states are jointly working together to implement policies, subcontracting is when policies are implemented by external IOs, and unilateralism is when states act by themselves. The typology proposes a theory of why and when states coordinate, collaborate, subcontract, or go it alone. Briefly, subcontracting occurs when states have low migration state capacity and lack credible commitment to EU policies; states with high capacity and high credibility will coordinate; states with low capacity and high credibility will collaborate; and states with high capacity and low commitment will act unilaterally.

In this introduction, I start by describing what I mean by migration management and review previous explanations for cooperation on migra-

tion, before turning to the puzzle and central argument of the book. I explain why it is interesting to look at coordination, collaboration, and subcontracting in Europe, particularly of migration policy. The ways in which EU states and institutions responded to the 2015–17 refugee crisis are important cases to test my theory of necessary conditions for cooperation or noncooperation. Next, I explain the mixed methodologies I used to trace and document the evolution of EU migration management and the methods used to test my hypotheses. I conclude with a short overview of the chapters.

But first a note about language: there are two important debates about what we call the phenomena of large movements of people across borders. First, scholars disagree about how to characterize the people who are moving: Are they refugees or migrants? The definitions are clear, but the empirical reality is not.<sup>2</sup> Migrants are defined as the broadest category of people on the move, sometimes across international borders, of which labor migrants, refugees, asylum seekers, and guest workers are subcategories. An asylum seeker is someone who crosses an international border with the intention to apply for asylum; a refugee is someone who has been granted international protection—in Europe that legal status is usually temporary, subsidiary, or humanitarian protection. During 2015, when 10,000 people crossed the Greek border in one day, it was impossible to determine who was an asylum seeker and who was an economic migrant. In fact, the determination process takes months or years in which asylum seekers present evidence of their claim of fear of persecution and an asylum officer or judge determines if the claim is legitimate. But it is impossible to make a blanket judgment that all people arriving in Greece or Italy were economic migrants or refugees. Later analyses of asylum applications during this period show that large numbers of people who arrived in Greece were from Syria or Iraq, who were often granted refugee status. In Italy, many of the arrivals were from African countries, who were less likely to be granted refugee status. Overall, this ambiguity is reflected in the question of whether the situation should be called a migrant crisis or a refugee crisis. I have taken care to use the most precise terms for individuals whom I met or for specific situations, but I use both “migrant crisis” and “refugee crisis” interchangeably throughout the book when describing the wider situation. I chose to do this because the situation includes both migrants and refugees, and because it is exhausting to read (and write) more politically correct phrases like “large movements of people.”

The second debate about terms is whether one should use the word “crisis” when describing the situation for migrants or refugees in Europe during this period. Crisis implies a period of intense difficulty because states cannot cope with an overwhelming number of people arriving in a discrete period of time. But the number of migrants a state can process is relative, depending on their administrative capacity, economic resources, or generosity of spirit. Comparatively, the number of refugees arriving in Europe is not the largest displacement in the world. Rather, protracted refugee situations in Pakistan, Sudan, or Palestine have millions more displaced and have lasted decades. Kelly Clements, the deputy UN High Commissioner for Refugees, stated that “Greece is facing a crisis of reception, not a refugee crisis.”<sup>3</sup> From this perspective, the crisis cannot be blamed on refugees but on states that do not respond appropriately to the demand. Another reason to question the use of the term “crisis” is that a crisis should have a beginning and an end, but the problems for refugees in Greece and Italy have been going on for more than two decades. Has this been a two-decade-long crisis yet to end? Politicians—particularly EU politicians—are fond of deploying crisis terminology because a crisis justifies certain policy choices. Using the word enables EU states to take extraordinary steps—like holding migrants in indefinite detention or having uncertified doctors provide medical care—that would not be allowed outside of a crisis. From this perspective, calling a situation a crisis is a political tool used to pursue policies that politicians had previously wanted but did not have the political capital to make happen.<sup>4</sup> This will be explored further in chapter 3.

Still other commentators have described the situation as a wave, an influx, or an emergency, but these terms have certain dehumanizing qualities. Migrants and refugees are not like a wave about to wash away Europe and an influx of migrants does not displace locals from their homes. It does not solve the issue by replacing one problematic word with others. Instead, another approach is to surround the word “crisis” with scare quotes to acknowledge the problematic use of the term but to continue using the word. I find the scare quotes approach exhausting and disruptive to effective writing. Instead, I have chosen to use all the terms—crisis, emergency, and influx—interchangeably but to trust my readers to know that I am not intending to dehumanize individuals or give permission to politicians with my word choice. I trust that readers will be able to hold both ideas at the same time—that the situation is overwhelming and sometimes an emergency without dehumanizing those involved or justifying extreme measures.

## What Is Migration Management?

Migration management was described to me by a migrants' rights campaigner in London as follows: "If you are not the anarchist, 'no-borders' type and you are not the racist, far-right, 'close-the-borders' type, you believe in managed migration. It is not unreasonable to have well-ordered, sensible, rational controls at the border. After you go that far, it is just a matter of where you draw the line." While a charmingly simple justification, it ignores wider political and economic forces that influence migration policies that I hope to unpack in this book. Simply defined, migration management denotes the public policies aimed at controlling or facilitating the movement of people across international borders. While often sprawling and convoluted, migration policies range from local and municipal to the national, regional, and global level. There is variation with regard to who is responsible for making versus implementing migration policies, and there is variation on the underlying motivation for those policies. Migration management is also used by policymakers in IOs to describe policies that address the root causes of migration. This section describes the technologies used to control migration and the unifying goals of migration policies.

One of the early technologies of managing migration was the passport. John Torpey describes the invention of the passport as a way for a country to "embrace" its citizens and control movement internally among cities, later evolving into a technology for external control of people entering or leaving a country.<sup>5</sup> If only it were so simple today: modern migration managers have developed a mixed package of technologies to control migration, including but not limited to visas, databases, fences, first reception centers, search and rescue operations, border guards, detention centers, return and deportation procedures, asylum agencies, asylum accommodation and support services, and asylum courts. Gregory Feldman calls these institutions and spaces the "migration apparatus," emphasizing that these dispersed offices and officials are both networked and isolated from each other.<sup>6</sup> This book is about the implementation of migration management, not the technologies, although they often intersect.

The six primary goals of migration management are to (1) adjudicate who should enter a country; (2) stop migrants who should not enter; (3) monitor and regulate migrants who have temporary permission to stay; (4) remove migrants who should not have entered; (5) deter migrants so they

never come; and (6) control emigration and the diaspora. In the first category of migration management policies are those regulations that decide who has permission to enter a country. These regulations take the form of requirements for tourists, business, or student visas, often with paperwork documenting the purpose of the visit, where migrants will stay, and round-trip plane tickets. There are also rules that govern who can enter a country with the intent of establishing permanent residency or gaining citizenship. These rules often require that you meet certain criteria for residency (like employment) or for citizenship (like minimum years living in a country, speaking the language, or passing a citizenship exam). Finally, there are rules for temporary or humanitarian protection that permit people to enter countries under special circumstances, for example in order to seek asylum because of persecution in their home country. These processes require a large bureaucratic administration, often including databases, travel records, fingerprints and biometric data, and detailed biographical, financial, and family histories.

The second goal of migration management is to prevent those migrants from entering who do not have permission. The most emblematic symbol of this goal is the border wall or fence, which literally delineates a border between two countries and attempts to physically prevent people from walking across. The physical infrastructure of borders can also include barricades, barbed wire, trenches, roads, bridges, and checkpoints. Borders also have a human element with border guards and patrols and the officers who check passports and visas. Migrants can be turned away at the border, intercepted at sea, or put on returning flights when officials do not think they have appropriate travel documents. There are more advanced technologies to prevent undocumented or irregular border crossings, such as border surveillance using radar, infrared, and drones to monitor hard-to-reach areas of the border. But most of the world's borders do not have walls. Most borders exist primarily on maps. Borders are only perceptible when a country puts up a sign, builds a fence, or constructs a roadblock for border checks. It is at these spaces on the frontier that states traditionally attempt to manage the in-and-out of migration flows.

Modern migration management does not only exist at the border: rather, states regulate what migrants can do within their territories, what benefits or services they are entitled to, and how long they are allowed to reside in the country. To these ends, the third goal of migration management is to monitor and regulate those migrants who are temporarily in a

country. This can take the form of migrants who are required to register with the local police station or for asylum seekers to check in regularly with the asylum office. Police, border guards, and intelligence officials share information and monitor the activities of migrants even when they are within a country.

The fourth goal of migration management is to remove—also referred to as “return” or “deport”—migrants who have entered the territory without permission or who overstay their visas. This area of migration policy sets standards for the conditions of detention centers and the procedures for removal. While some migrants agree to voluntary returns, many deportations have varying degrees of coercion. Border officials are regulated on the appropriate and safe use of force during detention and travel—although we know they regularly violate these regulations.<sup>7</sup>

The fifth goal is to deter future migrants by addressing the “root causes of migration.” These policies work on the assumption that the “root causes of migration” are push and pull factors that incentivize migrant flows. Push factors could be war or poverty that create significant pressure to leave one’s home country, while pull factors could be economic opportunities, education, or family reunification in the receiving country. States develop two types of policies to deter migration: bilateral readmission agreements and migration and development aid packages. First, states in the Global North, or regional organizations like the EU, negotiate bilateral “mobility partnerships” that agree to the readmission of their nationals in exchange for increased aid in the sending country. These policies externalize migration policies because they place responsibility for border controls on migrant-sending or transit countries.<sup>8</sup> Second, states provide foreign aid with the explicit purpose of reducing poverty or encouraging economic development to combat migration push factors. While these aid packages remain popular, policymakers ignore the contradicting assumptions that underpin the migration and development nexus. For example, increased development can actually lead to more migration as people use increased income to finance travel and development is often funded by remittances from large diaspora communities.<sup>9</sup>

The sixth goal is to control emigration (people moving out of a country) and regulate their relationship with the country of origin. States develop complex policies to control who can leave; at various points in the past some states have required exit visas or job guarantees in the destination country before departing. Once abroad, states carefully cultivate relation-

ships with their diaspora to capture remittances and votes. Diaspora communities can be investors in development or influential donors to political parties. States often establish departments within the Ministry of Foreign Affairs or in embassies abroad to fund and cultivate these relationships. Another way states regulate their relationships with their diaspora is through dual citizenship—both if it is granted and if it is passed on to future generations.

This book looks at the ways in which states and international organizations cooperate on the six goals of migration management. In each chapter, I focus on only a few goals to illustrate the dynamics between states, IOs, and other actors during the implementation phase of policy.

## Theories of International Cooperation on Migration

There is an established literature on international cooperation on migration, particularly in the European Union, that can be organized into two approaches: neorealism and neofunctionalism. These approaches apply traditional theories of EU integration to state and IO responses to migration. In this section, I describe how each approach studies cooperation on migration policies. I conclude with a discussion of why this literature has ignored the implementation stage of the policy cycle. International cooperation on migration is often referred to as “migration governance” because the international agreements between states that lead to policy convergence help to decide how states and regional institutions govern migration policy. The terms are used interchangeably throughout this book.

### *Neorealism and Intergovernmentalism*

The first approach applies neorealist principles, such as power and state preferences, to explain why states agreed to treaties and IOs to help refugees, primarily after the Second World War. The early historical accounts of international cooperation on migration focused on realpolitik and revealed the politicization of refugee policy. Gil Loescher detailed the emergence of the international refugee regime after the First and Second World Wars, showing how Western governments politicized aid by helping refugees from their enemies, particularly the Soviet Union.<sup>10</sup> Loescher also showed how the United States limited the powers of UNHCR and negotiated the

1951 Refugee Convention to be time limited and geographically limited to Europe.<sup>11</sup> Later, the US established competing IOs, like the Provisional Intergovernmental Committee for the Movement of Migrants from Europe, the precursor to the International Organization for Migration (IOM), to pursue the interests of Western states that were the biggest donors.<sup>12</sup>

Neorealists start with the state as the essential actor in the international system.<sup>13</sup> The state is presumed to be a rational actor that produces coherent policies based on its preferences, which usually prioritize security and economic gains. Game theorists illustrated the puzzle of cooperation using the prisoner's dilemma, stag hunt, or chicken games, to name a few, to understand when states cooperate and when they do not.<sup>14</sup> Randall Hansen, Jobst Koehler, and Jeannette Money have produced a framework centered around the interests, incentives, and actions of states for cooperation on migration.<sup>15</sup> They find that states prefer unilateralism in migration policy because migration is core to a country's sovereignty. The main exceptions are regional consultative processes, because they are voluntary and nonbinding. However, states will cooperate when they agree on a common goal or by linking different issues during negotiations.<sup>16</sup> Cooperation will only happen when there are incentives (both positive or negative). When there are no incentives, states will rely on informal or nonbinding agreements. Key to this framework is the concept of trust: states need to trust that the other states will implement the policies as agreed. Trust is not as important for one-off agreements but it is crucial to build trust between states for repeated or long-term cooperation.<sup>17</sup> Robert Axelrod demonstrated how repeated interactions changed the logic of cooperation because states can retaliate ("tit for tat") in the next interaction.<sup>18</sup> In addition, states consider the shadow of the future—that is, longer time horizons and iterative interactions—because they anticipate future interactions when deciding present negotiations.<sup>19</sup>

Neorealists also emphasize how the distribution of power and state preferences impact cooperation. Jeannette Money and Sarah Lockhart theorize that powerful states that benefit from the status quo will block new international cooperation on migration unless they are forced to the bargaining table because of migration crises or through international institutions where small sending states outnumber the powerful receiving states.<sup>20</sup> Receiving states are usually more powerful in negotiations because there is no reciprocity since most migration is one direction (typically from sending to receiving states). Similarly, Alexander Betts argued that



the North-South impasse (i.e., states in the North are not legally required to provide burden sharing, while states in the South are left with the majority of refugees in their territory) creates power asymmetries that are overcome by issue-linking and persuasion.<sup>21</sup> States use issue-linking to make one issue conditional on another during negotiations, which is used to incentivize cooperation on refugees. Historically, UNHCR was crucial in constructing substantive linkages and persuading states in the Global North to participate.<sup>22</sup>

When applied to EU migration policies, neorealists theorize intergovernmental negotiations in three stages: first, states form preferences; second, they engage in intergovernmental (horizontal) negotiations with other states; and third, they design EU-wide institutions.<sup>23</sup> Liberal intergovernmentalists find that state preferences and asymmetrical interdependence often block EU cooperation on migration.<sup>24</sup> However, Money and Lockhart suggest there is more potential for cooperation in regions like the EU, where there are reciprocal migration flows, because EU states face similar negative externalities from migration, and if they were not cooperating together could retaliate in the future.<sup>25</sup> Reciprocity in international migration is not common and so cooperation is usually bilateral, rather than regional or multilateral.

Neorealists and intergovernmentalists often downplay the influence of nonstate actors or IOs and the embedded nature of cooperation in the wider international society. In addition, these rationalist explanations for international cooperation on migration focus on how decisions are made and usually ignore who implements the policies.

### ***Neofunctionalism and Historical Institutionalism***

The second approach to explaining cooperation on migration focuses on how institutions shape state preferences and how cooperation feeds back into more cooperation. Globalization has led to new problems (like increased migration) and more economic interdependence, which necessitate more international cooperation. Robert Keohane explains that when negative externalities apply to multiple states at the same time, they are driven to collective action to overcome those problems.<sup>26</sup> States pursue international cooperation because it lowers transaction costs, which can be shared among all cooperative states. Neofunctionalism also emphasizes the constraints created by institutions: following on the economic theories,

institutions are the rules of the game in a society and shape future options.<sup>27</sup> Institutions also shape state preferences with different payout structures, political opportunities, and power distributions.

Neofunctionalists acknowledge the importance of states but also recognize the influence of nonstate actors. Ernst Haas theorized that while states agreed to some parts of European integration, there would be unintended consequences of transferring some responsibilities to the supranational level.<sup>28</sup> The combined efforts of an IO's secretariat and organized interest groups could pressure states for even further cooperation. Haas and other neofunctionalists foresaw "spillover effects" whereby economic integration led to great integration on other issues.<sup>29</sup>

Two frequent hypotheses for explaining EU migration policies are that member states view cooperation as "losing control"<sup>30</sup> and decreasing their sovereignty versus states preference to conduct more cooperation at the EU level as an "escape to Europe"<sup>31</sup> to avoid domestic political pressures. Andrew Geddes analyzed how EU institutions shaped a supranational policy context within which member states implemented (or not) migration policies. Geddes finds that member states supranationalized the issue of intra-EU free movement (via the Schengen Convention) because it was core to the original European Community treaties and the building of a single market, while immigration and asylum were not supranationalized until later because member states did not view the issues as core to the single market.<sup>32</sup> Geddes was writing at a time when the EU had virtually no capacity to implement migration policies itself and relied completely on member states for implementation, often facing constraints like different interests among states or divergent interpretations of EU directives.<sup>33</sup> However, I show in chapter 3 that the EU has since developed quite a lot of capacity to act through Frontex (European Agency for the Management of Operational Cooperation at the External Borders) and the European Asylum Support Office (EASO) at the external border.

Similar to neofunctionalists, historical institutionalists incorporate states and nonstate actors and study how path dependency and feedback loops impact cooperation over time. For example, Petra Bendel traced the development of EU cooperation on restricting and controlling migration as a response to "migration crises" in 2005 in the Spanish cities of Ceuta and Melilla.<sup>34</sup> Christof Roos applied an institutionalist framework to show how state preferences are shaped by EU institutions. In the 1990s, EU member states disagreed on their preferences for various migration policy areas

(such as labor migration, border control, or asylum). To overcome these differences, Roos finds that EU institutions partitioned the issues into separate, more narrowly defined directives in order to reach agreement.<sup>35</sup>

Still other scholars incorporate important intervening variables, like public opinion, organized interest groups, or normative commitments, as critiques of the classic theories. Gallya Lahav studied the impact of public opinion and elite preferences on EU cooperation on migration. While public opinion and national interests are assumed to oppose greater integration on migration, Lahav finds that public opinion and elite preferences were in favor of greater cooperation for more restrictive migration policies within the EU.<sup>36</sup> This allowed protectionist governments to engage in cooperation to defend their national sovereignty and identity. In contrast, Kaija Schilde finds that organized interest groups were key external actors that lobbied for greater EU cooperation on border control.<sup>37</sup>

Eiko Thielemann takes a constructivist approach to studying EU cooperation on migration by testing the cost-benefit or norm-based logics of asylum burden-sharing. The cost-benefit logic claims that states cooperate when the benefits outweigh the costs. It assumes that states use rational choice and that state preferences are formed outside of institutions. The norm-based logic claims that states cooperate when they share norms like solidarity and equity. It assumes that identities and preferences are shaped by the context and institutions in which actors operate. Thielemann concludes that the EU has increased some parts of burden sharing based on both cost-benefit and norm-based logics, but not because of solidarity or equity. Rather, member states cooperated on migration because they were concerned that migration was a threat to the single market, to future EU integration, and to human rights commitments.<sup>38</sup>

Finally, other scholars put forward a more critical approach to explaining cooperation on migration in Europe.<sup>39</sup> In part because of the multilevel governance in the EU, states and migration policies are often not rational, coherent, or uniform. Instead, Christina Boswell and Andrew Geddes show how the policy process is not necessarily linear with policymakers from different levels and different EU institutions borrowing ideas from previous agendas and the “garbage can.”<sup>40</sup> Cooperation on migration is often incoherent because the policies were designed to satisfy competing interests or to maintain fragile coalitions.<sup>41</sup> Diego Acosta Arcaza and Geddes argue that analysts of international cooperation often overestimate the rationality and capacity of states, while overlooking the importance of “situated

agency,” which is contingent on the historical and social contexts of actors.<sup>42</sup> Similarly, Michael Collyer argues that migration governance is often haphazard, nonlinear, and ripe with unintended consequences and that governance also occurs at the everyday level.<sup>43</sup>

While neofunctionalists and historical institutionalists are more attuned to the influence of nonstate actors and the role of spillover and feedback, most institutionalists do not look at implementation or capacity. The main debates have focused on the degree of Europeanization and the influence of EU institutions on national migration policies. This book uses historical institutionalism to fill this gap by centering attention on the implementation stage of the policy cycle. In addition, I incorporate the role of IOs and nonstate actors in implementation, not only in influencing policy formation and decisions.

### *Policy Cycles*

It is important to distinguish what part of the governance process is being studied. Michael Howlett and M. Ramesh conceptualized the policy cycle in five stages: agenda setting, policy formation, decision-making, implementation, and evaluation.<sup>44</sup> Most studies of EU migration policy examine actors and processes during agenda setting, policy formation, and decision-making phases, which is before policies even start;<sup>45</sup> instead, this book focuses primarily on the implementation, evaluation, and feedback phases.<sup>46</sup> For example, most of the studies described above look at the institutional processes or power politics within the European Commission, the Council of the EU, and the European Parliament that lead to decisions on migration policies. A robust debate has developed between two schools of thought regarding intergovernmentalism and supranationalism.<sup>47</sup> Intergovernmentalism conceptualizes EU integration as a horizontal process whereby policy decisions are made in negotiations by member states. Supranationalism is a vertical process whereby policy decisions are led by EU institutions pushing agendas downward to member states. The debate centers around how much decision-making power and sovereignty have been transferred to regional institutions in the EU. But this book does not attempt to distinguish intergovernmentalism or supranationalism every step of the way; instead, I'm interested in who is implementing policies and how they develop their capacity. Implementation begins after elected officials vote and after legislation becomes law. Implementation is about the actors,

resources, and strategies marshalled to create the policy outcomes envisioned in the law. Of course, there is always a gap between the policy decision and outcomes, because of the politics and practicalities of the real world. Elected officials may pass laws banning entry into a territory without registration but in practice there will always be some amount of undocumented migration. The fifth phase—evaluation and feedback—involves practitioners from the field reporting back on the impact of the policy interventions. Evaluations frequently reveal gaps or failures in implementation. Policy failure provides updated information to policymakers in earlier stages in the policy cycle to improve or revise future policy interventions. Conversely, policy failure can also lead to a doubling down on, rather than a reevaluation of, the policy.<sup>48</sup> Within the EU, policy failure provides feedback to inform whether and how states decide to cooperate again. This book studies policy implementation and how decisions about implementing policies are made—not how policies are formulated or decided but the logistics, implementing actors, and the politics of achieving policy goals.

Counterintuitively, state officials can have different policy preferences during different policy stages. Antje Ellermann shows that elected officials preferred restrictive deportation policies during policy formation but shifted to more lenient policies during implementation.<sup>49</sup> Ellermann differentiates between legislative capacity as the ability of elected officials to write laws and executive capacity as the ability of street-level bureaucrats and leaders of government agencies to put the laws into practice.<sup>50</sup> Ellermann finds that deportation is politically salient at the legislative stage because politicians and policy entrepreneurs use the issue for their interests, but at the implementation stage civil servants find deportation difficult because it targets individuals who are often embedded in communities that oppose and resist deportation.<sup>51</sup> Because of the public pressures, elected officials also change their preferences and pressure civil servants to be more lenient during implementation.

A common focus in the EU migration literature is examining the gap between decisions and implementation. Researchers set out to compare the stated policy goals with their measurable outcomes. Of course, most of these studies eventually find a large gap between the policy goals and the actual outcomes. Some scholars pessimistically conclude that no matter the level of state capacity it is impossible to control migration and borders; while others portray an almost omnipresent state obsessed with security that can monitor and control all migrants throughout time and space. How-

ever, other scholars note that the gap between restrictive goals and those actually achieved can inspire anti-immigrant sentiment and even more restrictive policy goals.<sup>52</sup>

This book conceptualizes the EU as a forum for international cooperation in which states meet to share information, negotiate, and ultimately decide on policy together. This approach starts with states and adds the influence of both nonstate and regional actors on EU migration management. Member states come together within EU institutions as a forum or space for deciding how to implement policy decisions. In this book, I theorize the outcomes of those decisions (i.e., how to implement policies) as four subtypes: coordination, collaboration, subcontracting, or unilateralism. Coordination is when states decide on a common policy and implement it through their national institutions. Collaboration is when states agree to a policy and implement it through joint projects or EU agencies. Subcontracting is when states agree to a policy and implement it through an external IO. Unilateralism is when states do not agree to a common policy and take action through their national institutions.

The EU is an IO—albeit a highly developed regional IO. But I distinguish collaboration through EU institutions from subcontracting to external IOs because the EU is a different type of IO with special powers stemming from its supranational governance structures and decades-long journey of greater European integration.<sup>53</sup> This will be discussed at length in chapter 3. Throughout this book, I conceptualize EU member states as the primary principals and IOs as the agents. In some scenarios, member states delegate authority to the European Commission, which then performs a secondary delegation (or subcontract) to another agent, like the United Nations (UN) or an NGO, but member states maintain sovereign authority to allow the IO access and regulate how they work in their territory. In this way, when I describe the EU subcontracting tasks to IOs, I am describing states engaging in intergovernmental negotiations through EU institutions like the Council, Parliament, or Commission to make secondary delegations of authority to IOs.

By studying implementation, this book aims to better understand why there is variation in how states respond to refugee crises even though those states are signatories of the same refugee conventions and EU directives. In theory, all EU member states have agreed through intergovernmental negotiations to common standards in their asylum processes. But in practice, these asylum processes are vastly different. The responses to refugee crises

reveal important dynamics in the implementation process because these differences are accentuated.

## The Puzzle

The puzzle of this research is that while we often expect states in the Global South to delegate responsibilities to IOs during a crisis, we do not expect rich, developed states in the Global North to need to rely on IOs. But in 2015, when faced with an influx of more than a million refugees, the EU and its member states relied heavily on UNHCR, IOM, and other IOs. As one UNHCR official told me, “Europe should be able to take care of its own house but they needed a fireman.”<sup>54</sup> From 2015 to 2017, the EU funneled 73.2 percent of the €772 million of the emergency funding for refugees through IOs in Greece, instead of through regional or national institutions. In Italy, 99.4 percent of the €149.8 million was funneled through the Italian government and only 0.6 percent through IOs. This is a striking contrast and begs the question: Why delegate responsibility to IOs in Greece but not in Italy?

This book attempts to answer this question, in addition to the more general questions of when states coordinate or collaborate on migration management. When do states subcontract to IOs? What determines the internal structure of cooperation between states? What explains the variation in state responses to refugee crises? Chapter 2 introduces my theory of necessary conditions for coordination, collaboration, subcontracting, or unilateralism, while chapters 3, 4, and 5 test these conditions in case studies throughout Europe.

## The Argument

My central argument is that when states are faced with challenges that cannot be addressed by themselves—issues that are inherently regional or a shared public good—states will decide how to cooperate together based on certain necessary conditions. These necessary conditions—state capacity and credible partners—help states decide the internal structure of cooperation mechanisms and who will be their implementing partners. The logic of

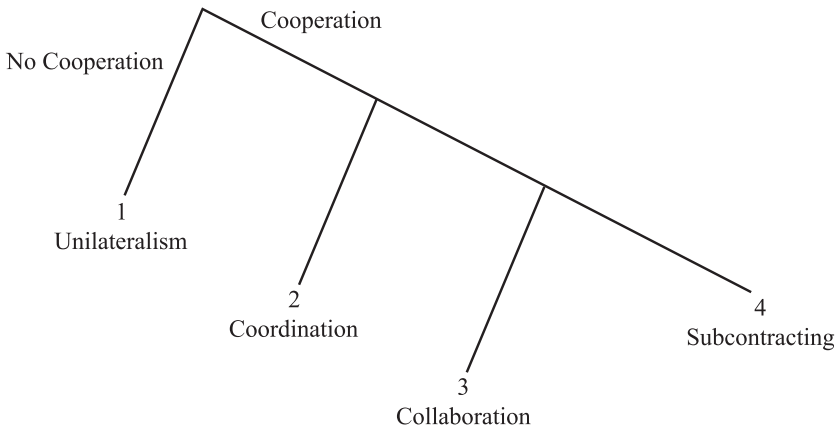


Fig. 1.1. Cooperation Decision Tree

Note: This figure was adapted from Darren G. Hawkins, David A. Lake, Daniel L. Nielson, and Michael J. Tierney, *Delegation and Agency in International Organizations* (Cambridge: Cambridge University Press, 2006), 11.

cooperation often follows a chain of decision-making—starting with no cooperation but leading to coordination, then collaboration, and sometimes to subcontracting (see fig. 1.1).

The history and evolution of cooperation impacts these conditions; for example, states that have faced previous migration crises may have already increased their migration state capacity to process asylum claims. In addition, member states take into consideration failed projects and the track records of other actors to determine if they are credible partners. Sometimes failed projects provide the political capital to move from coordination to collaboration or collaboration to subcontracting—moving down the cooperation decision tree.

In the case of EU migration management, states began nearly five decades ago with no cooperation but built informal and formal coordination mechanisms for certain migration policies. Some of these policies—like the Schengen Borders Code—had their desired impact, while others—like the Dublin regulation—failed miserably. After several successive crises, the Council of the EU established collaborative mechanisms in the form of two EU migration agencies—Frontex and the European Asylum Support Office. These agencies were meant to share capacity and expertise among EU member states in order to bridge the capacities of lower capacity states.<sup>55</sup>



In some cases, this worked swimmingly. In other cases, collaborative mechanisms failed because of the lack of credible commitments and moments when capacity was simply overwhelmed.

By 2010, EU migration management had elements of coordination and collaboration. But in 2015, when Greece received more refugees than any European country in a generation, the Greek state had extremely low migration state capacity and a track record of not being a credible partner. These conditions helped to determine the EU response: primarily subcontracting responsibility to IOs for supporting refugees and migrants. In contrast, in 2014, when Italy was faced with a similar influx of migrants (but not of the same magnitude), the Italian state had a higher migration state capacity that was built during previous migration crises and was a credible partner. The result was a coordinated response led by the Italian government. These two cases are examples of how my theory of the necessary conditions determined the internal structure of cooperation.

## Methodology

To test the theory, I examine the necessary conditions for cooperation in a specific EU policy area and moment: migration management and institutional responses to the 2015–17 refugee crisis. This is an important policy area because common EU migration policies have developed significantly since the 2009 Treaty of Lisbon, and, second, the exogenous shock of the large influx of refugees and migrants in 2015–17 created an opportunity to trace the conditions and processes that led to state, regional, and IO responses.

I selected two comparable cases (Greece and Italy) based on the most similar selection criteria,<sup>56</sup> including regime type, regional governance, proximity to border, and migration pressure. Greece and Italy are both parliamentary democracies, both members of the EU, and both frontier states on the Mediterranean Sea that experience similar migration pressure. The 2008 financial crisis devastated both the Greek and Italian economies; Italy and Greece had the two worst debt-to-GDP ratios and the two highest youth unemployment rates in the EU following the crisis.<sup>57</sup> In addition, the two cases are compared during the same period because both countries experienced large migration influxes, holding constant other endogenous variables. The two cases provide variation based on other national charac-

teristics, such as state administration and commitment to EU institutions. Historically, the Greek state has struggled with administrative capacity while Italy has had a somewhat stronger capacity. Second, Greece has shown a lack of commitment to EU migration policies over the last two decades, as evidenced in chapter 5; while Italy, which was committed to EU policies, was an active shaper of these policies and participant in implementing them.

One alternative explanation for subcontracting in Greece is the concurrence of the Greek debt crisis with the refugee crisis. While the 2007–8 economic crisis was a confounding variable in both Greece and Italy, leading to even lower state capacity and lack of credibility, it does not explain why the EU delegated responsibility in Greece but not in Italy. As mentioned earlier, Italy also had a struggling economy (while not as severe as Greece), but was still able to coordinate the national response to its migration crisis. It is important to note that my findings are specific to this historical moment in which EU institutions have relatively strong financial incentives for member states and expanded competencies in migration policy, which were not the case before the 1992 Maastricht Treaty. In addition, if Euroskeptic or xenophobic political parties took over governments—which happened after the Italian elections in March 2018—the domestic politics in each country could lead to very different outcomes.

I conducted 86 interviews with policymakers and practitioners in EU institutions, UN agencies, national institutions, academia, and NGOs.<sup>58</sup> From June to September 2016, I observed coordination, collaboration, subcontracting, and unilateralism in action in Greece and Italy by attending coordination meetings, interviewing liaison officers and project coordinators, and visiting refugee centers and camps. Interview subjects were recruited through the snowball method<sup>59</sup> and I used a semistructured interview guide with questions about cooperation on migration policy, how policymakers decided which actors to work with, and the challenges and barriers to their work. Interviews were transcribed and coded in Nvivo, first using inductive, free coding based on grounded theory,<sup>60</sup> and, second, using a thematic coding scheme.<sup>61</sup> The original interview data was analyzed alongside EU and UN policy documents, reports, and statistics.

Each case study uses process tracing to identify the microfoundations, historical legacies, and causal mechanisms that led to coordination, collaboration, subcontracting, or unilateralism. Chapter 4 specifically tests the hypothesis that higher state capacity and credible partners led to coordina-

tion in Italy, while chapter 5 tests the hypothesis that low state capacity and no credible partners led to subcontracting in Greece.

## Overview

I develop my argument around four substantive chapters and a conclusion. Chapter 2 confronts the problem of categorization: How can we differentiate between different types of cooperation and noncooperation? What descriptive, qualitative differences are there between how states and IOs work together on migration policies? To answer these questions, I propose a theory of necessary conditions that influence whether states will coordinate, collaborate, subcontract, or act unilaterally. In my analysis, the key difference between types of cooperation and noncooperation is which actors implement the policy. For example, coordination is when states decide on similar policies but implement them separately. Collaboration is when states agree on a common policy and work together through joint projects to implement the policy. Subcontracting is when states agree on a policy but transfer responsibility for implementation to an outside institution, and unilateralism is when states implement a policy themselves.

Chapter 3 takes a closer look at the history of migration management in Europe. This chapter provides an overview of EU migration policies in two areas: border security and asylum. I document the transfer of legal competency for some migration policies from the national to the EU level. Importantly, I show how failures and crises led to greater and greater Europeanization of migration state capacity in the areas of asylum and border security. The EU first tried to coordinate migration policies but when they failed, or when one partner was revealed not to be credible, the EU tried collaboration instead. Finally, I show that EU leaders used their political capital during migration crises to implement long-standing policy goals that were previously rejected.

Chapter 4 tests my theory in a country case study in Italy. First, I trace the evolution of migration state capacity in Italy under each political regime—the Italian monarchy, Fascism, postwar consensus, and the Second Republic. For example, the 1901 Commissioner-General of Emigration subsidized emigration, regulated recruiters, provided social assistance to emigrants, and in rare cases banned emigration to risky destinations. Under Fascist control, the Italian state shifted its migration state capacity to

repressing emigration, canceling passports, and forcibly relocating Italians to the countryside. Second, I analyze how different Italian governing coalitions approach the EU—and how different coalitions are viewed as credible or not credible partners with EU institutions. I conclude by explaining how Italy and the EU coordinated in response to the migration crisis from 2014 to 2017.

Chapter 5 tests my theory of necessary conditions in Greece. First, I lay out the history of migration state capacity in Greece, ranging from early regulation of emigration to large regularization programs to consistent lack of investment in capacity. I show a pattern of international interventions in which European powers did not trust Greek institutions to implement their preferred policies. For example, the League of Nations delegated responsibility to the internationally run Refugee Settlement Commission in 1923 to resettle refugees in the interwar period. Second, I analyze the recent Greek political landscape and find that no political coalitions (center-left, center-right, far right, or the SYRIZA coalition) were considered credible partners. Finally, I describe the responses to the 2015–17 crisis by civil society, the Greek government, EU institutions, and IOs. I show how the necessary conditions of low state capacity and no credible partners led to subcontracting 73.2 percent of emergency funding to IOs.

In the conclusion, I summarize my findings and discuss their larger implications. My research shows how states—even those with developed economies or complex regional institutions in the Global North—are sometimes forced to subcontract some core sovereign tasks to IOs. By sovereign tasks, I mean the policies, procedures, or process that states claim as their sole right to regulate and control “legitimate means of movement.”<sup>62</sup> As an ideal type, states claim absolute sovereignty in the form of absolute control over their borders and migration policies, but the actual practice of sovereignty is much more variable. For example, chapter 5 details why Greece relied so heavily on UNHCR to run camps and implement their migration policies, despite being part of the Global North. This allows us to reevaluate our understanding of sovereignty, which is often delegated away in the Global South but held as inviolable in the North. Another contribution of this research is to identify when it is rational for states to be noncredible partners. For example, states on the external EU border may find it is in their interests to shirk their sovereign tasks (like fingerprinting all arrivals) to prevent being stuck with the overwhelming burden of asylum seekers. This helps analysts to understand when states will and will not be credible

implementers of shared policies. Finally, I end with a few practical lessons for the future of international cooperation and global migration governance, centered on how to design better subcontracting agreements. These are important lessons especially as migration is at the top of the UN's agenda with the New York Declaration for Migrants and Refugees in 2016, and later the Global Compact for Migration and the Global Compact on Refugees in 2018. The goal of this book is to understand how states responded to the 2015–17 refugee crisis in Europe in the hope that these recommendations will improve future responses when refugees and migrants are in need.

## CHAPTER 2

# International Cooperation and Migration Management

How do states actually manage migration? In the introduction, I described the six goals of migration management—but how do states implement the goals in practice? For example, how do states process asylum applications, house asylum seekers, or provide education to refugee children? The answers are sometimes very simple: staff in national asylum agencies interview and adjudicate asylum applications; national welfare agencies contract with local landlords for beds in hostels; and education ministries incorporate refugee children into mainstream schools. In an ideal-type state, the six goals of migration management are achieved by national agencies with the legal powers and capacity to implement the goals. Frequently, however, states do not have the capacity, expertise, or political will to respond to mass influxes of refugees. Instead, states decide to work with other states to pool resources and expertise or ask IOs to fill gaps in capacity.

In this chapter, I define the concept of migration state capacity and propose a theory of necessary conditions for cooperation. There are four subtypes of international cooperation and noncooperation: coordination, collaboration, subcontracting, and unilateralism. States will decide to coordinate when there are high capacity and credible partners and will collaborate when there are low capacity and credible partners. States will subcontract when there are low capacity and no credible partners. States with high capacity and no credible partners will not cooperate. This theory is tested in Italy (chapter 4) and Greece (chapter 5). Importantly, this theory explains how states act during the implementation stage of the policy cycle, not the policy formation and decision-making stages. Finally, this chapter discusses the obstacles to cooperation (credible commitments, divergent

preferences, defection, and free riders) and the different strategies for overcoming these obstacles.

## Theory of Necessary Conditions

States are sometimes challenged by policy issues—like migration crises—that cannot be addressed through unilateral action. States consider how they can work together with other states based on two necessary conditions—state capacity and credible partners. When a state has low capacity, it is unable to cope with the challenge alone and will look to collaborate with other states or subcontract the task to an IO. States consider carefully which actors to partner with because cooperation is both costly and risky if the partner does not deliver as promised.

Table 2.1 elaborates the combination of necessary conditions for each subtype of cooperation and noncooperation. I hypothesize that the necessary conditions for coordination are high capacity and credible partners. EU member states would choose to coordinate migration policies with states that have high capacity to implement policies and are trusted to implement policies the way the states intended. In contrast, EU member states would choose collaboration when capacity is low and there are credible partners to support joint implementation on the ground. If a state has low capacity and no credible partners, they will subcontract to IOs. Individually, the conditions are necessary but not sufficient to lead to subcontracting, but a combination of both conditions is sufficient to lead to subcontracting. Finally, if a state has high capacity but is not a credible partner, there will be no cooperation because the state will act unilaterally and implement its own policies, regardless of EU support.

### *Migration State Capacity*

Having laid out the necessary conditions, it is important to identify and measure a state's capacity to manage migration. The classic definition of

**Table 2.1. Necessary Conditions for Subtypes of Cooperation and Noncooperation**

	Credible partner	No credible partner
<b>High capacity</b>	Coordination	Unilateralism
<b>Low capacity</b>	Collaboration	Subcontracting

state capacity goes back to the Weberian definition of the state as “the monopoly of the legitimate use of physical force within a given territory.”<sup>1</sup> In this sense, migration state capacity is the monopoly of the use of force to govern and implement migration policies within a territory. Torpey frames it similarly as the “monopolization of the legitimate means of movement.”<sup>2</sup> Nonstate actors do not have the legitimate authority to grant asylum status or physically detain a migrant—only state institutions have the sovereign right to use military force and bureaucratic power over migrants. Torpey showed that a key innovation was the invention of the passport and identification cards because these official documents increased the state’s ability to recognize individuals and control their movement. Max Weber enumerated that legitimacy can be based in traditional, bureaucratic, or charismatic authority and that bureaucratic authority comes from the rational application of rules that are characterized by the accumulation of administrative tasks, technical expertise, meritocracy, and organizational coherence.<sup>3</sup> From a Weberian perspective, migration state capacity is the rational application of migration policies through the accumulation of expertise on migration and refugee law, border and asylum officials who are promoted based on skills and performance, and a clear structure of national agencies responsible for migration policy areas like asylum, reception, or deportation.

James Hollifield introduced the term “migration state” to identify how states rely on regulating migration to provide security and economic growth.<sup>4</sup> In the past, states relied on their military (garrison states<sup>5</sup>) or trade relations (trading states<sup>6</sup>) to provide security and economic stability. Hollifield differentiates between *state autonomy*, defined as the degree to which a state can formulate policy without being captured by group interests, and *state strength* (similar to state capacity), defined as the ability of the state to enforce policies and change actors’ behaviors.<sup>7</sup> Hollifield proposes that state autonomy is key during the policy formation stage, while state strength is most important for implementation.<sup>8</sup> However, other scholarship has used “migration state” more generally to mean state policies to regulate migration, not necessarily focusing on capacity during the implementation stage.<sup>9</sup>

Martin Painter and Jon Pierre distinguish between three types of capacity: administrative, policy, and state.<sup>10</sup> *Policy capacity* is the ability of the state to make intelligent choices and allocate resources during the agenda-setting, formation, and decision-making stages of the policy cycle, while



administrative capacity refers to the ability to manage efficiently the human and physical resources required for delivering the outputs of government, while state capacity is a measure of the state's ability to mobilize social and economic support and consent for the achievement of public-regarding goals.<sup>11</sup>

*Administrative capacity* requires effective resource management; policy capacity requires the accumulation of expertise to make intelligent choices; and state capacity requires delivering appropriate outcomes for the public good.<sup>12</sup> Similarly, Ellermann differentiates between *legislative capacity* during the agenda setting, formation, and deciding stages and *executive capacity* during the implementation stage.<sup>13</sup> Other scholars widen the concept to *governing capacity* to incorporate the complex relationships between the state and society. For example, Schilde emphasizes that governing capacity encapsulates the outputs and outcomes of policies, while state capacity is the material inputs to the policy processes. Schilde includes the embedded nature of governing capacity, showing how states use networks of actors both in and out of government to deliver results.<sup>14</sup> Hollifield agrees that state capacity relies on state-society relations to implement immigration policies.<sup>15</sup>

This book uses the concept of migration state capacity defined as the ability of a state or IO to effectively allocate resources to achieve the six goals of migration management. Migration state capacity is a specific type of administrative capacity that is focused on the operations and implementation of migration policies.<sup>16</sup> I examine how states and IOs effectively create, manage, and deploy those resources. Migration state capacity consists of physical and financial resources, human resources, organizations, and institutions.<sup>17</sup> Some of the physical resources involved in migration management include office buildings, computer systems, detention centers, patrol boats, military vehicles, fencing, and container housing units. The human resources include trained staff of national or regional agencies, like border guards or asylum officers. The organizations, like the Ministry of Interior, Coast Guard, and Asylum Service, are characterized by systems of management that provide leadership for the implementation of policies. For example, states have more capacity when there are clear lines of responsibility and reporting within ministries, in addition to sector working groups or high-level steering committees. Finally, the institutions of migration management, based on the classic definition of institutions as rules and

norms that structure a society,<sup>18</sup> are the national laws and norms applied to migration and asylum.

Table 2.2 lists a variety of indicators that are representative of the capacity to manage migration. This is not an exhaustive list of indicators and each indicator should be considered in relation to the size of the country's economy, population, and overall number of asylum seekers or migrants. In addition, the indicators are not meant to encapsulate the totality of a state's capacity, but are rather a snapshot of the state and to show how capacity changes over time.<sup>19</sup>

Migration state capacity is not necessarily restrictive. Increasing a state's migration capacity can mean increasing the number of asylum officers who process asylum applications faster or increasing the number of beds available for homeless migrants. While migration state capacity is often repressive through more border guards, higher fences, and strict security checks, it does not necessarily mean a more restrictive migration policy. Instead, the concept helps to differentiate between different types of capacity and different ways a state might try to achieve its goals in migration management. There is still a political choice to invest and develop different types of capacity. For example, under the Trump administration, the political choice in the United States was to invest significant resources into detention and deportation, instead of putting similar resources into developing the migration state capacity for humanitarian tasks like emergency health care or family reunions. Both are types of migration state capacity, but it is a political choice which type to prioritize in migration management.

Migration state capacity is also not necessarily about immigration (i.e., people entering a country). It is also about the capacity to control and regulate emigration. This is particularly relevant for southern European states and states in the Global South that were historically emigration states. Both

**Table 2.2. Indicators of Migration State Capacity**

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Number of staff employed at national migration agencies
Size of budget for national migration agencies
Number of beds for asylum seekers
Coherent organization of national agencies related to migration
Number of asylum decisions relative to applications
Backlog of asylum applications
Number of interdictions at the border relative to all irregular migrants

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*Note:* The indicators listed here focus on asylum seekers but others could be developed for other areas of migration policy like labor migration or border security.

modern Greece and modern Italy had net emigration for the first century of their existence and did not become net immigration states until the 1970s and 1980s. Because of this, much of the migration state capacity developed in Italy and Greece was aimed at emigration, like the ability to set the cost of tickets, create and manage hostels for travelers, and inspect ports. Similarly, Fiona Adamson and Gerasimos Tsourapas critique Hollifield's concept of the "migration state" because it was too focused on immigration policies and economic labor migrants; instead, they point to migration management regimes that developed in the Global South that are oriented toward emigration or forced migration.<sup>20</sup> Adamson and Tsourapas also find that the "migration state" assumes that all states—even in the Global South—have a sufficient state capacity to implement policies.<sup>21</sup> This book also pushes back against this misconception that early states in Europe necessarily had low migration state capacity—to the contrary, in chapters 4 and 5 I discuss at length examples of quite strong migration state capacity in early twentieth-century Greece and Italy. But the migration state capacity was for regulating emigration, not immigration.

Migration state capacity is a relative concept that depends on the ability of the state administrative apparatus to cope with a policy problem; for example, in a refugee crisis the state needs to process a certain number of asylum applications. Migration state capacity is dependent on the size and duration of the migration influx. For example, when a small state receives 10,000 migrants within one week, it may be overwhelmed because it has a low capacity relative to the large number of migrants to receive, process, and house, while a large state may easily cope with the same number of migrants. In this way, migration state capacity is meant to represent the state's ability to cope relative to a particular influx of migrants and refugees.

States with higher levels of capacity are able to respond in an organized and predictable way to a large number of migrants crossing their border in a short period of time. But if a state has low capacity, the response will be disorganized, ad hoc, or no response at all. When capacity is low, EU member states will rule out coordination of migration policies because the national authorities do not have the capacity to implement the policies themselves. States will instead select one of the other subtypes of cooperation (collaboration or subcontracting) to address their gaps in migration state capacity.

### ***Credible Partners***

The second variable—credible partners—represents the will of domestic political leaders to implement policies. States must trust that other states will implement their policies as agreed. This commitment to implementation can be credible in two ways: (1) when states have a clear interest in implementing the policy, and (2) when states are coerced or restricted to implement the policy.<sup>22</sup> When a state is motivationally committed, the policy is in their interest and states are incentivized to implement it. A state can signal that it is motivationally committed to a policy by voting in favor of a policy in the Council. When a state is coercively committed, the policy is in the long-term interest of EU member states generally, but not in the short-term interest of the individual state. For example, a state can vote against a proposal in the Council but because of the qualified majority voting (QMV) procedure be required to implement the policy.<sup>23</sup> In this latter scenario, the EU will be very cautious in selecting the implementing partners because the state is not necessarily a credible partner.

The heart of the issue is the problem of credible commitments whereby politicians are susceptible to the moral hazard of pursuing their short-term interest because they are afraid of electoral repercussions.<sup>24</sup> Because of this moral hazard, national governments will find it difficult to credibly commit to implement EU migration policies if the policies are unpopular with their domestic base. In response to this problem, states can credibly commit to unpopular (but more efficient) policies by transferring the implementation to EU agencies (collaboration) or subcontracting to an IO. This is sometimes called the “escape to Europe” strategy.<sup>25</sup> The typology proposed in this chapter helps to explain the necessary conditions under which states will choose to coordinate, collaborate, subcontract, or go it alone.

The credibility of a state is based on the state’s past behavior and reputation. This can be observed by analyzing the state’s track record for delivering on past policies. A state is not a credible partner with other EU member states when their politicians, ministries, and government officials show a lack of will to implement EU policies. Table 2.3 provides a list of indicators that provide insight into the credibility of the state. Credible commitment can be observed in voting records or public statements by government officials. States can demonstrate their commitment by fully transposing EU directives into national laws or show their lack of commitment when EU

**Table 2.3. Indicators of Credible Partners**


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State votes in favor of policy
Public statements by government officials supporting policy
State is already implementing the policy
State has implemented a similar policy in the past
State is not in infringement procedure for similar policies
Government is controlled by pro-EU political party
Public opinion is supportive of policy

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infringement procedures are started against them. In addition, the political parties in coalitions can provide evidence of credibility. For example, if an anti-EU party controls the government, it would indicate lack of credible commitment to EU policies. Another indicator is the domestic public opinion for the policy; if an EU policy lacks domestic support, politicians may be tempted to agree to a policy at the EU level but never implement the policy at the national level. In the end, the clearest evidence for credible commitment is when states have achieved the intended policy outcomes in the past. These can be identified by the actions taken by states and reported in policy documents.

When the state is not a credible partner, EU member states will rule out collaboration on migration policies because joint implementation of policies would require buy-in from national authorities. Combined, low capacity and lack of credible partners are the necessary conditions for EU member states to subcontract some policies to international organizations.

Importantly, both migration state capacity and credible partners are on a spectrum, rather than binary variables, and must be interpreted within the national context and specific migration event. The two variables change over time and are influenced by the historical context and critical junctures. For example, a state may begin with low capacity and lack credibility but respond to a migration crisis by increasing its capacity and becoming committed to EU policies. This book traces how the necessary conditions (capacity and credibility) influence the type of cooperation and how the conditions change over time.

## Typology of International Cooperation and Noncooperation

What becomes clear very quickly when studying migration policy is that people complain about coordination, collaboration, and cooperation all the

time. They complain about failed coordination. They complain about “pushy” cooperation. They complain about coordination being inefficient or nontransparent. In 2016, the *Economist* lamented: “Current infrastructures and policies in a number of countries, most of which were designed for a ‘normal’ migration scenario, are buckling under the strain of these waves of migration, largely because of a lack of co-ordination across the European Union.”<sup>26</sup> The reason migration policy failed, in many observers’ eyes, was this “lack of coordination”—as if states agreed on what to do but did not actually get around to doing it. Put another way, all states needed was a proper management system to coordinate and implement. The proposed solution is migration management.

What this account misses is that coordination, collaboration, and cooperation are analytically distinct concepts and should be theorized as such. Both journalism and political science are guilty of conceptual stretching by which the term “international cooperation” becomes a vague concept that can apply to everything and nothing.<sup>27</sup> I argue that it is preferable to define international cooperation as the broader concept that encompasses different types of coordination, collaboration, and subcontracting (see table 2.4). At the highest level of abstraction, international cooperation is when states work together to achieve a common goal that is in the interests of all participating parties. This is in line with traditional definitions of cooperation: “goal-directed behavior that entails mutual policy adjustments so that all sides end up better off than they would otherwise be.”<sup>28</sup> While realists are skeptical that much cooperation can occur because of conditions of anarchy and relative gains, liberals see international cooperation as being in states’ interests because it reduces transaction costs, produces reliable information, and is more efficient.<sup>29</sup>

Because much of the literature on cooperation does not open the black-box of domestic politics, it largely misses two variables: the mechanisms for cooperation and the implementers of cooperation. All international cooperation requires some form of policy adjustments or convergence—but how is this done? The mechanisms of cooperation can be formalized treaties, informal nonbinding agreements, or a mixture of the two. In some cases, cooperation is facilitated through negotiations, formal conventions, and treaties in which all parties recognize their mutual interests, trade-offs, and reciprocity. Other cases are less formal and based in mutual trust, shared values, and history. The implementers of cooperation are the respective domestic state institutions, joint committees or agencies, or international

organizations. In some treaties or agreements, states implement their own policy changes and never report back. In other cases, states implement a policy themselves but self-report on their implementation. Still others require continued monitoring by an international body, implementation by a joint agency, or subcontracting to an international organization.

I propose a new typology of international cooperation and noncooperation with four subtypes: coordination, collaboration, subcontracting, and unilateralism (see table 2.4). This intervention corrects for conceptual stretching by placing international cooperation at the highest level of abstraction, and thus the most global concept, while the four subtypes are further down Giovanni Sartori's "ladder of abstraction."<sup>30</sup> These subtypes provide clear criteria for categorization and measurement, while understanding the relationship between subtypes. International cooperation is the broadest term to describe all types of policy adjustments between states. Below I define and theorize about connections between four subtypes of cooperation and noncooperation: coordination, collaboration, subcontracting, and unilateralism. The distinguishing feature of each subtype is the actor that implements each policy.

### *Coordination*

The first subtype, coordination, implies some amount of policy adjustment or policy convergence between two or more states that is implemented separately by the national institutions. Simply put, states talk to each other and make their policies more similar and complementary and implement them through their national agencies. Coordination can be informal, meaning without explicit negotiations or binding agreements. Informal coordination can occur when countries in the same region share similar values or a com-

**Table 2.4. Subtypes of Cooperation and Noncooperation**

	Subtype	Implementer	Example
<b>Noncooperation</b>	<b>Unilateralism</b>	National institutions	Hungary's border fence
<b>Cooperation</b>	<b>Coordination</b>	National institutions	EU directives on asylum, reception, and return
	<b>Collaboration</b>	Joint committees or EU agencies	EU hotspots, Frontex, EASO
	<b>Subcontracting</b>	International organizations, NGOs, private sector	UNHCR housing scheme in Greece

mon history and no formal agreement is necessary to achieve policy convergence.<sup>31</sup> National authorities implement the policies, unless otherwise agreed, and reporting or monitoring is typically unnecessary. This process is similar to what Oran Young calls “self-generating” or “spontaneous”<sup>32</sup> and Robert Keohane calls “harmony” because actors’ preferences “automatically facilitate the attainment of others’ goals,” making institutionalized coordination unnecessary.<sup>33</sup> Coordination can also be institutionalized through formal negotiations resulting in treaties or conventions. The degrees of policy changes are specified in the outcome documents, as are the actors responsible for implementing the changes. An example of institutionalized coordination is the Common European Asylum System (CEAS), which attempts to coordinate all EU member states to have a coherent and unified approach to asylum. In both informal and institutionalized coordination, national authorities do the implementation of policy adjustments. I posit that states with high capacity and credible commitment will coordinate the implementation of their policies.

### ***Collaboration***

In contrast to coordination, where states agree to implement similar policies themselves, collaboration is defined as some degree of policy convergence that is implemented jointly by states working together. Collaboration typically occurs when states formally agree to implement joint policies together by creating joint task forces, pooling resources, or establishing a subsidiary agent to implement the policy. Sometimes, agencies are staffed by national officials on rotating secondments; at other times agencies have more autonomy to hire their own staff. Examples of institutionalized collaboration are Frontex and the European Asylum Support Office (EASO), which both operate via secondment of border and asylum officers from EU member states on three- to six-month rotations. Collaboration can also be informal when states or organizations work together in parallel projects or spaces, often in symbiotic relationships but with no formal agreement. Informal collaboration emerges in the early stages of crises because organizations or agencies are bound by their mandates and lead distinct roles in humanitarian emergencies but do not yet have formalized agreements to work together.

The fundamental difference between coordination and collaboration is that coordination is implemented separately by states, while collaboration



is implemented jointly. Most game theorists distinguish coordination and collaboration based on coordination having a self-executing logic, while collaboration requires more communication and compliance mechanisms to be enforced.<sup>34</sup> It is also important to distinguish coordination and collaboration from intergovernmentalism and supranationalism. As discussed in the introduction, intergovernmentalism is the study of horizontal decision-making processes between governments and supranationalism studies the vertical relationships between regional institutions and member states. These terms—coordination and collaboration—describe the ways in which policies are implemented, while intergovernmentalism and supranationalism describe processes during the policy formation and decision-making stages of the policy cycle.

After states recognize that a policy area requires some level of international cooperation, they must decide what form the cooperation will take. The decision-making process can be explicit and reasoned through formal consultations, policy memos, pilot studies, and informal dialogues. In other cases, the calculations can be less overt. Sometimes states will try informal coordination before ever moving toward institutionalized coordination or collaboration. As states move down the cooperation decision tree (see fig. 1.1), coordination is the first option because coordination requires the lowest investment of resources. For coordination, states are minimally required to attend a few meetings, report on progress, or share information. Collaboration requires more investment by states that might loan border or asylum officials on secondment, allocate funds to joint projects, or merge databases. Compared to collaboration, coordination typically has lower barrier to entry, lower sunk costs, and less accountability.

Coordination and collaboration can be negotiated through informal or formal agreements. Informal agreements range from statements of principle, joint press statements, memorandums of understanding, terms of reference, standard operating procedures, or other documents. Formal agreements are typically legal documents like treaties, Council decisions, or funding agreements. Informal agreements have fewer costs but can have less accountability and thus less impact on implementation. Formal agreements require lengthy negotiations and states can be weary of signing on to additional commitments, particularly in uncertain conditions. These formal agreements often include compliance mechanisms to prevent free riders and increase accountability.<sup>35</sup>

With migration policy, states are often hesitant to commit to strict requirements or quotas because they are concerned about unknown factors—for example, if they will be the recipient of a large number of migrants or refugees in the future. This uncertainty makes formal agreements with specific criteria for triggering protection rare. Under these conditions, the most common form of cooperation on migration policy would be informal coordination because it has the lowest cost and least accountability (see table 2.5). The most difficult forms of cooperation would be formal collaboration because it would require more resources and the most accountability. Coordination is lower cost because it requires fewer resources to communicate an agreed principle or to align a policy, whereas collaboration requires more resources such as loaning border guards or building new agencies. Coordination creates less accountability because individual states implement policies separately and have more leeway to interpret the policies, while collaboration creates more accountability because there are other actors working together to enforce the common policy. While there are some enforcement mechanisms built into standard EU coordination—for example, transposition deadlines, reports on transposition, and infringement procedures—these are one step removed, thus making it easier for states to avoid accountability. In contrast, collaboration through joint implementation forces states to be accountable right away.

Another major difference between coordination and collaboration is that coordination is sensitive to concerns about sovereignty because national institutions or agencies are responsible for implementing policies domestically. States typically reserve sovereign tasks (those policies or processes that require the use of force to regulate movement) for national authorities, like the police or border forces. States are often willing to share information, test best practices, and sometimes adjust policies when they are in charge of implementing the work within their territories. In coordination, sovereignty is not threatened because states implement the policies themselves.

**Table 2.5. Cost and Accountability of Coordination and Collaboration**

	Informal	Formal
<b>Coordination</b>	Low cost, low accountability	High cost, low accountability
<b>Collaboration</b>	Low cost, high accountability	High cost, high accountability

In contrast, collaboration by definition constitutes a retreat of sovereignty given that officials from other states may be acting within a host state's territory. States are skeptical of IOs doing work within their territories unless they are on strict mandates or closely supervised. This can be seen in migration policy when states coordinate on standards of asylum processes, but refuse to collaborate, or work jointly, in processing asylum claims. For many EU member states, joint asylum processing is a step too far because governments consider it an infringement on their sovereignty.

State sovereignty, of course, has many interpretations. Stephen Krasner identified four types of sovereignty: that states are legally recognized by other states; that states do not interfere with the internal politics of other states; that states have control via the monopoly of violence within their territory; and that states control the flow of goods and people across their borders.<sup>36</sup> It is this last type of sovereignty—what Krasner calls “interdependence sovereignty”—that is in tension with EU migration policy and regional migration management. Andrew Geddes and Andrew Taylor develop the concept of a “capacity bargain” whereby states give part of their sovereignty to the EU in exchange for greater resources to implement policies.<sup>37</sup> Capacity bargains often lead to the strengthening of the executive and limiting the influence of domestic NGOs, while increasing the influence of international organizations like IOM. Policy coordination implemented by national authorities is one workaround to an understanding of absolute sovereign control of borders. Collaboration—states jointly working together—is another tactic if states do not have the capacity to implement the policies themselves. A final workaround is for states to give permission through subcontracting to an IO to act on their behalf within strict constraints.

A third difference is that coordination allows for some variation in interpretation to national contexts, while collaboration ensures more universal standards of application. States may choose coordination because they want to allow for the flexibility of different states implementing the policies in different ways relative to their national and cultural contexts. This model can be beneficial because it acknowledges that states have different legal systems or political pressures. On the other hand, collaboration attempts to create a common standard and application of policy across contexts, regardless of legal or state capacity. A universal standard is important in certain situations—for example, interdiction at sea or deportation—when migrants are particularly vulnerable to human rights violations.

### ***Subcontracting***

Subcontracting is defined as when states formally agree to empower an international organization or a nonstate actor to implement their joint policy.<sup>38</sup> Subcontracting is different from coordination and collaboration based on who is implementing the policy: in subcontracting, the actor responsible for implementing the policy is an external actor, meaning the actor that is assigned responsibility is not part of the member states or regional institution. In the case of EU migration policy, this means that subcontracting is the legal empowerment of an international organization, NGO, or private actor—not an EU agency or a national agency. This is important because external actors have more autonomy and distinct interests that are different from internal actors, with different costs and benefits.

Subcontracting is a form of delegation because the principal (typically a state or states acting together through EU institutions) assign a task to an agent.<sup>39</sup> A large literature has developed on delegation that studies the US Congress or the EU using a slightly different definition that includes the transfer of authority to internal or subordinate actors (like congressional committees or EU agencies).<sup>40</sup> Subcontracting is a subcategory of delegation with a different structure than the traditional form of delegation, which usually refers to delegation to the European Commission, a subcommittee, or an EU agency.<sup>41</sup> For example, I differentiate between the transfer of authority to an EU agency that jointly works with member states (a form of collaboration) and the transfer of authority to an external actor (subcontracting) that is responsible for implementation. States may subcontract to an IO on a one-off or temporary basis during a crisis to purchase additional capacity while not permanently delegating a part of their sovereignty. When member states choose to implement policies through collaboration with EU agencies, there is a higher risk for a permanent delegation of that task to the EU; however, subcontracting to an IO can be on a temporary basis until the contract ends and does not imply a permanent transfer of power. Working through EU institutions risks shifting more power to the regional level.

Subcontracting is also different from the outsourcing or externalization of migration policies. Externalization is when states attempt to prevent migrants from entering their territory, usually through joint projects or delegation to an IO in neighboring states.<sup>42</sup> The EU has developed a complex external dimension of their migration policies through bilateral agreements with third countries to stop migrants from ever getting to the EU.<sup>43</sup> Sandra

Lavenex developed a typology of IOs as counterweights, subcontractors, and transmitters within EU external migration policies that shows how the EU instrumentalizes IOs to (1) counterweight or complement EU policies, (2) supplement the capacity of the EU to implement policies abroad, and (3) transmit rules to other countries.<sup>44</sup> In addition, Lavenex argues that the EU subcontracts to IOs (like UNHCR and IOM) to gain their expertise and legitimacy on migration externally. This book builds on Lavenex's framework and definition of subcontracting by applying it to the implementation of policies within, not outside, of the EU. While outsourcing or externalization empowers an actor to prevent migrants from getting to the EU, subcontracting empowers an actor to implement within the EU. This is an important distinction because subcontracting is an innovative type of international cooperation that sidesteps domestic politics by assigning responsibility to a nonstate actor or IO.

The internal structure of subcontracting or delegation is the subject of much scholarship by rational choice scholars applying the principal-agent (PA) theory. PA theory describes when a principal (typically a state, but also other actors) assigns one of its tasks to an agent (subagency or external body). Subcontracting must include a formal agreement that transfers responsibility for a task to another body, but the principal must also have the ability to rescind the authority.<sup>45</sup> The agreement or contract typically lays out the goals, tasks, and the legal limits of their subcontracted authority, in addition to monitoring and accountability mechanisms. PA theorists identify "agency slack" when an agency does not act within the constraints of the principal's original contract. This could include avoiding responsibilities (shirking), following the agency's goals instead of the principal's (slippage), adverse selection, and moral hazard.<sup>46</sup>

The PA literature identifies primarily two logics of delegation that also apply to subcontracting: to increase efficiency or to credibly commit to a policy.<sup>47</sup> The first logic justifies the transfer of authority to an outside actor to lower the cost of decision-making, utilize expertise, centralize administration, and remove overlapping bureaucracies. External actors, like UNHCR or IOM, have accumulated expertise on migration over decades and across regions and have the equipment and large staff that are trained to respond in emergency situations. The EU can subcontract certain tasks to IOs to purchase expertise and resources. In addition, subcontracting to an IO centralizes and streamlines decision-making within one organization by removing overlapping bureaucracies in the national or regional entities.

Finally, if the policy is not implemented, the IO can be held accountable for its failure. These factors save money for the EU, but they also make decision-making faster and more efficient. Lahav identified that states were “devolving” or “privatizing” migration policy implementation to international, private, and local actors in order to extend the reach of the state.<sup>48</sup> Privatization has become increasingly popular: in Europe private companies are subcontracted to process visa applications and to deport refused asylum seekers,<sup>49</sup> while in the United States around three-quarters of the immigrant population detained in 2018 was housed in private for-profit prisons.<sup>50</sup>

The second logic is that states delegate or subcontract to ensure credible commitments to policy choices. Giandomenico Majone argues that states delegate responsibility to ensure that future governments stay committed to a policy, even if governments change or the policy becomes unpopular with the public.<sup>51</sup> The problem arises from time inconsistencies when long-term policy preferences are different from short-term preferences. States may delegate to an agent to commit to a long-term goal that is unpopular in the short term. Similarly, Andrew Moravcsik finds that delegation increases the credible commitment by “locking in” domestic policies to European institutions.<sup>52</sup> Delegation also entrusts the agent with more responsibility because the agent becomes a trustee with fiduciary responsibilities to the principal. EU member states delegate to the Commission or other EU institutions to ensure “commitment to the integration process.”<sup>53</sup> Delegation leads to institutionalization that becomes a long-term commitment to the EU that is difficult to reverse, whereas subcontracting is a more temporary assignment of responsibility that does not imply long-term institutionalization.

Principals can anticipate and prevent agency slack by including control mechanisms in the subcontract agreement.<sup>54</sup> A contract may set out rules for an agent or it could establish broad discretion depending on the goals of the principal.<sup>55</sup> Accountability mechanisms may require regular monitoring or self-reporting of violations.<sup>56</sup> In order to prevent an agent from going rogue, principals use screening procedures that identify which agents have similar interests to the principals. While principals cannot perfectly predict how an agent will act, screening procedures look at past behavior, reputation, and institutional characteristics to better understand the interests of the agent. But sometimes agents misrepresent their interests in order to win contracts, leading to adverse selection.

Agents may also run up a bill or pursue tangential projects if they per-

ceive that the principal will absorb extra costs and not punish the agent for slack. In response, principals use institutional checks like a court or ombudsmen to hold the agents accountable. Another strategy is to select multiple agents with overlapping mandates to force the two agents to compete, allowing the principal to see the true cost of a policy and select the most efficient agent.<sup>57</sup> A final strategy is to punish an agent that pursues different interests by not renewing a contract or by cutting their budget.

EU scholars have complicated the PA theories by adapting them to composite and multiple principals: the preferences of composite principals are hard to predict because the principal is made up of multiple states that can change over time (e.g., EU expansion in 2004 and 2007);<sup>58</sup> multiple principals often create weak agents because the principals are worried that the agent will be co-opted by a competing principal (e.g., the Commission or Parliament).<sup>59</sup> The first EU agencies were constituted as hubs or network coordinators because member states were concerned that the EU agencies would threaten their national bureaucracies.<sup>60</sup> Another complexity is that tasks can be double and triple delegated down a “chain of delegation” from principal to agent and onward to a secondary agent.<sup>61</sup> Similar to multiple and composite principals, the delegation chain creates additional slack because there are more opportunities for the agents to play principals against each other and to leverage information asymmetries.<sup>62</sup>

It is also important to distinguish subcontracting from the EU principle of subsidiarity, which holds that in “areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States . . . but can rather . . . be better achieved at Union level.”<sup>63</sup> Under this principle, “decisions are taken as closely as possible to the citizens.”<sup>64</sup> This suggests that policies should first be decided at the local or national level, and only if necessary at the EU level. The type of subcontracting identified in this study is not analogous to creating a subsidiary body to assign a task—rather, subcontracting is when states assign a responsibility to an external IO (like the UN or other international actor) or nonstate actor. There is still a principal-agent relationship, but not one of localization that claims legitimacy because of its proximity to local citizens.

### *Unilateralism*

Finally, the default choice for states is often unilateralism, meaning that they implement their policies themselves without cooperation with other

states. Unilateralism avoids time-consuming meetings, politically or legally difficult treaties, and costly enforcement mechanisms. Unilateralism allows for flexibility on the part of individual states because policies are not “locked-in” and resources can be deployed quickly based on domestic institutions. In addition, when states act unilaterally, there are no threats to their sovereignty because policies are typically implemented by national institutions.

Another way of conceptualizing unilateralism is as a zero-sum game. Adamson and Tsourapas theorized international cooperation on migration as zero-sum or positive-sum games, in which states engage in “migration diplomacy” when there are positive outcomes (or absolute gains) for all parties.<sup>65</sup> This would be analogous to coordination, collaboration, or subcontracting. In contrast, some states view cooperation as a zero-sum game, meaning the outcome benefits one side or produces relative gains. In this scenario, states would choose unilateral action if they viewed the relative gains as unacceptable. For example, Hungary chose to unilaterally build a fence along its border because it viewed cooperation as a zero-sum outcome that was detrimental to its interests.

One alternative explanation for unilateralism is that states strategically choose noncooperation in order to shirk their responsibility or create chaos that benefits themselves. For example, noncooperation by Greece in the Dublin system could be a way of shifting the burden to other EU member states and IOs to conserve its own national resources. While the situation might look haphazard or chaotic, the Greek state *hypothetically* could be choosing not to act in order to shift the burden to other actors. Kelsey Norman characterizes this as “indifference-as-policy,” suggesting that states deliberately shirk responsibility and rely on IOs or NGOs.<sup>66</sup> Norman defines indifference as “indirect action on the part of the host state, whereby a state defers to international organisations and civil society actors to provide basic services to migrants and refugees.”<sup>67</sup> There is some evidence to suggest that Greece was deliberately not fingerprinting all migrants or asylum seekers (a form of “indifference”) for several months in 2015, potentially undermining and free riding on the Dublin system.<sup>68</sup> Despite this initial indifference, EU member states (along with Greece) decided to subcontract much of the response to IOs—not through inaction but through a deliberate selection of the most efficient and credible IOs for the job. Ultimately, I classify the overall response in Greece as subcontracting because the empowerment of IOs in Greece was a deliberate and strategic decision that led to greater international cooperation.



## Obstacles to Cooperation

Political scientists are often skeptical that cooperation will occur because of four fundamental obstacles: credible commitments, divergent preferences, defection, and free riders. For neorealists, these obstacles emerge because states pursue their self-interest within an anarchical system with no overarching authority to force cooperation.<sup>69</sup> Liberal institutionalists are more optimistic about cooperation because international institutions help to overcome obstacles by reducing transaction costs, producing reliable information, building trust, and increasing efficiencies.<sup>70</sup> Constructivists do not necessarily agree with the realist assumption that states pursue pure self-interest in an anarchical system: institutions of cooperation emerge out of common cultures that are constructed via mutual recognition of others, the social facts that are given meaning, and the way different states approach world politics.<sup>71</sup> Below, I draw on all of these traditions to show how states overcome these obstacles to cooperate on migration policy in Europe.

The first obstacle is that states must make credible commitments to cooperate and follow through on those commitments. States do not necessarily trust that other states will implement the common policies, particularly when they are concerned with relative gains.<sup>72</sup> One way to overcome this obstacle is to formalize agreements through memorandums of understanding, resolutions, or treaties. Formal agreements make clear what is being agreed to, with precise measurements, or goalposts. Trust can be increased through regular reporting or external monitoring. This obstacle is captured in the four subtypes of cooperation and noncooperation (see table 2.4 above) and the different mechanisms for cooperation. Each subtype uses different mechanisms to add credibility to their commitments. Informal coordination or informal collaboration rely on shared cultures and values, rather than formalized commitments to cooperation. In contrast, institutionalized coordination and collaboration rely on explicitly defined roles and commitments, sometimes with monitoring mechanisms, to increase credibility. These subtypes are often the result of multiple iterations of negotiations that increase trust over time and can evolve from informal coordination or collaboration to memorandums of understanding to formalized agreements. Subcontracting, on the other hand, often occurs when states have previously failed to follow through on commitments or have shown that they lack the capacity to deliver on their commitments. States may respond to these failures by subcontracting to an external orga-

nization with more expertise or capacity. This dynamic is particularly relevant in Greece, where the EU repeatedly sanctioned the Greek asylum system for failing to meet its human rights commitments, after which member states subcontracted responsibility for certain policies, like housing refugees, to UNHCR.

The second obstacle to cooperation is that states have divergent preferences or interests, often emerging from different pressures from migration. States along the southern or eastern EU border shoulder a higher burden of hosting asylum-seekers; whereas states with large economies or more welcoming communities may become magnets for other types of migrants. Globally, scholars point to the North-South impasse, which prevents international cooperation on migration because countries in the Global South host refugees by default because of proximity, and the Global North countries have no formal obligations to help because the refugees are not in their territory.<sup>73</sup> As a result, states approach cooperation on migration with different interests and goals, but can overcome these divergent interests by incentivizing cooperation, issue linking, and persuasion. In addition, what “burden sharing” means to countries in the Global North and Global South is a major barrier for cooperation on migration.

Another way conflicting interests prevent cooperation is through James Hollifield’s liberal paradox: states are driven both to open their borders to increase international trade and to close their borders because of domestic political pressures.<sup>74</sup> National political leaders are faced with a number of challenges because they are driven to expand markets and increase economic growth but are also constrained by rights-based regimes where courts defend migrants’ rights.<sup>75</sup> One way out of the liberal paradox that governments have found is to rely more heavily on regional institutions like the EU: politicians can “escape to Europe” to liberalize migration policy and blame the EU to domestic audiences.<sup>76</sup> Hollifield agrees that the EU has tempered the challenges of the liberal paradox because the EU pushes simultaneously for more open markets and respect for migrants’ rights.<sup>77</sup>

States can incentivize cooperation on migration by providing large aid packages or technical assistance.<sup>78</sup> Cooperation is often incentivized by linking one policy issue that the migrant sending state wants with a second issue in the interests of the receiving state.<sup>79</sup> Scholars distinguish between tactical issue linking, which combines two issues that are unrelated in content, and substantive linking, which combines two or more issues that are related either in “material, ideational, or institutional” content.<sup>80</sup> Cross-

issue persuasion is when actors (states or IOs) successfully convince other actors that two issues are substantively linked. Betts argues that for cross-issue persuasion to work there must be underlying structural reasons for the linkage and actors must use their agency to communicate and convince others that the issues are linked.<sup>81</sup> States agree to share the refugee burden, mainly through voluntary aid contributions, not because of their commitment to refugee rights, but rather because actors like UNHCR convincingly link issues like security, immigration, and trade.<sup>82</sup> The EU is active at linking issues related to the six goals of migration management. For example, the EU linked securing borders and common asylum policies in the European Agenda on Migration (launched in 2015) or readmission agreements and development aid in the EU Emergency Trust Fund for Africa (launched in 2015).

If states cannot come to agreement, one state or regional actor may leverage its hegemonic position to either force states into agreement or simply execute their policy preference themselves.<sup>83</sup> These examples appear in the case studies on Italy and Greece, where the EU pressures other states into accepting jointly implemented projects to overcome differences in interests.

Another way to overcome divergent interests is by building trust through repeated negotiations or interactions. Hansen asserts that states do not need “thick” social ties to cooperate, but rather “instrumental trust” in which one state trusts the other state because they perceive that it is in the other state’s interest to maintain their relationship.<sup>84</sup> Axelrod and Keohane show that states expect future interactions and so consider the “shadow of the future” in their cooperation.<sup>85</sup> These dynamics are prevalent in institutionalized coordination, because they leverage the mechanisms that IR scholars traditionally attribute to international cooperation: repeated negotiations extend the time horizon of cooperation, make state interests more predictable, increase the reliability of information, and provide positive and negative feedback on state actions.<sup>86</sup>

The third kind of obstacle is defection and free riders. Defection is when states agree to cooperate on certain policies but do not implement the policies. This may occur because states agreed in principle to policy changes but did not anticipate obstacles to implementation. States might sign up to cooperate but at a later date find the circumstances have evolved so that it is no longer in their interests. Or, more cynically, states agreed to cooperate for the benefits but never intended to actually implement the policies: these

states are free riders who benefit from the actions of other states without taking action themselves. Mancur Olson shows that one way to avoid defection and free riders is through selective incentives.<sup>87</sup> By providing positive incentives to those who participate or negative incentives to those who abscond, states can be cajoled into fulfilling their commitments.

One way of dealing with defection is by bringing in other actors to assist in implementation, avoiding problems with lack of expertise or capacity. This can be seen in Europe when Greece repeatedly failed to implement the EU asylum directives. In 2011, the European Asylum Support Office was asked to provide special support to establish the new Greek Asylum Service. This is institutionalized collaboration because EASO deploys joint teams of experts on secondment from other EU member states. While on paper Greece requested support from EASO, the relationship between the EU and Greece is clearly asymmetrical, particularly during Greece's ongoing debt negotiations.

**Table 2.6. Examples of Subtypes of EU Policies in Migration Management**

Goal	Coordination	Collaboration	Subcontracting
(1) Adjudicate who should enter a country	Member states (MS) agree on common asylum and visa policy	MS jointly adjudicate admissions into territory through Frontex and EASO	MS task UN with screening for who is eligible for relocation or resettlement
(2) Stop migrants who should not enter	MS communicate on common security threats and warrants for arrest	MS jointly patrol border and intercept migrants	MS outsource to private security contractors to develop databases
(3) Monitor and support migrants who have temporary permission to stay	MS agree to minimum set of rights for temporary migrants, and support unaccompanied minors	MS jointly fund social and integration projects	MS fund UNHCR and IOM for integration projects
(4) Remove migrants who should not have entered	MS agree on rights of detained migrants and deportees	MS jointly fund Frontex to assist in returns to common countries	MS fund IOM to facilitate voluntary return schemes
(5) Deter migrants so they never come	MS negotiate multi-lateral readmission agreements	MS jointly fund migration compacts with third countries	MS fund IOM for migration-development projects
(6) Control emigration and regulate diaspora	MS establish parliamentary network on diaspora policies	MS jointly collect and analyze data on emigration and diaspora	MS fund IOM to support diaspora investments

Subcontracting is another tool for overcoming implementation problems and avoiding defection or free riders. When a state repeatedly fails to implement the agreed policies, hegemonic actors or regional institutions may choose to subcontract to an outside organization with a particular expertise or specialized capacity. There may be an underlying strategy of side-stepping divergent interests, but it is branded as nonpolitical, practical implementation of already agreed principles. Because of these risks, states carefully patrol who has the authority to delegate and when that authority is actually delegated. States clearly articulate their right to self-determination and sovereignty and emphasize that joint projects within their territory must be invited by the government.

Both collaboration and subcontracting are strategies for avoiding or overcoming defection and free riders. They both involve the implementation of policies by external actors, either jointly with other member states or an international organization. These strategies embody the saying: “If you want something done right, do it yourself.” For the EU, in some cases, if they want migration policy done right, they do it themselves or subcontract responsibility to the UN.

## Conclusion

This chapter outlined a framework for analyzing how states work together in different ways to manage migration. Central to any analysis of EU migration management is the capacity for states to deliver and the credibility of states’ commitments to EU policies. This chapter proposed a new typology of cooperation and noncooperation in order to identify and measure different ways that states work together to implement policies. The typology is based on two necessary conditions (migration state capacity and credible partners) that lead to four subtypes of cooperation (coordination, collaboration, subcontracting, and unilateralism). Crucially, the concept of migration state capacity is the ability of a state to effectively allocate resources to achieve the six goals of migration management. Table 2.6 shows examples of coordination, collaboration, and subcontracting within the EU that pursue the six goals of migration management. Migration state capacity allows us to see variation in physical and human resources, management structures, and institutions in different states over time. The next chapter will

trace the evolution of coordination and collaboration on migration at the EU level. Chapters 4 and 5 test my two hypotheses: first, high capacity and credible partners will lead to coordination in Italy; and second, low capacity and lack of credible partners will lead to subcontracting in Greece. It is possible for any state to respond to migration crises by increasing their capacity and building trust with states, but only a few actually do.



## CHAPTER 3

# Collaboration in EU Migration Management

There are two stories that can be told about the evolution of migration governance in Europe. The first is that of the orderly building of a temple (a Greek temple, of course) with three pillars that unite and uphold the European Union. This story is the EU's foundational myth: after the Second World War the great powers of Europe formed three integrated economic communities<sup>1</sup> in order to create economic incentives to prevent future conflicts. These economic communities formed the first pillar of the EU and were governed by supranational institutions with legal powers that were enforceable in member states. The second pillar encompassed coordination on issues of common foreign and security policy, and the third pillar—justice and home affairs—consisted of coordination on immigration, organized crime, drugs, and terrorism. Decisions in both the second and third pillars were made strictly through the intergovernmental method. Over time, states decided to move immigration to the first pillar to ensure stronger coordination. This story emphasizes clear lines of authority and the intentional expansion of EU powers.

The second story is of the messy interactions, incremental coordination, repeated policy failures, and reluctant collaboration at the EU level on issues of immigration, asylum, and border security that is imperfect and incomplete even today. This chapter documents the messy history of how the EU gradually developed its own migration state capacity over the last 50 years—sometimes parallel to and competing with national capacities. These changes occurred in response to repeated crises and policy failures: first, through a series of treaties that structurally transferred policy competency for migration to the EU level, and second, the EU responded to crises by building the migration state capacity at the regional level in the form of more resources, organizations, and institutions. While the first story is easier for textbooks and politicians to tell, it ignores the messy reality of poli-



tics and overlooks how crises and policy failures were the motivating factors for why states chose an “ever closer union,” despite the eroding public support for Europe-wide solutions.<sup>2</sup>

This chapter begins by tracing the transfer of policy competencies to the EU through a series of treaties. I detail how failures and crises led to greater and greater Europeanization of migration state capacity in the areas of border security and asylum. It is not my assertion that the EU has exclusive or even greater migration state capacity than member states—rather, I show that there is significant capacity where other observers see very little.<sup>3</sup>

## EU Pillars and Shifting Competencies

Over the last 50 years, immigration and asylum policies moved from (1) informal information sharing outside of EU forums to (2) informal sharing within EU forums to (3) formal coordination via intergovernmental negotiations to (4) shared competency via the community method. Each new EU treaty gradually shifted competency (i.e., the power to pass legally binding acts on a certain issue) for migration from the exclusive competency of member states to a shared competency between the EU and states. This process of making a policy area more and more a part of EU institutions is called “communitarization.” Geddes classified cooperation on migration into four phases—minimal immigration policy involvement (1957–86), informal intergovernmentalism (1986–93), formal intergovernmentalism (1993–99), and communitarization (1999–2014)<sup>4</sup>—while I have added a fifth, crisis summitry (2014–present).

The first phase was a form of informal coordination with European states that set similar or parallel immigration policies. One coordination mechanism established in 1976 was the TREVI group<sup>5</sup> consisting of 12 countries in which security, police, and immigration officials communicated and discussed policies.<sup>6</sup> The second phase, inaugurated by the Schengen Agreement in 1985, featured some institutionalized coordination where the original five states agreed to the gradual removal of border controls between their countries.<sup>7</sup> The Schengen Agreement allowed for the free movement of people within the Schengen area and established a common set of rules about border security, visa policy, and databases to exchange information. The Schengen Agreement and later the 1990 Schengen Convention were negotiated through intergovernmental negotiations and not within the EU institutions because not all member states wanted to join. A

proliferation of other coordination mechanisms emerged, including the Ad Hoc Group on Immigration and the Group of Co-ordinators on the Free Movement of Persons (also called the Rhodes Group).<sup>8</sup>

The 1993 Maastricht Treaty introduced the third phase of formal inter-governmentalism and the pillar system by defining what policy areas were to be governed by EU institutions. The first pillar was the exclusive competency of the EU—meaning the EU (and not member states) had the power to pass legally binding acts on issues related to the customs union, monetary policy, and common fisheries. Decisions about the second and third pillars were made through the intergovernmental method, which meant unanimous agreement by governments in the Council of the European Union. Through a series of treaties (Maastricht, Amsterdam, Lisbon; see appendix 1), immigration and asylum policies were moved from the exclusive competency of states in the third pillar to shared competency between the EU and states in the first pillar.

The Maastricht Treaty formally made asylum and immigration policy a matter of “common interest” but not “common policy.”<sup>9</sup> This meant that states were beginning to conceptualize immigration as a wider issue for the European community, not only the exclusive responsibility of states. The treaty did not extend legal powers over migration to the EU; instead, the Council focused on sharing information and passing nonbinding recommendations and conclusions. Within my typology (chapter 2), this phase continues to see *coordination* in which migration policies are decided using formal decisions and are implemented by the member states themselves. But for many governments, “common interest” did not go far enough: for example, the German government expressed that “the Schengen method, i.e. conventions which must be ratified by national policies, is not sufficient to meet the challenges posed in such areas.”<sup>10</sup>

The 1999 Amsterdam Treaty introduced “cautious communitarianism” because the treaty moved immigration and asylum to the community method of decision-making, effectively sharing competency between member states and EU institutions.<sup>11</sup> During this time, the Commission was exclusively able to propose migration policies, the Council was required to decide unanimously, consult the European Parliament, and the European Court of Justice could decide only after referral from national courts. The United Kingdom, Ireland, and Denmark opted out of the new immigration provisions (Title IV). This was the next step in shifting competency for migration from the national to the EU level.

The 2009 Treaty of Lisbon made asylum and migration issues a common policy for the EU, including plans to create a common system for asylum, subsidiary and temporary protection, determination processes, reception conditions, and returns. The Lisbon Treaty marks the communitarization phase by introducing co-decisions between the European Parliament and the Council and the qualified majority voting (QMV) in the Council for migration issues. Codecision is the legislative process whereby policies must be passed by both the Council and the European Parliament, making migration policies more integrated into EU institutions. The new QMV rules require 55 percent of the states and 65 percent of the population to pass; this means that unlike unanimous voting, QMV can force states to participate in EU-wide migration policies even if they vote against it. Together, these reforms shifted migration policies to a shared competency of both member states and EU institutions, but the Treaty of Lisbon also makes clear that member states still control the number of labor migrants entering their territory.

The fifth phase was marked by the crucial role of EU summits on migration, which pushed for institutionalized collaboration.<sup>12</sup> The European Council is made up of the heads of state and government of all EU countries, meets at least four times every year with additional crisis summits, and decisions are made by consensus or QMV.<sup>13</sup> Importantly, the European Council is a separate institution from the Council of the European Union (hereafter referred to as the Council or the Council of Ministers). The European Council often holds marathon negotiations (sometimes throughout the night) to build political momentum and cajole member states into agreement. From 2014 to 2020, the European Council held 24 summits and informal meetings to address urgent migration issues.<sup>14</sup> Conflicts between member states emerged at each summit, particularly from the Visegrád states, which objected to burden sharing, and from Greece and Italy, which did not believe the EU was doing enough.<sup>15</sup> Breakthrough agreements on migration were made at EU summits including the hotspot approach, intra-EU relocation scheme, the EU-Turkey statement, and the European Border and Coast Guard. Each of these proposals increased the migration state capacity at the EU level and institutionalized forms of collaboration.

From the early days of informal coordination in TREVI to formalized communitarization in the Lisbon Treaty to collaboration agreed upon at the crisis summits, there was a clear shift in competency for migration from making it exclusively the responsibility of member states to a shared competency between states and EU institutions. This shift laid the ground for

the development of migration state capacity (i.e., administrative or operational capacity) at the EU level, not just the legal competency to pass laws on migration.

In the next sections, I show how the EU developed its own migration state capacity in the areas of border security and asylum. While these are just two parts of migration management, border security and asylum are frontrunners in the wider development of capacity by EU institutions. In each policy area, crises and policy failures provided updated information about state capacity and credible partners for implementation. EU leaders used this new information to create collaboration mechanisms for asylum and border security policies. These cases show how the EU moved stepwise from coordination to collaboration down the cooperation decision tree following a series of crises.

## Border Security

Free movement within the Schengen area posed a specific problem: in order to secure and increase movement within the area, there must be strict control and restricted movement at the external border. It was in the interest of all EU member states to cooperate on the management of the external border. The two key policy innovations were the Schengen Borders Code and Frontex (a new EU agency). Schengen and Frontex are migration management policies aimed at controlling the entry of people (goal 2) and removing those who should not have entered (goal 4). The development of EU border security policies was driven by a series of crises and policy failures that led to a more rigorous border code and the creation of a joint border agency. This messy history shows how states often began with coordination, failed, and then advocated for collaboration and increased capacity at the EU level. From 1998 to 2020, the EU increased its own migration state capacity through more financial and human resources (Frontex budget and staff) and new organizations (rapid border intervention teams, Eurosur, hotspots), and institutions (Schengen Borders Code, returns directive, the EU-Turkey statement).

### *Pre-Frontex (1998–2002)*

Before the establishment of Frontex, cooperation on the external border occurred through three mechanisms: the Schengen Agreement, the Strate-

gic Committee for Immigration, Frontiers and Asylum (SCIFA), and the Schengen Information System (SIS) and Visa Information System (VIS) databases. The Schengen Agreement established a minimum standard of checks and controls along the external border, along with rules on when internal border checks could be reintroduced. A standing committee on the evaluation and implementation of Schengen was established in 1998, which reported on how states implemented the Schengen acquis.<sup>16</sup> The agreement allowed for states to temporarily impose internal border controls for foreseeable events (60 days), cases requiring immediate action (10 days), and for situations that threaten the overall Schengen area (90 days). In the latter cases, if the standing committee found one member state in violation, other states could temporarily impose internal checks. This was a form of coordination because each state was responsible for implementing the common border policies.

The SCIFA was established in 1999 as a committee to help prepare the discussions of the Council around migration.<sup>17</sup> The committee was made up of senior-level officials from ministries of interior and discussed strategic, horizontal, and crosscutting issues related to border controls and legislation. The Council remained ultimately responsible for deciding on immigration and asylum issues but the SCIFA helped facilitate agreement on policies through annotated agendas and the exchange of information, and thus was an informal coordination mechanism. The Council's decisions based on the SCIFA discussions led to more institutionalized coordination.<sup>18</sup>

The Schengen Information System and Visa Information System are IT-systems that share information across member states in order to make the Schengen area possible. The SIS shares alerts on arrest warrants, stolen property, missing persons, and refusal of entry or stay. The most common alert (75 percent) was for issued documents, like missing passports or driver's licenses, while only 1 percent of alerts concerned individual persons. Among alerts regarding people, 58 percent were for persons refused entry into the Schengen area.<sup>19</sup> Each country set up a national SIRENE (Supplementary Information Request at the National Entry) bureau as a center for communication between states using SIS, which centralized access and submission to SIS. The second system, VIS, shares visa information between member states including biographical data, fingerprints, photographs, and previous travel and visas. Visa applicants submit their biometric data when applying at consulates, which are later cross-referenced at the border points. Over 80 million searches were performed through VIS from 2013 to 2015.<sup>20</sup>

Both the SIS and VIS are coordination mechanisms as the member states maintain ultimate authority to administer the checks at the external border and are responsible for implementing policies in their territories. The Schengen Agreement, SCIFA, and SIS/VIS databases each in their own way increased the capacity of member states to control migration through institutionalized coordination.

### *Early Frontex (2002–2015)*

While the EU did not create Frontex in response to the September 11 attacks, member states discussed security and immigration with added importance, especially after the terrorist attacks in Madrid in 2004.<sup>21</sup> The challenge of fortifying the external border became more acute as the EU prepared to expand its membership to central and eastern European states in 2004. As part of the accession process, new member states were required to meet the standards of Schengen but the EU was concerned about the new members' low capacity to enforce the external border. In 2002, the Commission proposed "five mutually interdependent components: (a) A common corpus of legislation; (b) A common co-ordination and operational co-operation mechanism; (c) Common integrated risk analysis; (d) Staff trained in the European dimension and inter-operational equipment; (e) Burden-sharing between Member States in the run-up to a European Corps of Border Guards."<sup>22</sup> The Council discussed various ways of achieving this but settled on passing legislation called the Schengen Borders Code, creating the Frontex agency to conduct risk analysis and training, and establishing the External Borders Fund as financial solidarity. The Council emphasized that these actions were meant to coordinate and support national services, "but not replacing them."<sup>23</sup> However, for the first time, the EU developed their migration state capacity at the regional level by increasing their financial and human resources, in addition to new technical units and legislation related to migration management.

The Schengen Borders Code integrates the Schengen Agreement into EU law. Accession countries need to transpose the code into national law concerning control of borders (land, sea, and airports), coordination between police, and data protection. Countries also harmonized their visa rules in line with the rest of Europe. In addition, a Common Manual of Checks at the External Borders was produced, which shared best practices

such as how to affix visa stamps, perform checks on helicopters, or handle school trips and seamen.<sup>24</sup>

The Council was at first wary of creating a border agency, because of member state concerns about sovereignty and competencies of national agencies. Instead, the Council built on the SCIFA by including the heads of national border agencies in a working group called “SCIFA +” to coordinate the operational network of border agencies. The Commission found that SCIFA + was too loose a network, stating that “a much more operational body should perform the daily operational management of these activities requiring a permanent and systematic activity.”<sup>25</sup> Instead, the Council created the External Borders Practitioners Common Unit with only the heads of border agencies.<sup>26</sup> Within the first year (2002–3), the Practitioners Common Unit established national contact points in each member state and 17 joint projects, but coordination remained ad hoc and many states had competing pilot projects.<sup>27</sup>

Each of these precursors—SCIFA, SCIFA +, the Practitioners Common Unit—had insufficient capacity to achieve their goals. The EU learned from these policy failures to design the mandate and allocate resources for the new border agency. The Council established Frontex in 2003, and it became operational the following year.<sup>28</sup> The Commission and Parliament wanted a more autonomous border corps, but the Council preferred to continue the previous strategy of network, support, and coordination.<sup>29</sup>

Frontex’s original mandate was to facilitate cooperation between border authorities, harmonize border controls, and provide expertise and training in EU member states. In addition, Frontex conducted research, risk analysis, and surveillance of migration flows. Frontex is oriented around four types of operations: focal points, pilot projects, joint operations, and rapid border intervention teams (RABIT). Focal points were key points along the external border that hosted guest officers from other member states to share best practices and implement the common standards. Frontex ran smaller pilot projects to develop and evaluate the effectiveness of certain policies, like networks or the joint operations, that could later be scaled up.

After learning from the weaker networks of coordination, Frontex was given the power to run joint operations—one of the first instances of collaboration on EU migration management. Joint operations are discrete projects targeting specific issues in host countries (such as Operation Poseidon, “combating illegal immigration across the maritime borders” in Greece

and Italy, or Operation HERA II, “perform[ing] surveillance of the Atlantic maritime borders” in Spain). Frontex facilitated member states to work together in joint operations by performing risk analyses, drafting operational plans, appointing Frontex coordinating officers, identifying the commanding officers in the host countries, and deploying border guards from other member states. Host countries ran International Coordination Centres with Joint Coordinating Boards, which the host country chaired with the support of Frontex officers.<sup>30</sup> Joint operations were medium- to long-term operations and often came with large budgets, deployed experts, and technical equipment. While led by the host country, joint operations were collaboration mechanisms because multiple countries worked together in order to implement the policy at the border.

Frontex had another tool: the rapid border intervention teams are a pool of EU border guards from other member states that can be deployed in urgent situations to assist in technical or operational capacities in the requesting member state.<sup>31</sup> The RABITs are intended for short-term assistance and are under the command of the hosting member state. From 2007 to 2017, RABITs were only deployed twice: in 2010 to the Greece-Turkey land border and in 2015 to the Greek islands near Turkey.<sup>32</sup>

Another type of activity by Frontex is joint return operations, where Frontex works with multiple member states to deport individuals to the same third country. This involves the forced removal of individuals who have either not received refugee status or overstayed another type of visa and are served with deportation orders by the national authorities. Joint return operations are typically led by national authorities from one member state, but are carried out with Frontex best practices, including a human rights observer, and financed with EU funds.<sup>33</sup> National authorities always make the decision of who is to be deported. Joint returns are collaboration mechanisms because Frontex helps arrange and pay for chartered flights, and member states participate together in deportations.

Frontex also manages the Eurosur database that connects National Coordination Centres in each member state that report on local and national border surveillance.<sup>34</sup> Eurosur contains information on irregular border crossings, criminal activity, and monitoring of human trafficking. Eurosur is a form of collaboration because information is used by Frontex and other national authorities to plan joint operations and to counter cross-border illegal activity.



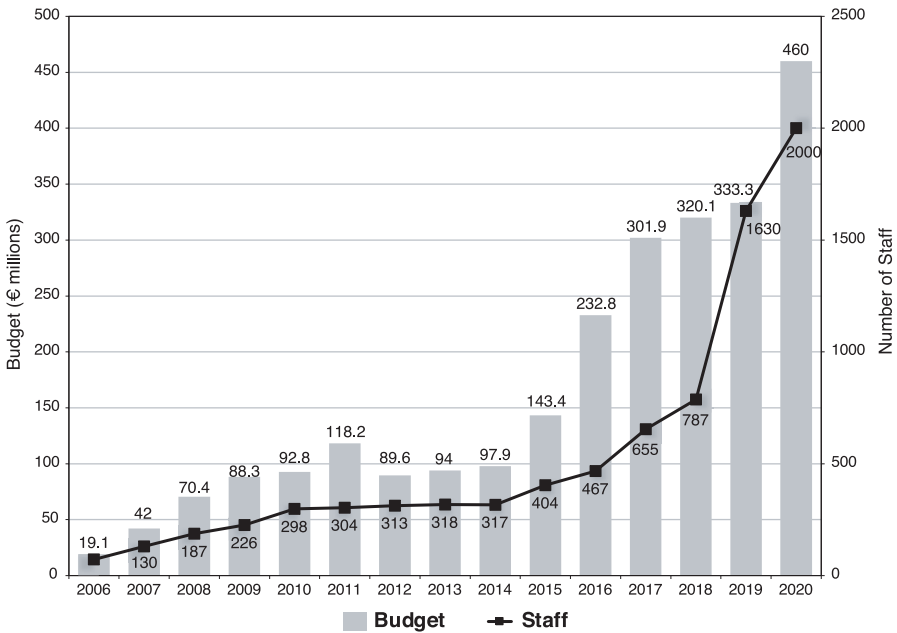


Fig. 3.1. Frontex Budget and Staff, 2006–2020

Source: Compiled by author from Frontex reports using amended budgets (A-90) and establishment plans.

In June 2015—at the beginning of the 2015–17 refugee crisis—the EU set out a new “hotspot” approach to managing large influxes of migrants or refugees. The goal of the hotspots was to increase the migration state capacity (funding, staff, new management structure, and new rules) in strategic locations along the EU external border that experienced high levels of irregular migration. The hotspot approach deployed EU Migration Management Support Teams (similar to Focal Points and RABITs) made up of staff from Frontex, EASO, Europol, and Eurojust. Hotspots were intended to increase the capacity of member states for registration, identification, and asylum processing through the secondment of staff from other member states. The hotspot strategy was managed by the EC Structural Reform Support Service and based out of shared offices of the European Regional Task Force in Italy and Greece.<sup>35</sup> The hotspot strategy identified 12 hotspot locations in Italy and Greece, but as of December 2017 there were only five operational hotspots in Italy and five in Greece.<sup>36</sup>

### *European Border and Coast Guard (2016–)*

The 2015–17 migration crisis exposed gaps in the migration state capacity at both the state and regional level. In 2015, Greece requested that Frontex deploy a RABIT to the Aegean Islands but the team struggled to respond to the huge spike in irregular arrivals. Frontex did not have enough of its own equipment or staff or the right to intervene without permission from the member state. The Council decided in 13 September 2016 to expand the mandate of Frontex and transform the agency into the European Border and Coast Guard. This new agency became operational in October 2016 and was intended to be less reliant on member states because it would be able to purchase its own equipment, maintain a larger permanent staff, and become responsible for search and rescue operations. As one official at the European Commission said, “Member states were willing to give more power, to give more clout, to give more resources and confidence to Frontex, which is a clear indication of their willingness to upgrade their cooperation in the area of border control.”<sup>37</sup>

The reforms mark two major changes: first, the European Border and Coast Guard is empowered with the right to intervene if the Schengen area is at risk—even in the face of opposition by the member state in question.<sup>38</sup> This is a major change because member states were previously required to request assistance from Frontex. Second, the new agency has the power to detain and deport when forcibly returning individuals to third countries. This is a new power for the agency, which has been criticized for not providing deportees with their full rights of appeal.

**Table 3.1. EU Migration State Capacity**

	Border Security	Asylum
Financial resources	External Border Fund	Refugee Fund
	Return Fund	Integration Fund
	Frontex budget	EASO budget
Human resources	Frontex staff	EASO staff
Organizational	Frontex, RABITs, EU Migration Management Support Teams, hotspots, European Border and Coast Guard	EASO Eurodac
	New powers for the European Border and Coast Guard	Dublin I, II, III Asylum procedure directive Reception conditions directive Qualifications directive
Institutional	Updated returns directive	

Overall, the EU has increased the migration state capacity in all four elements (financial and human resources, organizational, and institutional). The EU's financial capacity to manage migration increased through the creation of the €1.82 billion External Border Fund and the increase of Frontex's budget to €460 million in 2020 (see fig. 3.1). The EU's human resources increased Frontex employees from 72 staff in 2006 to 2,000 in 2020. The EU introduced new organizations and management like Frontex, RABITs, EU Migration Management Support Teams, hotspots, and the new European Border and Coast Guard. Finally, the EU has additional institutional resources through the new powers for the European Border and Coast Guard and the updated returns directive. By the end of 2020, the EU had more migration state capacity than ever before.

### *Asylum*

In a similarly messy way, EU cooperation on asylum started informally but gradually led to collaboration after repeated policy failures and migration crises. While the EU has increased its regional migration capacity, it has gone further in border security than asylum policies. This section describes the evolution of the Common European Asylum System (CEAS) through three waves of reform, in addition to the creation of the European Asylum Support Office (EASO). The messy development of EU asylum policies follows a similar pattern of crises, policy failures, and proposed greater collaboration. The result was an increase in the financial, human, organizational, and institutional capacity to govern asylum.

After the 1993 Maastricht Treaty made migration a “common interest,” there were several attempts at harmonizing asylum procedures in member states. For example, the Council agreed in 1996 to a joint position defining the term “refugee,” but makes clear in the preamble that the definition does “not bind the legislative authorities or affect decisions of the judicial authorities of the Member States.”<sup>39</sup> This is a type of informal coordination between member states that had no accountability mechanism or financial collaboration.

EU states were already coordinating some asylum issues through the Schengen Agreement and the Dublin Convention. The Schengen Agreement removed internal borders between member states and created an area of free movement, while the Dublin Convention (Dublin I) established rules for which country was responsible for examining an asylum applica-

tion, based primarily on the first country of entry.<sup>40</sup> By 1999, member states committed to a more ambitious goal of building the Common European Asylum System<sup>41</sup>—but the CEAS was not initiated out of a desire for states to offer more or better protection to refugees. Rather, the EC articulated from the beginning that the goal of the system was to address two problems: “refugees in orbit” for which no state takes responsibility and asylum seekers “shopping” for the easiest, quickest, or most generous host country.<sup>42</sup> The EU feared a race to the bottom where countries set more stringent standards with little or no financial support to act as a deterrent for asylum seekers.<sup>43</sup> In theory, the CEAS counters free riders by (1) creating minimum standards across the EU so no member state can shirk responsibilities, and (2) returning asylum seekers who “shop” for better benefits to the first country of entry into the EU. While the CEAS has been described as attempting to improve the treatment of refugees or to develop a more equal burden sharing, these are post-hoc justifications for the system designed around powerful states’ interests responding to the perceived threat of “asylum shopping.”<sup>44</sup> States in northern Europe wanted to keep asylum seekers close to the external border, while also being able to summer on Sardinia or the Aegean Islands. There were powerful, however perverse, incentives for Greece and Italy (along with other border states) to join Schengen and Dublin: they benefited from the freedom of movement and the economic advantages of Schengen, while slow walking the implementation of Dublin to avoid being stuck with all of Europe’s refugees.

### ***CEAS: First Wave***

From 2000 to 2004, the Council set minimum standards through directives for temporary protection, reception for asylum seekers, asylum procedure, and refugee status, in addition to two regulations for Dublin II and the Eurodac database. Member states were required to transpose the directives into national legislation, while the regulations took effect immediately. The Commission can refer countries that have not transposed directives to the European Court of Justice for the formal infringement procedure and the court can impose financial penalties if countries continue to be noncompliant. As such, the EU moved to a more institutionalized form of coordination through the CEAS after the initial Dublin system proved insufficient.

The four directives of the first wave were as follows: first, the temporary protection directive established a process to assist member states

when there is a mass influx of persons.<sup>45</sup> This directive had no criteria to automatically trigger protection and has never been used.<sup>46</sup> Second, the asylum qualification directive codified a minimum set of standards for a person to receive international protection within the EU.<sup>47</sup> This directive affirmed the legal category of subsidiary protection (i.e., people in need of international protection that do not fit the definition in the 1951 Refugee Convention), in addition to recognizing that persecution can come from nonstate actors, rather than exclusively from states.<sup>48</sup> Third, the asylum procedure directive set minimum procedural standards, which included the right to a personal interview, a lawyer, communication with UNHCR, rules for detention, and appeal.<sup>49</sup> Most controversially, the directive establishes the concept that member states are not required to review asylum applications if the applicant has traveled through “safe third countries” but did not seek protection there.<sup>50</sup> Additionally, member states threatened to veto the directive if they did not receive derogations for certain aspects of their domestic procedures for interviews or legal assistance.<sup>51</sup> Fourth, the reception conditions directive provides a minimum standard for information, freedom of movement, medical screening, schooling, employment, and the material conditions for accommodation.<sup>52</sup> While an important standard, the reception conditions do not apply to those under temporary protection or to individuals being deported.

The two regulations were for the Dublin II and Eurodac. The Dublin II regulation updated the principles of the Dublin Convention, namely that asylum seekers must apply to the first country through which they entered the EU and it created a mechanism for transferring applicants back to the first country.<sup>53</sup> Human rights groups criticized Dublin II because while the regulation stipulates a right to appeal, the asylum seeker can be transferred before knowing the result of the appeal. In addition, the regulation restricts the definition of “family member” to spouse, unmarried partner in a stable relationship, and children. Dublin II was criticized for creating a system of responsibility shifting, rather than responsibility sharing.<sup>54</sup> The EU also created the DubliNET, a secure data exchange between national authorities (called “Dublin Units”) responsible for transferring asylum seekers.<sup>55</sup> The Eurodac regulation established a common database that compiles the fingerprints of asylum seekers from the first country where they enter the EU.<sup>56</sup> The Eurodac database (an abbreviation of European Dactylographic) is a coordination mechanism that allows states to input and cross-check asylum seekers’ fingerprints. The development of Eurodac was plagued by

technical setbacks: after being commissioned in 1991, it did not become operational until 2003.<sup>57</sup> In addition, the database was originally intended to host data on asylum seekers but was expanded to include irregular migrants stopped at the border or within the territory.

Taken together, the first wave of the CEAS is an example of institutionalized coordination. While directives must be transposed by member states, they functioned as a legislative tool to coordinate national procedures. The two regulations had a direct impact on implementation, with Dublin II creating criteria for which country was responsible for examining asylum applications and DubliNET and Eurodac creating the databases to facilitate that system. These two regulations still created institutionalized coordination because the Dublin system assigns responsibility to countries that implement separately but do not process applications jointly. Member states chose to coordinate policies because they perceived that other member states had the capacity to transpose the directives and that they were presumably credible partners (having just voted in favor of the directives). The CEAS also had the added benefits of coordination being cheaper, less accountable, and allowing states to opt out of certain elements.

Nevertheless, states struggled to transpose the first wave of directives because of mistranslations and lack of political will. For example, in Germany the transposed legislation for subsidiary protection left out “by reason of indiscriminate violence”<sup>58</sup> and Hungary translated “non-state actors” as “a person or organisation” that is independent.<sup>59</sup> There was also significant variation in how states interpreted various clauses of the directives. For example, Article 4(1) of the qualifications directive requires asylum seekers to apply “as soon as possible,” and states interpreted this to mean anywhere from eight days to three months. There were also variations on the standards of evidence, an internal protection alternative, recognition of persecution by nonstate actors, and actors of protection. While member states agreed to align their migration policies, they were constrained by the domestic pressures and the lack of accountability. The Commission eventually took action on infringement procedures on the United Kingdom, Spain, Finland, Sweden, Portugal, the Netherlands, Greece, and Malta for failure to transpose the qualifications directive by the 2006 deadline.

In contrast to the directives, the Dublin II and Eurodac regulations established directly the coordination and implementation at the national level. Dublin requests went from 54,601 in 2008 to 324,033 in 2016 and Eurodac “hits” went from 40,759 in 2004 to 361,610 in 2016 and held more

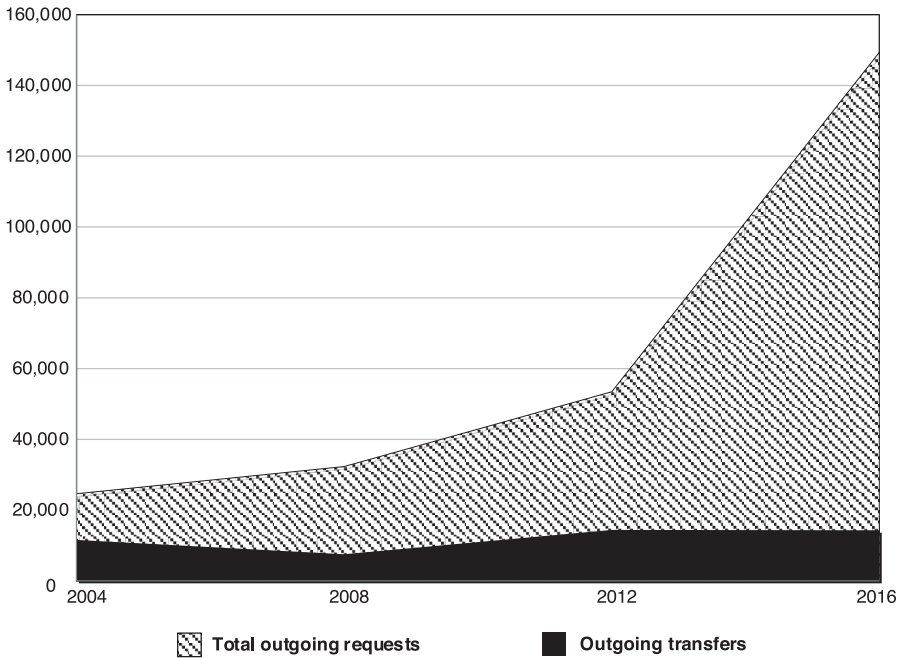


Fig. 3.2. Dublin System, Total Outgoing Requests and Transfers

Source: Eurostat, outgoing requests (“migr\_dubro”) and transfers (“migr\_dubto”).

than 2.7 million sets of fingerprints. From 2008 to 2013, four countries (Germany, Austria, France, and Sweden) made the majority of outgoing requests.<sup>60</sup> These countries used the Dublin system because of an uneven distribution of the problem—namely, that more asylum seekers want to apply in these four countries. It also shows that there’s an incentive for states not to coordinate because participation in the coordination mechanism would result in a shifting of the asylum burden to the states with fewer applications. While there was buy-in, as evidenced by the increased requests and hits by EU states, the Dublin system was not efficiently transferring applicants to first countries. For example, the total number of actual transfers lags behind the total requested transfers (fig. 3.2). This means that while some states are participating heavily in the Dublin system, a small percentage (10–25 percent each year) of asylum seekers actually get transferred. The main reason for the low percentage of transfers was because applicants frequently absconded between notification of transfer and actual transfer.<sup>61</sup>

Civil society organizations characterized the Dublin system as a failure, arguing that it was an inefficient system that did not solve the two problems of “refugees in orbit” and “asylum shopping.”<sup>62</sup> The Dublin system added migration state capacity at the national level because it provided tools for state officials to communicate with each other and track asylum seekers, but it did not ultimately shift responsibility. Despite the increased capacity, the system rarely achieved its stated goals.

### **CEAS: Second Wave**

From 2005 to 2013, the Commission negotiated a recast of the CEAS to bring states into closer harmonization and to facilitate greater participation in the Dublin system. The Commission reiterated in 2007 that the “Dublin system (Dublin and EURODAC Regulations) was not devised as a burden-sharing instrument.”<sup>63</sup> Rather, the system was meant to establish responsibility for asylum applications and harmonize procedures to prevent asylum shopping. The second wave (referred to as a “recast”) included revisions of the asylum procedure,<sup>64</sup> reception conditions,<sup>65</sup> and qualifications directives<sup>66</sup> and the recast Dublin III<sup>67</sup> and Eurodac regulations.<sup>68</sup> These recasts largely reaffirm the principles in the first directives, but clarify a few criteria such as the right to appeal Dublin transfers, the definition of family members, the length of time for procedural deadlines, and the use of detention as a measure of last resort.<sup>69</sup> Additionally, for the first time the recast provided access to Eurodac to national law enforcement agencies, raising concerns about the privacy of asylum seekers.

The second wave was defined by two innovations: financial solidarity and the creation of new EU agencies. Rather than create real burden-sharing, the EU opted for increased financial solidarity through the SOLID Programme, made up of the four joint funds, to help member states finance the cost of implementing EU migration policies (see box 3.1). The four funds dispersed a total of €3.95 billion from 2007 to 2013. These funds were used to cofinance projects by member states at rates of 50–100 percent of the total cost; in addition, the EC spent up to 7 percent of each fund on EU-wide projects.

Overall, the SOLID Programme was a form of coordination. While the funds provided shared financial resources, they were implemented through a decentralized system and national authorities had the ultimate administrative authority. Each member state was required to designate responsible



authorities, an audit authority, and an agency to certify financial accounts. The representative authority in each country used criteria set by the EC to decide which projects to fund. This is coordination in a very tangible form—the EC sets priorities to coordinate national governments and put funding behind those priorities to enable the national actors to get it done. Funding priorities are important ways of coordinating dispersed actors in the EU, especially across states with different levels of capacity. A lower capacity state cannot blame failed implementation on lack of funds if the EC is underwriting the initiative.

One issue highlighted in evaluations of the External Border Fund was low absorption rates by member states. For example, Greece was only able to use 43 percent of their allocation from 2007–10 because they lacked transparent and accountable procurement procedures.<sup>70</sup> One EU official said, “The Greek authorities have a huge challenge in terms of administration. They don’t have the absorptive capacity. They do not have the right administrative structure to be able to make all the calls after the procurement.”<sup>71</sup> While the EC hoped it could allocate millions of euros to reinforce the external border, the national governments were not necessarily capable of spending that money. One way the EC circumvented this problem was through subcontracting (discussed in chapter 5).

From 2014 to 2020, the EU merged the four funds into two funds: €3.137 billion in the Asylum, Migration and Integration Fund (AMIF) and €3.8 billion in the Internal Security Fund (ISF). An evaluation found that the previous funds had considerable overlaps and an excessive administrative burden. The new funds pursue similar aims to their previous incarnations but all asylum-related grants are grouped together, as are security-related grants.<sup>72</sup>

Throughout the first and second waves of CEAS, it became clearer that institutionalized coordination was not enough to address the EU’s asylum and border issues. The Commission and Council acknowledge these failures in multiple reports, stating that the CEAS has not led to more harmonized processes and the Dublin system was stubbornly inefficient. In the face of repeated failure, the Council innovated by creating the EU solidarity funds as a way to encourage greater coordination. In this way, member states’ experiences with failed coordination helped reshape their understanding of how and when to work together, thus shifting their calculus that more formalized—and better resourced—collaboration was in their interests.

**Box 3.1. SOLID Programme (2007–2013)**

The **External Border Fund** (€1.82 billion) financed the physical and IT infrastructure on the external border, including investing in walls, checkpoints, military vehicles and boats, night vision goggles, upgrades of national IT systems, and the VIS and SIS databases. Spain, Greece, and Italy were the largest recipients because funding was allocated based on the length of their border, number of consular offices, and the number of people crossing their border. About 60 percent went to states on the Mediterranean Sea, while 25 percent went to the eastern land border, reflecting EU financial solidarity between richer interior countries and those along the frontier.

The **Refugee Fund** (€630 million) aimed to help member states support asylum seekers and refugees by improving reception conditions, building capacity and training for asylum decisions, language training, legal support for asylum seekers, and funding resettlement and relocation projects. The overarching goal was to harmonize the asylum processes in member states. The European Court of Auditors found a low implementation rate in the first two years and most states did not use quantifiable targets to measure their impact.

The **Integration Fund** (€825 million) promoted best practices in managing diversity, integration, and intercultural dialogue. The fund financed conferences and online platforms to connect practitioners. Each state received half a million euros with additional resources linked to the number of non-EU migrants. Almost 70 percent of the fund went to Italy, the United Kingdom, Spain, Germany, and France between 2007 and 2010—all countries with a high number of non-EU migrants and asylum seekers.

The **Return Fund** (€676 million) financed information campaigns, voluntary assisted repatriation, deportation operations, joint return flights, and projects supporting the reintegration of returnees. The fund distributed €300,000 for each member state with additional resources relative to the number of people with deportation orders and who actually left. Greece, the United Kingdom, Spain, France, Italy, and Germany account for 67 percent of the funds expended, which reflected the fact that these countries were magnet countries or along the southern coast.

***European Asylum Support Office (EASO)***

The other innovation in the second wave was the creation of an EU agency related to asylum policies. Although first conceived in 2004, EASO was not operational until February 2011.<sup>73</sup> The mandate of EASO is to support EU member states to implement the CEAS by facilitating cooperation among states and agencies, sharing best practices, and providing trainings to

improve asylum processes. EASO considers itself an independent expert on asylum that collects and analyzes data on asylum trends in the EU. EASO also shares reports on the country of origin information used in making assessments for asylum cases. Additionally, EASO works with non-EU countries to build their asylum capacity, facilitate returns, and support resettlement schemes.

EASO is a form of collaboration because the agency implements policies by jointly working together with national asylum agencies and EASO staff—primarily through seconded asylum officers, sharing country of origin information, and delivering trainings. EASO missions are initiated when a government requests special support, after which EASO develops operating plans and terms of reference with the national authorities. EASO's management board is composed of the heads of national immigration agencies and representatives of the EC and UNHCR as observers. EASO began as a way to fill gaps in state capacity and accelerate harmonization of asylum procedures. Frontline states had incentives to collaborate with EASO because they often lacked capacity themselves.

Since 2011, EASO has had requests for special support from Greece (2011), Luxembourg and Sweden (2012), Bulgaria and Italy (2013), Cyprus (2014), Malta (2019), and Spain (2021). For example, EASO deployed Asylum Support Teams in Greece to help clear a backlog of applicants, update the technology and databases, train officers and appeals committees, and share country of origin information. In Italy, EASO deployed 81 experts to improve the quality of data collection, increase the monitoring of reception conditions, and train judges. These collaborative missions deploy asylum officers from other EU states to fill gaps in the migration state capacity of the requesting member state. EASO's special support plans are often extended for subsequent years after the initial requests by member states.

EASO also produces guidelines and operating manuals written by national experts and consultants. For instance, EASO produced a report on age assessment as a practical tool for member states. One official at the EC's Directorate-General for Migration and Home Affairs (DG-HOME) explained: "Before EASO we could have done it ourselves, but that would have been an informal way of making member states work together or agree on something. You would probably have a similar approach with an expert group but what they would come out with is still informal principles. It is good to have an agency like EASO because practical things make a big difference."<sup>74</sup>

The EU established another agency, eu-LISA,<sup>75</sup> responsible for managing large-scale IT systems like Eurodac.<sup>76</sup> This increased the EU's capacity to administer shared databases between the different national agencies in each member state. The agency provided training to member states to set up and run national units responsible for the database. eu-LISA hosts Eurodac, along with SIS II and VIS, and produces annual statistics on how the databases are used. While eu-LISA is an agency, it is not an example of institutionalized collaboration because the joint database facilitates the implementation of policy by national agencies. The actual work of denying a visa or processing an asylum application is done by national authorities who utilize the joint database. If eu-LISA were responsible for processing the visa or asylum applications, it would constitute collaboration, but it is not.

The second wave created new financial solidarity and new EU agencies—both of which came with additional financial, human, organizational, and institutional resources. The SOLID Programme funded direct increases in migration state capacity for member states, while EASO increased the EU's capacity to deliver through joint projects.

### ***CEAS: Third Wave***

The third wave of reforms to the CEAS (2014–20) was sold as a way to further harmonize asylum processes, but the reforms were largely in response to the 2015–17 crisis. There are three distinctive characteristics about the third wave: (1) the EU articulated fairness as a new goal; (2) the EU agencies took on truly operational roles; and (3) the EU instituted ad-hoc emergency responses. The third wave, which remains incomplete, represents a collaborative response by the EU to migration crises—at least on paper.

First, all previous Dublin regulations make clear that the goal is to establish responsibility for, not share the burden of, asylum seekers. But the 2016 proposal changed this: “The aim is to achieve a fair sharing of responsibilities between Member States by relieving a Member State with a disproportionate burden and sharing that burden among the remaining Member States. By definition, this requires EU action.”<sup>77</sup> This was a shift from coordination to collaboration. “EU action” was another way of talking about jointly working together and acknowledging that the previous three Dublin regulations did not do enough to address the policy problem. The proposed fairness mechanism was a “reference key” based on the size of a country's

population and its GDP. If a country receives more than 150 percent of its share of asylum applications in a given year, excess applicants would be relocated proportionally across other EU member states.<sup>78</sup> Countries could opt out of the quota scheme but would be penalized €250,000 for each individual they were allocated. The Czech Republic, Hungary, Slovakia, and Poland were stridently opposed to the proposal.<sup>79</sup>

While agreement on mandatory quotas remained allusive, the EU agreed to emergency measures (see box 3.2) including a relocation scheme with the target of moving 160,000 asylum seekers from Italy and Greece to other member states based on voluntary commitments.<sup>80</sup> However, some countries blamed Germany and other member states for overruling their votes through the QMV procedure. German chancellor Angela Merkel explained: “A continent that can’t agree with its neighbours about this, that hides behind fences some distance back from the real border, that can’t be the European solution.”<sup>81</sup> Viktor Orbán, Hungary’s prime minister, said:

Hungary is under enormous pressure [over] whether or not the EU will succeed in pushing a new EU asylum and migrant system down the throats of the central European countries, including ours. Such a system would authorise [the EU] to distribute migrants among the other EU countries, including those which have not taken in migrants, do not want to, are opposed to this and do not want any part in it.<sup>82</sup>

In an attempt to counter the EU decision, Hungary held a referendum in which more than 98 percent voted against accepting refugees, but the referendum was not legally valid because of low voter turnout.<sup>83</sup> Poland, Hungary, and Slovakia openly refused to accept Muslim refugees with Orbán vowing “to keep Europe Christian. . . . There is no alternative, and we have no option but to defend our borders.”<sup>84</sup> The EC began infringement procedures in 2017,<sup>85</sup> referring the Czech Republic, Hungary, and Poland to the EU Court of Justice. Ultimately, the court found in April 2020 that the three countries had violated their legal commitments to participate in the relocation scheme and that the EC could impose financial penalties.<sup>86</sup>

The Commission also proposed in 2016 to transform EASO into a “fully-fledged European Union Agency for Asylum with an enhanced mandate and considerably expanded tasks.”<sup>87</sup> The new agency would be responsible for calculating the proposed reference key and assessing whether third countries should be included on the EU’s “safe countries of origin” list. The

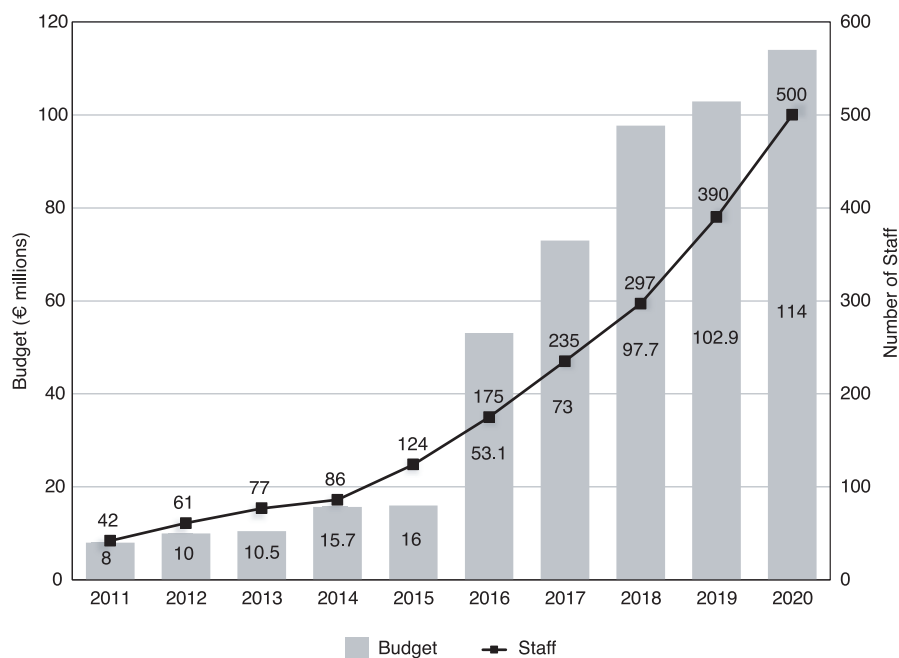


Fig. 3.3. EASO Budget and Staff, 2011–2020

Source: Compiled by author from EASO reports using amended budgets and establishment plans.

largest change in mandate would be for EASO to be empowered to make emergency interventions. The proposal suggests that the Commission could authorize EASO to intervene in cases of “disproportional pressure” if the member state did not take sufficient action, did not request or accept assistance, and did not comply with the Commission’s recommendations. These changes would further institutionalize collaboration through EASO and acknowledge its growing operational role outside of pure advice and support. The 2016 proposals go a step further: the Commission could override a member state’s sovereignty if it believed a mass influx “puts the functioning of the Common European Asylum System in jeopardy.”<sup>88</sup> By June 2018, disagreement in the Council blocked the reforms of EASO and the fairness mechanism, but the relocation scheme continued to operate on a voluntary basis.

Despite the failure of reforms, EASO has grown substantially in its capacity and operational activities. Figure 3.3 shows an increase in the size

of EASO's budget and staff from 2011 to 2020. But, as one EC official argued, EASO was

not conceived to be an operational body in the sense of actors that would put boots on the ground to do the operation. The idea was rather to act as an operational hub when a member state in need could make a request, a member state having the capacity could help—and having the agency make some coordination, technical support, and paying the bill. This means that the agency has not been mandated to have the capacity to do what now seems necessary: to do the registration of asylum claims in Greece, or to control borders, to enhance border management.<sup>89</sup>

In other words, EASO was designed as a tool for coordination that has evolved into collaboration.

EASO has played an integral role in the EU's hotspot approach by providing information about protection and relocation, providing translators, and participating in joint processing operations (vulnerability screenings, admissibility interviews, and referrals for appeals).<sup>90</sup> Whereas it was previously focused on analysis and advice to national authorities about asylum, EASO has become more operational because of their missions in Greece and Italy. In October 2015, EASO had only seven staff working in hotspots and put out a request for more than 370 experts from member states. One year later, the agency deployed to hotspots 142 experts, translators, and staff seconded to national authorities.<sup>91</sup> One Belgian asylum officer said that “it would have been previously unimaginable to see joint-processing between the Greek government and EASO, but now that is exactly what is happening.”<sup>92</sup> Another EC official remarked about EASO that “their mission and their competency have been enhanced but also their capacity—they are actually supplementing, deputizing, if not taking over the role for the Greek asylum system in the islands and on the mainland.”<sup>93</sup> EASO's new role fills the gap of capacity in the Greek government through different collaboration mechanisms. In addition, EASO worked on the Dublin system in Italy and Greece by establishing Dublin Units in Rome and Athens that coordinate take-charge requests and facilitate transfers to the responsible member state.<sup>94</sup>

The third characteristic was ad-hoc emergency responses to the 2015–17 crisis (see box 3.2). In contrast to the prolonged negotiations on the first

### Box 3.2. EU Emergency Responses

The significant increase of migrants to Greece in 2015 created the crisis-like conditions that the EU used to push through four new mechanisms for collaboration on migration. It became increasingly clear that the Greek government did not have the capacity and was not a credible partner to implement the necessary measures. These new mechanisms implemented EU migration policies primarily through collaboration (joint work) and subcontracting to IOs.

**Hotspots approach** beginning in 2015 established joint reception operations between national agencies, Frontex, EASO, Europol, and Eurojust in 10 locations (5 in Greece and 5 in Italy). Seconded officers and agency staff helped with registration, identification, and asylum processing, in addition to security screening.

**EU relocation scheme** set a target of 160,000 asylum seekers to be relocated from Italy and Greece to other member states based on voluntary commitments. This scheme was delivered through collaboration between EASO, IOM, and national agencies.

**EU-Turkey statement** laid out a deal that in exchange for EU visa liberalization and €3 billion aid, Turkey would accept the return of irregular migrants crossing to Greece and work to prevent irregular crossings. The EU established the Facility for Refugees in Turkey to distribute €3 billion in aid (2016–19).

**Emergency Support Instrument** distributed €700 million for emergency support operations for refugees in Greece from the ECHO budget (2015–17). This marked the first time EU humanitarian funding intended for outside of the EU was allocated for an emergency within a member state. An additional €100 million was allocated from DG-HOME through the Asylum, Migration and Integration Fund and the Internal Security Fund.

two waves of directives, the Council rushed through new policies aimed to address the crisis. The emergency relocation scheme, hotspots, and the EU-Turkey statement are examples of collaboration mechanisms that were sparked by the large movement of people from 2015 to 2017. Emergency crises can influence states that would otherwise not collaborate to take joint action together because of the urgent, humanitarian nature of the situation. One Commission official explained that “the intensity of the crisis is such that things that were simply unthinkable two years ago are now becoming a reality.”<sup>95</sup> Further, the Council and the Commission used the moment of crisis to push for the type of joint collaboration that would never have been considered without the urgency of the humanitarian crisis. Another Commission official explained:



This would not have been possible without this pressing need, and then people putting their shoulders under it. These are big changes. Before, we would have been much more cautious. We would have tried to draft legislation and long-term perspectives—but there were people drowning every day. So I just got the most important people on both sides together and tried to come up with a way. But the interesting thing is that what they implemented there was not something that they just invented on the spot, it was an idea that was already circulating.<sup>96</sup>

The EU's response used the momentum from the humanitarian crisis to push through policy proposals that the Commission had long wanted. The 2015 influx of people was a political opportunity to push member states for more collaboration, rather than coordination. In this way, the EU hotspots became joint operations between EASO, Frontex, Europol, and Eurojust. The European Civil Protection and Humanitarian Aid Operations (ECHO) emergency funding pays for direct operations in a member state, whereas the humanitarian funding had previously been reserved for outside of the EU. And the EU-Turkey statement allows for expedited deportations by Frontex, typically the reserve of national authorities.

In September 2020, the EC proposed a new Pact on Migration and Asylum that included a set of directives and regulations to complete the third wave of CEAS reforms. While the pact claims a “fresh start” and “new balance between responsibility and solidarity,” the proposals were more of the same: increased EU capacity, voluntary burden sharing, and support for member states with implementation.<sup>97</sup> For example, the pact again proposed the creation of the EU Agency for Asylum with an expanded role in prescreening and increasing the European Border and Coast Guard's standing corps ready for deployment. One proposal would adjust the rules of the Dublin system by limiting the right of appeal, extending the maximum period for Dublin transfers to be completed, and increasing the use of detention to prevent absconding.<sup>98</sup> Another proposal would extend the hotspot approach and prescreening procedure across the entire external border, expanding the use of detention and returns to supposedly “safe” transit counties.<sup>99</sup> Human rights lawyers denounced the proposals as undermining legal protections and further restricting access to asylum.<sup>100</sup> The pact also emphasized the need to “restore trust between Member States” through monitoring by the Commission, the EU Fundamental Rights Agency, and peer reviews by other member states. This is notable because

the lack of trust and lack of commitment by Greece to implement EU migration policies was one of the key variables that led to subcontracting during the 2015–17 refugee crisis (see chapter 5).

The most significant innovation in the proposed pact is a burden sharing mechanism during crisis situations in which states can choose to contribute to either relocation or sponsor returns. The pact proposes a new definition for a crisis or “force majeure” (i.e., an extraordinary event that frees someone of their legal obligations) and would expand the EC’s authority to designate when a member state is experiencing migration pressure or situations of “force majeure.”<sup>101</sup> The Commission could trigger (with or without a request from the member state) the new mechanism and member states would pledge to contribute to either relocations or sponsor returns—all based on a responsibility sharing formula based on the member states’ GDP and population size. If the pledges fall short, the Commission would request those states that did not pledge to cover half of their “fair share.” While all pledges would be voluntary, the final pledges would be legally binding and must be implemented. Ursula von der Leyen, the EC president, described these pledges as differentiated forms of responsibility sharing, because states can participate in relocations or returns—contributing their “fair share” while honoring the different preferences of member states. Nevertheless, contentious negotiations on the pact, and EU migration policies more generally, continued into 2021 and beyond.

In sum, the EU’s emergency responses pushed member states from the institutionalized coordination of the first and second wave to more ambitious collaboration in the third wave. This evolution from coordination to collaboration was a messy progression down the cooperation decision tree. The factors that pushed the EU to coordinate at the beginning were overlapping interest in preventing asylum shopping and refugees in orbit, not in burden sharing. The resulting coordination mechanisms—the Dublin system and Eurodac—reflected the unequal power relations of northern European states versus the frontline border states of the south. The EU initiated some collaboration in the form of EASO, which was first justified as cost efficient and second as a necessary response to crises. EASO became more ambitious with joint operations and joint processing only when faced with the influx in 2015–17. It was not until the EU faced a serious crisis that EU migration management became thoroughly collaborative. Similarly, Frontex followed the same messy process as EASO—first as coordination, then recognition that institutionalized coordination was not enough, and later

moving to collaboration. Member states were only interested in collaboration after coordination had failed.

## Conclusion

This chapter examines policies of coordination and collaboration. Coordination is when states implement common policies separately and collaboration is when states implement policies through joint operations or working together. In both asylum and border security, the EU found itself in cycles of crisis and policy failure that led to greater institutionalization and, eventually, to collaboration. Frontex grew from coordination between national security and border agencies to become a form of collaboration through a full-fledged border agency. Coordination of border security was in the interests of member states, which facilitated the implementation of VIS and SIS databases. The 2004 EU expansion sparked a need for greater collaboration because new member states needed to implement the higher security standards. This facilitated the creation of Frontex and EU solidarity funds, which helped to bridge high and low capacity states, and those with credible partners. Following the 2015–17 crisis, the EU established further collaboration in the EU Border and Coast Guard with an expanded mandate including permanent operational capacity, the power to detain and deport, and the right to intervene in border emergencies.

Similarly for asylum, the EU progressively shifted from coordination of national legislation to collaboration through EASO. Member states had overlapping interests in preventing asylum shopping and refugees in orbit, not improving asylum as a humanitarian principle. The resulting coordination mechanisms (Dublin system and Eurodac) reinforce the power relationships between rich northern countries and poorer border countries. Year after year, the EU found that the CEAS was falling short of its goals, but it was not until the 2015–17 crisis that member states agreed to more institutionalized collaboration through EASO's joint operations and the EU's ad hoc emergency responses. The proposed migration pact would further institutionalize collaboration at the regional level by increasing the EU's migration state capacity in the form of a fully fledged EU Agency for Asylum.

One key finding from this chapter is that the EU first tried to coordinate migration policies but when they failed, or when one partner was revealed not to be credible, the EU tried collaboration instead. This process of moving

down the cooperation decision tree from coordination to collaboration was influenced by iterative negotiations and policy failures, in addition to the historical and political contexts. Policy failures provided information to the EU and other states about the level of capacity and credible partners in each country. For example, it became clear over several years of failure that Greece did not have the capacity and that officials were not committed to implementing the CEAS directives. After the successive failures, EU member states used this updated information to decide to coordinate, collaborate, subcontract, or act unilaterally. These processes are not mutually exclusive: different parts of EU migration policies include components of coordination, collaboration, subcontracting, and unilateralism at the same time.

EU leaders also used their political capital during or after migration crises to implement long-standing policy goals that had been previously rejected. Crises became a justification for building a kind of EU agency that institutionalized collaboration and further Europeanized migration policy. EASO and Frontex were not originally envisioned as operational entities but the 2016 and 2020 proposals laid out significant operational mandates with increased staff and roles in implementing migration policies.



## CHAPTER 4

# Coordination in Italy

During one day of fieldwork in Palermo, the capital of Sicily in southern Italy, I stumbled upon a mural painted on the walls of a forgotten alley. The mural powerfully portrayed people struggling in the sea, hands reaching for help, others with their faces just submerged, succumbing to the water. Some of the people appeared ghost-like, simultaneously floating in the sea and floating toward heaven. One man had an eerie smile plastered across his face; he was suspended upside down, transforming his smile into a grimace. The anonymous mural depicts the journey and deaths of the migrants and refugees who have crossed the Mediterranean Sea toward Italy.

For decades, people have crowded into flimsy boats hoping to cross from the northern coast of Africa to Italy. More than 600,000 people attempted to cross the Mediterranean to Italy from 2014 to 2017, of whom an estimated 13,784 people died.<sup>1</sup> This is a despicable—preventable—human tragedy, but it is not the first time thousands of people have attempted this dangerous route to Italian shores. Thousands of migrants came by boat in 1991, and again in 2011, fleeing political unrest and economic instability. Each time, the Italian government was forced, begrudgingly, to build their migration state capacity. This chapter shows how previous experiences with migration crises have influenced the Italian response to the recent crisis in 2014–17.

Before becoming an immigration country, Italy was known for its emigrants who traveled en masse around the world, creating a large diaspora and spreading Italian cuisine globally. In this chapter, I first trace the evolution of migration state capacity in Italy under each political regime—the Italian monarchy, Fascism, postwar consensus, and the Second Republic. I show how migration state capacity is not a one-way street: capacity can both increase and decrease, in addition to expanding in different types of capacity (i.e., for emigration/immigration or inclusive/repressive). Second,

I analyze how different Italian governing coalitions approach the EU—and how different coalitions are viewed as credible or not credible partners with EU institutions. In the last section, I turn to the migration crisis from 2014 to 2017 and how Italy and the EU responded. I show how the necessary conditions of high state capacity and credible partners led the EU to coordinate their response with Italian officials and funnel 99.4 percent of emergency funding through national agencies.

## History of Migration State Capacity in Italy

The institutions we see today in Italy have a long and somewhat winding history. Migration state capacity is not something that was discovered in the twenty-first century and, in fact, has both increased and decreased as different political coalitions responded to increased migration pressures. The most important trends in Italian migration state capacity are (1) the shift from emigration to immigration, (2) the link between migration state capacity and political regimes (i.e., Italian monarchy, Fascism, postwar consensus, and the Second Republic), and (3) the general agreement between the center-left and center-right coalitions that increased migration pressure requires a mixture of more capacity, restrictive policies, and amnesty.

An important note about Italian state capacity more generally: Italy, along with other southern European countries, is traditionally classified as low state capacity. This is anchored in studies focused on the instability of governments, the fractured executive, tax evasion, corruption, and deep divisions between central and regional governments.<sup>2</sup> While it is certainly true that throughout much of Italy's history the state capacity was hampered by all of these barriers, the political reforms in 1993 and the increased Europeanization of Italian politics have increased state capacity generally. While overall state capacity in Italy still remains low compared to northern Europe, this chapter traces changes and relative increases in Italy's migration state capacity over the last 150 years.

### *Early Italy*

For most of the nineteenth and twentieth centuries, Italy was considered an emigration state—not a destination for immigration—with estimates of more than 26 million Italians leaving their country. Italian emigration occurred in three waves: first, around seven million Italians emigrated from

1861 to 1900, primarily to northern European countries, and second, nine million emigrated from 1900 to 1915, primarily to North and South America and many eventually returned to Italy.<sup>3</sup> A third wave of Italians emigrated after the Second World War, amounting to 5.6 million people from 1946 to 1965 with around half returning.<sup>4</sup> This pattern of mass emigration created large Italian communities in the United States, Argentina, Brazil, and elsewhere.

Because of its orientation toward emigration, Italy's migration state capacity during this period focused on controlling emigration through the Commissioner-General of Emigration (established in 1901 as part of the Ministry of Foreign Affairs), followed by the Directorate of Emigration, and later as the Ministry for Italians Abroad and Immigration.<sup>5</sup> The Commissioner-General had sweeping powers to set the cost of tickets, create and manage hostels for travelers, inspect ports, and issue permits for Italian workers destined for other European countries.<sup>6</sup> The government even set up an Emigration Fund to provide social assistance to emigrants financed by fees from recruiter and carrier licenses, taxes on tickets and passports, and fines for violating migration laws.<sup>7</sup> Remarkably, in 1902, the Commissioner-General took the extraordinary measure of suspending emigration to Brazil because of the poor conditions for Italian workers on Brazilian coffee plantations.<sup>8</sup> Many of the government's emigration policies aimed to protect Italian emigrants: for example, a 1901 law required passports for potential emigrants before purchasing their travel tickets to prevent their denial of entry at American ports.<sup>9</sup> The law envisioned an efficient bureaucracy that would produce and deliver passports within 24 hours of their request.<sup>10</sup>

Italy was also concerned about controlling emigration during the First World War. On 6 August 1914, the Italian government blocked emigration for any military-aged men by annulling their passports,<sup>11</sup> and further restricted emigration to those with work contracts. Later in 1916, the government temporarily stopped issuing passports, required visas for foreigners entering Italy, and reinstated internal passports.<sup>12</sup> Italy increased its migration state capacity to restrict migration in similar ways as other European countries during the First World War.

### *Fascist Italy*

After the Fascists came to power in 1922, Mussolini was initially pro-emigration, seeing remittances as an economic resource.<sup>13</sup> One early innovation by the Fascists in migration state capacity was the National Credit



Institute for Italian Labor Abroad, established in 1923, which provided loans to companies to employ Italians abroad.<sup>14</sup> Some critics argued the loans subsidized the economic development of other countries, but the government believed the program was a safety valve for an overpopulated Italy. While organizationally and institutionally innovative, the early migration state capacity of Fascist Italy was not yet totalitarian. For example, the human capital of the Commissioner-General's office in 1924 was only 38 employees, composed of "one central inspector, four regional inspectors and thirty-three provincial delegates," tasked with surveillance and preventing clandestine emigration.<sup>15</sup> In the following years, the financial capital of the Commissioner-General more than doubled from 6.9 million lire in 1919 to 16 million lire in 1926.<sup>16</sup>

The Fascists' obsession with "the nation" led to deeper questions of migration and demography and, within a few years, the government shifted from encouraging to repressing emigration. The government began asserting that emigration undermined "the nation" by hurting the economy, labor force, and military. For example, Alfredo Rocco, a member of the Chamber of Deputies, said that "to lose millions of Italians means to lose billions of lire."<sup>17</sup>

The Fascists ratcheted up control in 1926 by declaring all Italian passports invalid, followed by new restrictive rules that only issued passports to Italians already in possession of work contracts abroad or summons from close family. In 1927, the Commissioner-General was replaced by the General Directorship of Italians Abroad and the Emigration Fund was consolidated into the national budget. Rather than encourage emigration, the General Directorship of Italians Abroad prioritized fostering relationships with Italians already abroad by subsidizing frequent return trips and eliminating the repatriation tax.<sup>18</sup> By 1932, 30 million lire was spent annually on Italian schools abroad, in addition to 12 million lire for the "defense of Italian-ness abroad."<sup>19</sup> Later, the Fascist regime developed more totalitarian forms of migration state capacity: for example, the Commission for Migration and Internal Colonization coordinated a policy of forced ruralization that relocated workers to the Italian countryside and transferred some workers to Italian colonies.<sup>20</sup>

### *Postwar Italy*

After the fall of the Fascist regime, the new Italian Republic established the Directorate of Emigration, sharing responsibilities between the Ministry of

Foreign Affairs and Ministry of Labor, which was replaced by the High Commission for Work Abroad and the Superior Council of Emigration.<sup>21</sup> In the aftermath of the Second World War, Italy relied heavily on the Intergovernmental Committee for European Migration (a precursor for the International Organization for Migration) to move 307,251 Italians to Argentina, Brazil, Australia, Venezuela, Canada, the United States, and elsewhere from 1952 to 1961.<sup>22</sup> This was an early form of subcontracting to international organizations.

In the two decades following the Second World War, more than half a million Italian colonists repatriated to Italy along with a smaller number of Eritreans and Ethiopians who had been domestic workers or were otherwise employed by the colonial administration.<sup>23</sup> Emigration continued in the postwar period, with many Italians seeking work in the rest of Europe. Italians were recruited for German guest worker programs (and to smaller programs in the Netherlands and Belgium), peaking in 1961 with 114,000 Italian guest workers in Germany.<sup>24</sup>

For nearly 40 years, Italy had no official procedure to apply for asylum, but in practice there were two types of asylum: constitutional asylum granted through the executive and a de-facto asylum through Italy's commitments in the Refugee Convention facilitated through UNHCR's office in Rome.<sup>25</sup> In some ways, Italy was in the vanguard by including the right of asylum directly in the 1947 Italian Constitution (Article 10) and signing the Refugee Convention in 1954—but the government did not establish a legal or administrative process for determining refugee status until 1990. During this period, refugees in Italy were granted status on a case-by-case basis through the executive or Italian embassies abroad.<sup>26</sup> In the second type of asylum, UNHCR provided de-facto protection before arranging for resettlement of refugees. UNHCR established an office in Rome in 1952 and created a joint committee of two Italian officials and two UNHCR officials who reviewed asylum applications, mostly from people fleeing Eastern Europe.<sup>27</sup> The Ministry of Interior, with the assistance of the Red Cross and Caritas, ran two camps in Latina and Capua to accommodate refugees before they were resettled to the United States, Canada, or Australia. Later, in 1979, the Italian navy picked up 900 Vietnamese boat people, who were housed in the same camps before being resettled.<sup>28</sup> In another incident in the 1970s, hundreds of Chileans fled to the Italian embassy in Santiago when General Augusto Pinochet overthrew the Chilean government; those dissidents were allowed to resettle to Italy along with their families.<sup>29</sup> Dur-

ing the postwar period, the asylum process in Italy was ad hoc, which amounted to weak migration state capacity.

Italian courts and the constitution proved contradictory when it came to the right of asylum. Italy never removed the 1951 Refugee Convention's original geographic restriction that only applied to European refugees. Instead, the Milan Court of Appeals decided in 1964 that non-European asylum applicants had the right to protection by UNHCR as de-facto refugees and were issued temporary residency permits before they were resettled.<sup>30</sup> In addition, because of an arcane legal dispute, asylum cases were decided by both administrative and ordinary courts.<sup>31</sup>

### *Late Twentieth-Century Italy*

Italy's current migration state capacity was shaped by an early legal pattern in which successive governments pushed through reforms that bundled new measures of control with large amnesty programs. Scholars mark 1974 as the first year of positive net immigration (i.e., more immigrants than emigrants), which they attribute to the oil crisis and the restrictions on labor migration in other, more preferred European countries.<sup>32</sup> Immigration remained largely unregulated until 1986 when the Foschi Law, which defined the rights of migrants in Italy, prioritized employment of Italian and EU workers, granted equal access for migrants to social welfare, and addressed irregular migration, exploitation, and the hiring of undocumented migrants.<sup>33</sup> Responsibilities for social assistance to migrants were assigned to the Ministries of Labour and Foreign Affairs, in addition to a decentralization of welfare programs to regional and city councils. Migration state capacity continued to lack organizational coherence and funding to execute the tasks. The Foschi Law also included Italy's first amnesty program, which regularized nearly 118,000 irregular migrants. The Foschi Law was the first in a series of Italian migration laws (see appendix 2) that coupled restrictive measures with generous amnesty programs. Since 1986, there have been seven amnesty programs in Italy (1986, 1990, 1995, 1998, 2002, 2009, 2012), which regularized nearly 1.7 million people.<sup>34</sup>

The most significant contribution to Italian migration state capacity was the 1990 Martelli Law that finally defined refugee status and established the National Commission for the Right of Asylum.<sup>35</sup> The law defined the asylum process as follows: asylum seekers presented their claims to the border police or the local police station [questura] and the questura issued tempo-



Fig. 4.1. Albanians aboard the *Vlora* cargo boat seeking refuge in Italy, August 1991

A crowd of Albanians commandeered the *Vlora* to flee the collapse of the communist regime and seek refuge in Bari, Italy. (Photograph courtesy Luca Turi, 8 August 1991, Apulia Film Commission.)

rary residency permits. The application was passed to the national commission, which was composed of four officials (one from the Ministry for Foreign Affairs, two from the Ministry for the Interior, and the police commissioner [prefetto]). Additionally, a UNHCR official participated in an advisory role. A hearing and interview could be held by the commission before deciding on each case. If the commission decided in favor of refugee status, individuals were granted residency permits by the questura. If the commission refused refugee status, individuals were issued expulsion orders. The police were responsible for enforcing court-ordered deportations but had little coordination or manpower to follow through.<sup>36</sup> Applicants could appeal the decision to an administrative tribunal.<sup>37</sup> Thirty billion lire a year was allocated for temporary accommodation to be supported by 200 new social workers and implemented by regional and local councils.<sup>38</sup> In addition, the law established the process for setting national quotas for labor migrants each year.<sup>39</sup>

The Martelli Law also created the procedure for refusal of entry at the

border and empowered the border police and the military to conduct surveillance for human trafficking. This was significant, in part, because throughout 1991 tens of thousands of Albanians arrived in Italy after the collapse of the Albanian regime. Figure 4.1 shows thousands of Albanians who commandeered the *Vlora*, a cargo boat, and forced the captain to sail to Bari, Italy.<sup>40</sup> At first, the Albanians were not allowed to disembark because the Italian policy was to prevent boats from docking or to repatriate Albanians soon thereafter. Eventually, the passengers on the *Vlora* were moved to an abandoned stadium where the conditions were squalid and violent.<sup>41</sup> In response, the Italian army and navy organized the deportation of all of the Albanians in just 10 days. One commenter reported that only the “army is in a position to organize within such a short period of time such a complex and varied operation.”<sup>42</sup> While Italy’s migration state capacity was not prepared for such a large influx of migrants, other Italian institutions were deployed in order to respond. Italian authorities took the opportunity to prove to the EU that they were capable of stopping uncontrolled migration on Italian borders.<sup>43</sup>

### *Twenty-First-Century Italy*

The subsequent reforms in 1995, 1998, 2002, and 2008 expanded Italy’s migration state capacity in two ways. First, the national commission expanded its capacity by decentralizing asylum decisions to seven territorial commissions.<sup>44</sup> The national commission defined policies and gathered statistics, while the territorial commissions provided most of the administrative capacity and issued decisions. Territorial commissions are composed of representatives from the prefecture, police, local municipality, and UNHCR. After 2005, UNHCR had full voting rights on each commission. The territorial commissions are located within prefectures and are part of the Department for Civil Liberties and Immigration in the Ministry of Interior.

The second way Italy expanded their migration state capacity was by expanding the system of detention and accommodation centers. UNHCR recommends a system of first and second reception: first reception centers are near ports of entry and provide first aid, identification, and the preliminary assessment if there are asylum claims, while secondary centers are dispersed around the country and provide more flexible, integrated living scenarios. Italy’s detention centers have evolved significantly since 2004 with

some centers being both renamed and reclassified. The reception capacity increased most starkly within extraordinary and temporary centers. This reflects a shift toward more repressive and restrictive logics of containment and confinement of refugees.<sup>45</sup>

From 2004 to 2008, asylum seekers were commonly detained while their cases were assessed in a system of seven identification centers (*Centri di Identificazione*) and 15 temporary accommodation centers (*Centri di Permanenza Temporanea e di Assistenza, CPTA*). CPTA were under the authority of the Ministry of the Interior but management was subcontracted to the Italian Red Cross, religious charities, or cooperatives. The maximum detention for migrants was 20 days in identification centers and 60 days in CPTA. Those granted asylum were released, while those who were refused asylum and were not deported by the end of the maximum period were released with an injunction to leave and banned from returning to Italy for five years.<sup>46</sup>

In 2008, asylum applications more than doubled to 31,723—up from 13,310 the previous year. The Ministry of the Interior responded by reorganizing the system into four types of reception centers.<sup>47</sup> First, migrants were received near major ports at First Aid and Reception Centers (*Centri di primo soccorso ed assistenza, CPSA*). CPSA are temporary accommodation with medical and humanitarian aid before people were transferred within a few days to other centers. If individuals expressed their desire to apply for asylum, they should be transferred to Reception Centers for Asylum Seekers (*Centri di Accoglienza per Richiedenti Asilo, CARA*) where they wait for identification and asylum interviews with the local territorial commission. CARA are open centers during the day but closed at night. If an individual is identified as vulnerable or is granted asylum, they can move to accommodation in SPRAR (*Protection System for Asylum Seekers/Sistema di Protezione per Richiedenti Asilo e Rifugiati*).<sup>48</sup> SPRAR centers are typically run by NGOs or local authorities, and individuals can stay up to six months or extend to one year if they are considered vulnerable. The SPRAR system only had 3,000 places in 2008, the same year 31,000 people applied for asylum. Because of the limited capacity in SPRAR, many asylum seekers stayed in CARA beyond the 35-day maximum or became homeless.<sup>49</sup> If individuals do not wish to claim asylum, they are transferred from CPSA to reception centers (*Centri di Accoglienza, CDA*) while their paperwork is processed. CDA provide first aid and support but are closed facilities. If an asylum seeker in CARA or a migrant in CDA were given expul-

sion orders, they were transferred to an identification and expulsion center (Centri di identificazione ed espulsione) where they were detained until they were deported.

Another characteristic of migration state capacity during this period was experimentation with collaboration with IOs. UNHCR became more involved in Italy after several instances of collective forced returns—banned by the 1951 convention—from Lampedusa to Libya in 2004 and 2005. The cases involved more than 1,850 people identified by Italian authorities as Egyptians who were quickly returned to Libya without opportunity to apply for asylum.<sup>50</sup> After the 2004–5 incidents, the Italian Ministry of Interior invited UNHCR, IOM, and the Italian Red Cross to participate in the Praesidium project as a partnership to ensure the human rights of migrants during disembarkment, assessments, and detention.<sup>51</sup> UNHCR provided information about claiming asylum, identified and referred vulnerable people, and monitored detention centers; IOM provided information on Italian immigration law; while the Red Cross provided health and psychological support for vulnerable people. This model of partnership with IOs for the

**Table 4.1. Reception Capacity in Italy**

	Hotspots		First reception†		Secondary reception		Extraordinary reception		Total
	# of facilities	Capacity	# of facilities	Capacity	# of facilities	Capacity	# of facilities	Capacity	
<b>2003</b>						1,365			1,365
<b>2004</b>						2,237			2,237
<b>2005</b>						2,199			2,199
<b>2006</b>						2,428			2,428
<b>2007</b>						2,411			2,411
<b>2008</b>						4,388			4,388
<b>2009</b>						3,964			3,964
<b>2010</b>			13	6,593	138	3,146			9,739
<b>2011</b>			13	4,958	151	3,979	24,198		33,135
<b>2012</b>			13	4,870	151	3,979	1,332	18,371	27,220
<b>2013</b>			14	7,189	302	10,381			17,570
<b>2014</b>			14	8,608	432	20,752	1,657		29,360
<b>2015</b>	3	1,200	13	7,290	430	21,613	3,090	74,555	104,658
<b>2016</b>	4	1,600	15	9,152	652	26,012	7,005	124,571	161,335
<b>2017</b>	4	1,600	15	15,083	775	31,270	9,073	158,607	206,560

Source: Giuseppe Campesi, “Between Containment, Confinement and Dispersal: The Evolution of the Italian Reception System before and after the ‘Refugee Crisis,’” *Journal of Modern Italian Studies* 23, no. 4 (2018): 499.

† First reception includes Identification Centers, Reception Centers for Asylum Seekers (CARA), and First Reception Centers; second reception were SPRAR; and extraordinary reception were Emergency Reception Centers.

provision of information and monitoring was also paired with the rapid onward transfer to local authorities to complete the asylum process (known as the Lampedusa model). Once individuals arrived in Italy, they were quickly assessed, fingerprinted, and transferred onward to accommodation centers around Italy. The Italian government contended that this was to prevent congestion in Lampedusa and port cities, but civil society groups suggested that this policy encouraged people to abscond and travel onward to other EU countries as irregular migrants.

Another important step during this period was the development of bilateral agreements between Italy and Libya on migration controls. Italy has had a long and tumultuous history with its former colony regarding migration controls, including Libya's leader Muammar Gaddafi demanding compensation because Libya could "no longer act as Europe's coast guard," and threatening to swamp Italy with migrants.<sup>52</sup> However, cooperation on migration between Italy and Libya began gradually to be formalized through a joint communication (1998) and memorandum of intent (2000). The Italian government eventually signed the 2008 Treaty of Friendship, which agreed to pay Libya \$5 billion in infrastructural investments in exchange for cooperation on migration, like reinforcing Libya's land border, building migrant detention centers in Libya, criminalizing trafficking, and joint patrols along Libya's coast.<sup>53</sup> Silvio Berlusconi bluntly revealed the main purpose of the friendship treaty: "more oil and less migrants."<sup>54</sup> Nevertheless, the agreement formalized the transfer of restrictive migration policies to Libya—what scholars describe as "externalization" of migration policies to a third country in order to stop or deter migrants from ever arriving in Europe.<sup>55</sup> Note: I do not classify the Treaty of Friendship as subcontracting because subcontracting describes the transfer of responsibility to an IO to implement within an EU member state, while the treaty with Libya externalizes responsibility and implementation outside the EU.

### *North African Emergency (2011–2013)*

The North African emergency is another example of how Italy rapidly scaled up its migration state capacity by deploying emergency resources and leveraging the human and financial capital of other parts of the government. Nearly 50,000 people arrived by boat to Lampedusa in just a few months following the political unrest of the 2011 Arab Spring. The Italian prime minister officially declared a humanitarian emergency on 12 Febru-



ary<sup>56</sup> and extended it on 6 April 2011, appointing Franco Gabrielli the deputy commissioner for the humanitarian emergency within the Department of Civilian Protection. From February to April 2011, new arrivals to Lampedusa were held in an “open-air camp existing outside the law” without legal status, access to judges, or human rights monitors.<sup>57</sup> The April decree set out an emergency plan in three parts: first reception, fair distribution to regions, and guaranteed assistance. Migrants were received at temporary emergency centers (similar to CPSA) at ports and quickly distributed across Italy based on the relative percentage of the total local population in each region (a continuation of the Lampedusa model).<sup>58</sup> Within each region, tent cities were built as temporary accommodation on abandoned military sites. These temporary centers were run in partnership between local and national authorities. The April emergency decree established a coordination committee consisting of representatives from national, regional, and local authorities and advanced operative centers in each region to assist with implementation. The coordination committee also established an operational support group and a monitoring and assessment group, which had representatives from national and regional agencies, municipalities, UNHCR, IOM, and Save the Children.<sup>59</sup>

Throughout 2011–12, the Italian government used the language of “emergency” and “crisis” in order to secure EU support.<sup>60</sup> The EU allocated an additional €25 million in emergency funds from the External Border Fund and the Refugee Fund, which paid for humanitarian support, such as food, medical aid, and accommodation at the local level.<sup>61</sup> This funding was funneled through national and local institutions—not international organizations or EU agencies. The main operational responsibility that Italy delegated to IOs was to IOM for a voluntary repatriation program, which offered a plane ticket and €200 cash for migrants willing to return home. This program was limited to 600 returnees and amounted to a budget of €900,000.

During this period, EU institutions started to intervene in Italian migration policy in three ways. First, on 23 February 2012, the European Court of Human Rights ruled in the case *Hirsi Jamaa and Others vs. Italy* that people intercepted at sea cannot be pushed back to Libya and must have the opportunity to claim asylum.<sup>62</sup> The case found that Italy was violating the principle of nonrefoulement and the prohibition on collective expulsion. This case forced Italy to renegotiate the bilateral agreement with Libya. Second, Nils Muižnieks, the commissioner for human rights of the Council of

Europe, visited Italy in July 2012, publishing his report that found a fragmented system of reception centers with variable and subpar conditions, the extended use of administrative detention, and continued use of readmission agreements with Egypt and Tunisia that may violate nonrefoulement.<sup>63</sup> Third, on 24 October 2012 the EU started infringement proceedings against Italy for violating the directives on asylum procedures, reception, qualification, and Dublin II.<sup>64</sup> The violation identified the lack of accommodation, bad conditions in reception centers, and barriers to accessing the asylum process.

The Italian government declared that the North Africa emergency would end in March 2013.<sup>65</sup> Most migrants were granted temporary residence permits, the temporary camps and tent cities were closed, and migrants was given €500 to encourage repatriation or to help with integration.<sup>66</sup> No data was recorded about whether migrants returned home, but many were expected to have traveled to other EU states and to overstay their permits.

The impact of the North Africa emergency on Italian migration policy was to set a pattern of response and to adjust the Italian public's expectations for the "new normal." The new pattern of response was that Italy relied heavily on temporary camps and rapid transfer to all regions in Italy, accompanied by temporary residency permits. Italian authorities gradually accepted that many irregular migrants would abscond from accommodation and application processes and go underground. This response informed how Italian authorities would respond during the 2014–17 migration crisis. The second impact was to adjust expectations for how the Italian government could respond to irregular migration in the future. While the state of emergency ended, the very high number (more than 40,000) of sea arrivals each year was accepted as the "new normal."

On the eve of the 2014–17 surge, Italy's migration state capacity had grown substantially in financial and human resources, in addition to structurally through new commissions, police and military operations, and laws. Table 4.2 provides illustrative examples of the four components of migration state capacity in Italy. Many scholars characterize the overall capacity of the Italian state as a weak state—which it is relative to northern European states. In this section, I traced the evolution of Italy's migration state capacity. Despite the overcrowding and poor conditions in detention centers during this period, the Italian government significantly increased its capacity to house asylum seekers and process their applications.

## Italy and the EU: A Credible Partner?

Besides analyzing the evolving migration state capacity in Italy, we must understand Italy's relationship to the EU and its place as a credible partner. How do different Italian governing coalitions change Italy's relationship with the EU? How does the party composition of coalitions impact their credibility as partners for coordination or collaboration with EU institutions? This section describes Italy's orientation to the EU, analyzes Italy's center-left and center-right coalitions' approach to the EU, and presents several recent trends in Italy.

Italy was a founding member of the European Economic Community and was active in building and participating in all subsequent levels of European integration. From 1946 to 2020, Italy had 67 different governments because of party fragmentation and unstable coalitions. Despite the frequent turnover of Italian governments, the pro-Europe Christian Democratic Party dominated coalitions and controlled the governments for over 50 years. In some ways, there was no other choice but Europe for Italy in the postwar period because the European project stood in direct opposition to Italy's fascist nationalist past.<sup>67</sup> Since 1952, public opinion in Italy has strongly supported European integration, averaging above 70 percent.<sup>68</sup> In addition, former Italian prime minister Romano Prodi became the president of the European Commission (1999–2004) and led in the drafting and

**Table 4.2. Examples of Types of Migration State Capacity in Italy**

	Border Security	Asylum
Financial resources	Fund to assist in repatriation of migrants National Fund for Migration Policies Decentralized funding to regions	Fund to assist in repatriation of migrants National Fund for Migration Policies Decentralized funding to regions
Human resources	Italian navy and police	Staff at national and territorial commissions
Organizational	Polizia di Stato Carabinieri Polizia di Frontiera Guardia di Finanza Italian navy Mare Nostrum	Police station ( <i>questura</i> ) National commission Territorial commissions Administrative courts Department for Civil Liberties and Immigration Ministry of Interior
Institutional	<i>See Appendix II for full list</i>	1947 Constitution <i>See Appendix II for full list</i>

ratification process of the ill-fated Constitutional Treaty. Despite many Italians' enthusiasm for Europe, Italian governments have a history of inconsistent implementation of EU directives.<sup>69</sup>

Italian political parties and coalitions have shifted their position toward the EU over the last 50 years. During the postwar period, parties of the center-right across Europe spearheaded the goal of a common market and the supranational institutions to support it, while communist, socialist, and other parties of the left often opposed European integration because of their support for state regulations, unions, and labor market protections. In the 1990s, political parties swapped positions on the EU: center-left parties become more pro-EU because of the EU's support for democratic institutions and human rights, while center-right parties became more Euroskeptical because they opposed interference from supranational institutions.<sup>70</sup>

### *Center-Left Coalitions*

In some aspects, center-left coalitions in Italy were credible partners for EU institutions because of their pro-EU stances and strong commitment to reform based around the convergence criteria for the Economic and Monetary Union. Despite these tendencies, EU began infringement procedures against Italy because of its failure to implement EU directives.

Center-left coalitions proved themselves credible partners that could implement the reforms necessary to join both the euro and the Schengen area. First, the Olive Tree coalition (1996–2001, 2006–8), passed legislation in order for Italy to meet the Economic and Monetary Union convergence criteria and to adopt the euro.<sup>71</sup> For example, Prime Minister Prodi used pressure from Europe to cut budgets, pass anti-inflation measures, and reform the public administration, in addition to a one-off “Eurotax” to reduce the deficit.<sup>72</sup>

Second, Italy's desire to join the Schengen area drove many other reforms in the 1990s. The Olive Tree coalition passed the 1998 legislation (see appendix 2) to implement Italy's commitments regarding the Schengen area, including strict border checks, deportation powers, and residency permits.<sup>73</sup> In addition, the coalition rushed to establish its own domestic asylum system because the Dublin regulations, which came into effect in 1997, would potentially return large numbers of asylum seekers from other EU countries to Italy because Italy was the first country they entered in Europe.

The last section of this chapter shows how center-left coalitions led the expansion of Italy's migration state capacity in response to the large movements of people in 2014–17. One important thing to note is that while the center-left was more pro-EU than the center-right, both sides of the political spectrum passed legislation that increased migration state capacity, including repressive elements like deportation and detention.

### *Center-Right Coalitions*

While the rhetoric of Italian parties in center-right coalitions has become more Euroskeptic, the policies implemented by their coalitions have closely followed EU migration policies. It is useful to disentangle the largest parties on the center-right: Forza Italia, Lega Nord, and Alleanza Nazionale. The Forza Italia, led by former prime minister Silvio Berlusconi, was initially pro-euro but in 1994 had turned against the euro. Giulio Tremonti, Forza Italia finance minister, attempted to link “Prodi’s Euro” to the slowing Italian economy and increased inflation.<sup>74</sup> Despite campaigning on restricting immigration, in 2002 Berlusconi’s second coalition government oversaw the largest regularization program, for more than 650,000 people.<sup>75</sup> The Lega Nord (rebranded as Lega since 2018) is an explicitly anti-Rome and anti-EU party that favors decentralization and resists control from supranational institutions. Many studies note that the Lega Nord’s presence in and out of coalitions has influenced most Italian parties to become more anti-immigrant.<sup>76</sup> After the 2018 elections, the Lega articulated extreme anti-EU sentiment by threatening to veto the EU’s seven-year budget, and even threatening to leave the euro.<sup>77</sup> The Alleanza Nazionale, formed in 1995 from the membership of the neofascist Italian Social Movement, has evolved on the EU and immigration as it attempted to distance itself from Fascism and reposition itself in the center of the political spectrum. The Alleanza Nazionale is essentially pro-European integration, but framed through the lens of Italian national interest,<sup>78</sup> and the party seeks greater control of immigration. Despite their traditionally conservative positions on immigration, Alleanza Nazionale leader Gianfranco Fini proposed in 2003 to extend the right to vote in local elections to immigrants and passed a law giving amnesty to 630,000 migrants.<sup>79</sup>

Overall, when faced with pressure from Europe, the center-right Berlusconi governments sought to remove pressure from the EU rather than implement EU policies as intended.<sup>80</sup> For example, the Stability and Growth

Pact laid out legally binding limits on the budget deficits of all member states. Berlusconi's approach was to ignore the EU and temporarily exceed the limit and to lobby for the suspension and reform of the pact's requirements.<sup>81</sup> While not explicitly anti-EU, Berlusconi resisted European control and preferred intergovernmental diplomacy between different ministers of member states rather than through the European Commission.

### *Five Star Movement (Movimento Five Stelle, M5S)*

Beppe Grillo—a comedian, blogger, and political activist—grew a social movement using local meetups, an active online presence, and a series of V-Day demonstrations (short for *vaffanculo* day or “fuck-off” day in Italian) in 2007. Grillo founded the M5S in 2009 and gained seats in the 2010 and 2012 local and regional elections. By 2013, the M5S became the largest party in the Chamber of Deputies with 25 percent of the votes—nevertheless, the center-left coalition formed the government. In the 2018 elections, M5S won the largest number of votes and went into a governing coalition with the Lega. In less than 10 years, M5S has upended Italian politics and become one of the largest and most influential parties.

The M5S is a populist, antiestablishment party that supports reform, anticorruption, and direct democracy.<sup>82</sup> From the early days, Grillo organized a “Clean Parliament” campaign against corruption and railed against the mainstream media. The party's economic proposals are generally left-of-center by opposing austerity, advocating for less taxes, a flexible retirement age, and the nationalization of telecoms.<sup>83</sup> The M5S's antiestablishment views also orient its attitude toward the EU: in 2014, M5S (unsuccessfully) organized a petition to remove Italy from the euro and is more generally Euroskeptic. M5S's stance on immigration has been inconsistent: before 2018 the party manifestos were largely silent on the issue, but in 2018 it took a harder line. M5S called for “Zero landings of immigrants. Italy is not the refugee camp of Europe” coupled with more humanitarian policies, like “safe and legal channels” to Europe, revising the Dublin system, and strengthening the territorial commissions.<sup>84</sup> It is unclear whether EU institutions perceive M5S as a credible partner on migration issues. Despite their more humanitarian proposals, the M5S went into government with the Lega after the 2018 elections, thus enabling some of the most radical anti-immigrant policies in Europe (see this chapter's postscript).

### *Pattern of Relying on the EU*

Italy is more susceptible to mass influxes of migrants than other EU member states because of its long shoreline and proximity to northern Africa. Despite its mixed track record of implementing EU policies into national law, Italy's geopolitical position in Europe has made it advantageous to rely more heavily on EU-wide migration policies aimed at burden sharing. The two most important examples are Italy's attempt to activate the Temporary Protection Directive (TPD) and its jockeying for an EU-led search and rescue operation.

After the 2011 North African emergency, Italy and Malta responded with an exchange of letters with the EC pushing for the activation of the TPD.<sup>85</sup> The TPD would grant temporary protection for migrants arriving in Italy in all member states and trigger solidarity mechanisms (like EU funding and shared reception facilities), but the TPD was never activated because it requires a qualified majority in the Council. The Italian government turned to the EU for help during the 2011 crisis but was rejected. This is an example of Italian officials showing their commitment to EU-wide coordination policies but being met by objections from other member states—those not facing the same crises—that were not committed to solidarity. Instead, Italy granted temporary humanitarian resident permits to migrants who arrived between January 2011 and 5 April 2011, allowing them to travel onward to other EU countries. These temporary permits helped to decongest some of the camps and forced other member states to share the burden. France objected to the temporary permits by instituting random border checks on the French-Italian border.<sup>86</sup>

Another example of Italian preference for EU-wide solidary mechanisms was in the political jockeying around search and rescue in the Mediterranean Sea. After several shipwrecks in October 2013 with death tolls over 400 people, Italy's navy launched Operation Mare Nostrum aimed at saving lives and stopping smugglers. Mare Nostrum was successful at saving more than 170,000 lives but Italian officials felt abandoned by their European allies, which funded less than 2 percent of the €114 million operation. Angelino Alfano, the Italian minister of interior, threatened on Twitter: "The European Union has two options: either it comes to the Mediterranean to put the EU flag on Mare Nostrum or we will let migrants with right of asylum leave for other countries."<sup>87</sup> By October 2014, Italy ended Mare Nostrum in an effort to force the EU to share the burden in the Medi-

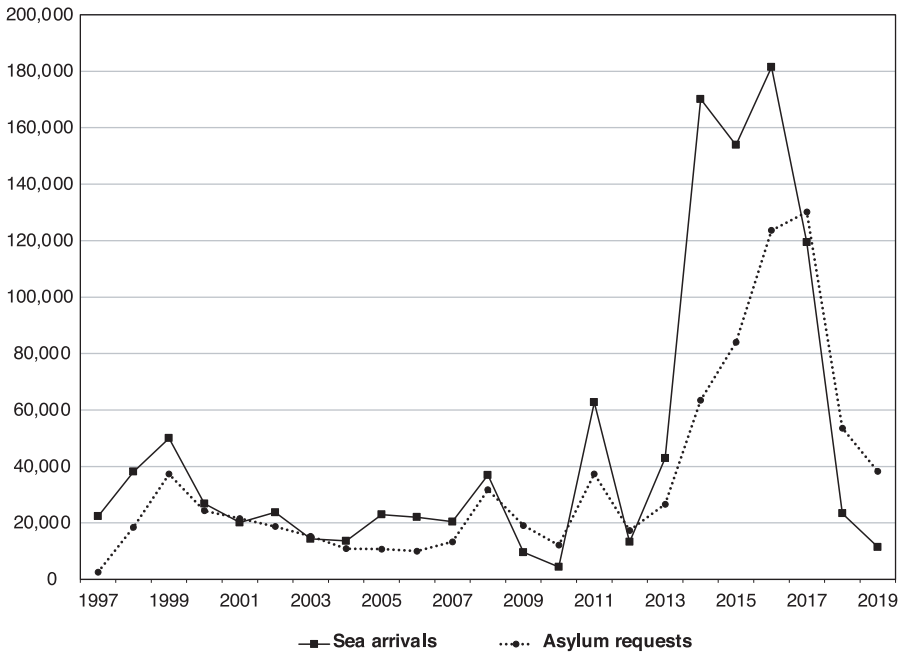


Fig. 4.2. Sea Arrivals and Asylum Requests in Italy, 1997–2019  
 Source: Fondazione ISMU, “Calano le richieste di asilo, aumentano i dinieghi,” February 2020, [https://www.ismu.org/wp-content/uploads/2019/12/Dati-ASILO-2016-2019-\\_2marzo-1.pdf](https://www.ismu.org/wp-content/uploads/2019/12/Dati-ASILO-2016-2019-_2marzo-1.pdf); Ministry of Interior, Department for Civil Liberties and Immigration, 31 December 2019, [http://www.libertacivilimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto\\_statistico\\_giornaliero\\_31-12-2019.pdf](http://www.libertacivilimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_31-12-2019.pdf)

terrean. Throughout the entire diplomatic skirmish, it was clear that Italy was committed to more European solidarity, not less, and was a credible partner to coordinate operations with other European institutions.

### 2014–2017: Italian-Led Coordination

The crisis began when sea arrivals spiked from 42,925 in 2013 to 170,100 in 2014 and remained above 100,000 until 2017 (see fig. 4.2). This dramatic increase came a year before arrivals in Greece spiked to 872,500 in 2015. While Italy’s migration crisis was not of the same magnitude as that of Greece, the 2014–17 influx was five times larger than the North African emergency. Because of the necessary conditions—high state capacity and a



credible EU partner—the EU responded through the Italian-led coordination of the response, funneling aid through Italian institutions and expanding the previous Italian systems of reception and asylum.

The Italian government responded on three fronts: first, by launching a wider search and rescue operation; second, by building emergency reception centers; and, third, by expanding administrative capacity to process asylum claims. While the Italian navy expanded their search and rescue operation, *Mare Nostrum* (“Our Sea” in Latin), the EU only contributed €1.8 million to the operation. After only one year, the Italians ended *Mare Nostrum* in an attempt to force the EU to share the financial and operational burden. In November 2014, Frontex launched Operation Triton, a €35 million joint operation, but it was criticized for its meager budget and limited mandate that focused on border management, instead of saving lives.<sup>88</sup>

As sea arrivals grew exponentially, so did the need for accommodation. *Mare Nostrum* developed a reception plan that empowered local prefectures to create and manage additional extraordinary reception centers (*Centri di Accoglienza Straordinaria*).<sup>89</sup> In December 2014, 35,562 people were housed in extraordinary reception centers, but that number grew to 70,918 people by October 2015.<sup>90</sup> In 2014 alone, the Italian reception system cost €633 million, which was funded by the Ministry of Interior.<sup>91</sup> Over the next three years, the EU would inject €85.6 million in emergency funding to support the Italian government to implement the reception system.<sup>92</sup>

The third response was to increase Italy’s migration state capacity to process asylum claims. In 2014, the Ministry of Interior increased the num-

**Table 4.3. EU Financial Support to Italian Government, 2015–17**

	Number of grants	Total amount	Percent
Ministry of Interior	12	€ 93,700,000	62.9%
Coast Guard	5	€ 21,600,000	14.5%
Ministry of Defense Italian Navy	3	€ 17,700,000	11.9%
Ministry of the Interior— Department for Civil Liberties and Immigration	2	€ 13,600,000	9.1%
Ministry of Defense	1	€ 2,300,000	1.5%
<b>Total</b>	<b>23</b>	<b>€ 148,900,000</b>	<b>100%</b>

*Source:* Author’s calculation based on European Commission, “Managing Migration: EU Financial Support to Italy,” 6 September 2017.

ber of territorial commissions from 20 to 40, which increased the number of annual asylum decisions by 70 percent.<sup>93</sup> Despite the new commissions, there was still a large backlog of asylum appeals because all first instance decisions could be appealed in court. In early 2017, the Italian parliament passed the Minniti Law, which shortened the time limit for applying for asylum and removed the right to a second appeal.<sup>94</sup> The law also increased the staff at the commissions from 168 in 2015 to 250 in 2017.<sup>95</sup> Finally, the Italian government opened 16 new identification and expulsion centers and 26 new specialized asylum courts to speed up asylum decisions and deportation. This increased capacity was channeled directly through government institutions and not delegated to IOs or EU agencies. The surge in migration state capacity was an investment in national institutions, reasserting Italian sovereignty over migration policy.

European institutions responded to the influx in Italy with new search and rescue operations, the intra-EU relocation scheme, the hotspot approach, and emergency funding (as discussed in chapter 2). Frontex launched the Triton joint operation (an example of collaboration) and by April 2015 the EU had tripled the operation's budget. This made Triton roughly the same size as Italy's previous Mare Nostrum, but it only patrolled within 30 miles of the Italian coast, making it less effective at saving lives.<sup>96</sup> The second EU response was the intra-EU relocation scheme to move refugees from frontline countries to other EU states. Despite Italy's eager participation, the scheme only relocated 33 percent (11,444) of the 34,953 people the EU promised to relocate from Italy by the end of 2017. The low number of relocations were attributed to additional security checks and barriers put in place by other EU states.<sup>97</sup>

The third EU response to the crisis in Italy (as in Greece) was the hotspot approach. The EU hotspots were modeled after Italy's identification and expulsion centers located near ports, which temporarily detain migrants to identify, fingerprint, and assess their need for protection. EU agencies (Frontex, EASO, Europol, and Eurojust) work jointly together in hotspots to expand Italy's capacity to process the recent influx of migrants. In contrast to Greece, Italian authorities participated in the EU Regional Task Force, which coordinated the overall hotspot strategy. Local authorities (prefettura) officially manage the hotspots on the ground, along with the state police (questura) who run the registration areas and NGOs who are often responsible for accommodation and other support.<sup>98</sup> Italian hotspots are mostly staffed by Italian police and military, whereas Greece

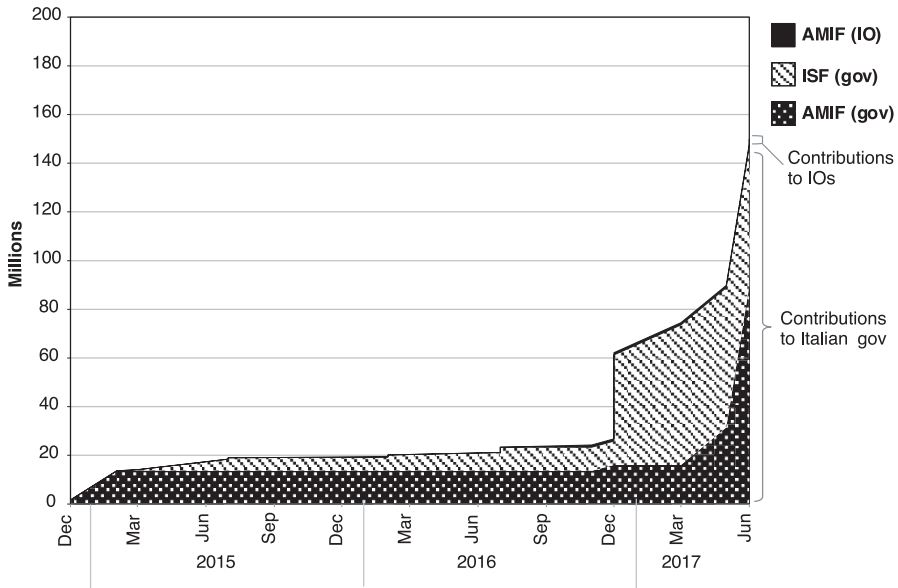


Fig. 4.3. EU Funding for Refugee Crisis in Italy, 2014–2017

Source: Author's calculation based on European Commission, "Managing Migration: EU Financial Support to Italy," 6 September 2017.

relies heavily on personnel from EU agencies. For example, in October 2016, four hotspots were open in Italy with 90 Frontex officers and 15 EASO experts and cultural mediators; by December 2017, the EU staff had decreased to 12 Frontex officers and 19 EASO staff. Greek hotspots were staffed by 442 Frontex officers and 116 EASO staff in October 2016, increasing to 448 Frontex and 232 EASO staff by the end of 2017.<sup>99</sup> Italy adopted the standard operating procedures (SOP) for all hotspots in May 2016 but, by September 2017, Greece still had not adopted a SOP; instead, the EC published a template for Greece to adapt.<sup>100</sup> These different approaches to SOPs reveal how Italy was perceived as a credible partner with whom the EU could coordinate and collaborate to implement EU migration policy, while Greece was not.

The final way EU institutions responded to the crisis in Italy was to funnel €150 million in emergency funding to Italy—99.4 percent of which went directly to national institutions (primarily the Ministry of Interior) and only 0.6 percent went to IOs (fig. 4.3). It is important to note that ECHO

did not disperse any funding from the Emergency Support Instrument (ESI) to Italy—all €401 million from the ESI went to IOs and NGOs in Greece. Strikingly, the EU's response to the crises in Greece and Italy differed primarily in how and to whom they funneled the emergency funding. In Italy, the EU channeled its support through the national institutions, while in Greece the support was delegated to IOs. Chapter 5 discusses in detail how the Greek state had low capacity and no credibility, but the level of crisis was so dire in Greece that the EU created the Emergency Support Instrument as an additional funding instrument to circumvent Greek authorities, to speed up disbursement of funding, and to empower IOs on the ground.

In Italy, the government asserted its role as primary responder, drawing on previous experience and systems set up during the North African emergency. The Italian government quickly scaled up its capacity for reception and to process asylum claims during the 2014–17 crisis. Interviewees linked the reason for coordination instead of subcontracting to the Italian state capacity. One representative from UNHCR in Italy explained:

Italy is a country that has capacity to respond—there are gaps but we believe that the best way to address gaps is to monitor, to advocate, to be present. . . . In Greece, we are deeply involved. We are doing things. But, again, Italy has a totally different capacity. It has a long history of having every year this movement of people and they have the capacity to cope with the regular flow of around 150,000 people a year.<sup>101</sup>

Another important factor for state capacity in Italy was the increased role of regions in processing and accommodation. This differed in Greece where many local communities resisted reception centers in their area, setting up conflicts between national and local authorities and slowing progress. One IOM official explained that “regions and municipalities in Italy play a major role. Regions in [Italy's] national plan accept the resettlement of people who arrive. They have a lot of leeway in their interventions. They deal with migration on their specific territories. They are very present at the national table.”<sup>102</sup> These relationships continued from the previous emergency and allowed Italy to increase its capacity to accommodate and process migrants and refugees.

In Italy, the EU relied on the government as credible partners because the Ministry of the Interior asserted its leadership in coordination, funding,

and policymaking. A high-level official at the Department of Civil Liberties and Immigration said:

The Italian government is fully invested. . . . Policy-making must be based on data, based on the real reality. We have more than 100 prefectures around Italy, and more than a hundred police headquarters around Italy, so we have the contacts on the ground. We know what are really the problems in the territories.<sup>103</sup>

An IOM official explained that in Italy “the response is really coordinated by the government to make sure there isn’t overlap. There is a national coordination [committee] in the Ministry of Interior.”<sup>104</sup> This committee, previously established for the North African emergency, coordinated the response at every level, including negotiating SOP for the hotspots and reception centers. In Greece, many interviewees reported that the government was absent or did not contribute to most coordination meetings.

While not the main responder in Italy, UNHCR collaborated with the Ministry of Interior to jointly review asylum applications and provide information about the asylum process. UNHCR has a unique role in Italy as representatives sit on the territorial commissions and can vote on every asylum decision. This is an example of collaboration in which different parts of the Italian government (prefecture, police, and local municipality) and the UN jointly review applications and make binding legal decisions. It is not subcontracting because UNHCR does not take responsibility for the asylum application or decision-making process. Instead, UNHCR adds capacity with its expertise in asylum law and countries of origin. This role was not created in response to the recent crises, but dates back to 2005 when UNHCR was brought in to help with the asylum backlog.

UNHCR and IOM continued to participate in the Praesidium project (renamed the ADITUS project in 2017 and jointly funded by the Italian Ministry of Interior and the EU)<sup>105</sup> to provide information about the asylum process during disembarkation in ports and monitoring of accommodation and detention centers. In addition, both organizations assist Italian authorities in identifying vulnerable people, like unaccompanied minors, trafficked victims, or those with health issues. UNHCR does not play a significant operational role in Italy; rather, its main activities are information provision and monitoring—both of which are a continuation from before the crisis.

Finally, IOM was delegated responsibility by the EU in both Italy and Greece for the operational logistics of the intra-EU relocation scheme from January 2016 to December 2017, including predeparture counseling, health checks, cultural orientation, booking flights, and accompaniment.<sup>106</sup> IOM is often subcontracted by states for the same package of services when resettling refugees from outside of the EU, making IOM an experienced and credible partner. The EU allocated €900,000 to IOM to assist with the relocation scheme—the only instance of EU emergency funding that was subcontracted to an IO in Italy from 2014 to 2017.

## Conclusion

This chapter traced the evolution of migration state capacity in Italy over the last 150 years. In early Italy, migration state capacity focused on controlling emigration through the Commissioner-General of Emigration, the Directorate of Emigration, and the Ministry for Italians Abroad and Immigration. The Italian state subsidized emigration, regulated recruiters, provided social assistance to emigrants, and in rare cases banned emigration to risky destinations. Under Fascist control, the Italian state shifted its migration state capacity to repressing emigration, canceling passports, and forcibly relocating Italians to the countryside or colonies. During the postwar period, many Italians continued to emigrate to Europe, the Americas, and Australia. Even though asylum was included in Italy's postwar constitution, there were no formal asylum processes, leaving most refugees to seek de facto protection through UNHCR's office in Rome. It wasn't until 1990 that Italy defined the refugee status and established an asylum process through national and territorial commissions. When Italy faced increased migration pressure and governing coalitions had the political will to act, Italy increased its migration state capacity as necessary. However, it was often the case that in the face of increased pressure (from the 1970s into the 1990s) and lack of political will, the state did nothing.

Italian political parties and governing coalitions vary in their approach to migration policy and to the EU. Center-left coalitions in the 1990s used pressure from the EU to pass national legislation to join the euro and the Schengen area. Center-right coalitions attempted to ignore EU pressure and delay implementing EU policies. Despite those delays, both center-left and center-right coalitions were credible partners for coordination and col-

laboration with EU institutions. In particular, Italy was in favor of greater EU solidarity on migration policies because EU-wide burden sharing mechanisms especially benefit Italy.

After decades of fluctuating migration—particularly the North African emergency—Italy developed a standard way of responding to new influxes: build new reception centers, increase staff at asylum commissions, and make asylum laws more restrictive. In total, these initiatives led Italy to develop a stronger state capacity to respond to the 2014–17 crisis and a track record of being a credible EU partner. When faced with the crisis, EU institutions chose to primarily coordinate the response through the Italian institutions, instead of through collaboration or subcontracting.

## Postscript

While the necessary conditions—high state capacity and credible partners—led to coordination in Italy in 2014–17, these conditions can and do change. The March 2018 general election upended Italian politics: the Lega won a plurality in parliament, while M5S received the largest number of votes. After a tense three months of negotiations, a governing coalition was formed between M5S and the Lega. This shift—from a coalition that was a clear credible partner for the EU to a coalition of outspoken critics of the EU—shows how quickly the necessary conditions for cooperation or non-cooperation can change.

In the ensuing months, Matteo Salvini (leader of the Lega and minister of interior) demonstrated just how anti-immigrant and anti-EU the new coalition could become. In June 2018, Salvini refused to allow NGO search and rescue boats to disembark asylum seekers, leading to a standoff between Malta and Italy for which country was responsible for several boats of rescued migrants. Eventually, Spain accepted the stranded migrants.<sup>107</sup> For the next year, Salvini harassed the NGO boats to stop assisting migrants in the Mediterranean. In June 2019, Carola Rackete, captain of the *Sea-Watch-3* rescue boat, was arrested (and later acquitted) for illegally docking her boat in Lampedusa after being refused permission. The coalition also passed a new law that removed humanitarian protection (a category of international protection for those not fleeing war or direct persecution) and suspended asylum applications for individuals convicted of theft, sexual assault, and possession or trafficking of drugs.

The shift in Italian politics shows how both variables—migration state capacity and credible partners—continue to evolve and influence future decisions about how the EU will coordinate, collaborate, or subcontract. In 2018, the number of new asylum applications was down to precrisis levels in Italy, relieving some of the pressure on the EU. But if an influx had occurred, the coalition's mix of Euroskeptic Italian leadership and high state capacity could have led to unilateral action by Italy instead of coordination or subcontracting to IOs.

In another surprise move, Salvini introduced a vote of no confidence in August 2019, undermining the coalition between M5S and Lega. Salvini intended to force an early election, but instead M5S turned to the center-left Democratic Party to form a new coalition that was pro-EU and supported a reformed immigration policy. The new government adopted several laws in response to the COVID-19 pandemic regarding migrants, including funding for reception centers, extending residence permits, and a temporary amnesty for irregular migrants working in agriculture or domestic work. However, the same government designated all Italian ports unsafe because of COVID-19, thus blocking the disembarkment of all migrants from non-Italian ships, in addition to forcing new arrivals to be quarantined on ships. The impact of these dramatic shifts in Italian politics have yet to be felt in EU cooperation on migration management.





## CHAPTER 5

# Subcontracting in Greece

In the summer of 2016, the park benches in Victoria Square, a typical neighborhood park in Athens, were occupied by a few migrants or a refugee family. Most nights around dinner time, a small group of volunteers gathered with a 20-gallon pot of rice and beans to share. People chatted together, shared messages on WhatsApp, and a few sang songs. More than 850,000 people had arrived by boat to the Greek islands and traveled onward to Athens or north to Idomeni, and it was clear that the Greek government did not have the capacity to house, feed, or even—as is legally required—fingerprint and assess their asylum claims. Many people were sleeping rough on the streets or in squats in cities or in tents along the side of the road. As the conditions grew dire, the EU subcontracted €565.5 million to international organizations and NGOs, funneling little through the Greek government. The aim of this chapter is to explain this remarkable shifting of responsibility—albeit temporarily—to nonstate and non-EU actors.

Like Italy, Greece was a country of emigration for most of its history, but also has a complicated history of wars, interventions, and economic crises. In this chapter, I first lay out the history of migration state capacity in Greece, ranging from early regulation of emigration to large regularization programs to a consistent lack of investment in capacity. I show a pattern of international interventions in which European powers did not trust Greek institutions to implement their preferred policies. Second, I analyze the recent Greek political landscape and find that no political coalitions (center-left, center-right, far right, and the SYRIZA coalition) were considered credible partners. Finally, in the last section, I describe the responses to the 2015–17 crisis by civil society, the Greek government, EU institutions, and international organizations. I show how the necessary conditions of low state capacity and no credible partners led to the subcontracting of 73.2 percent of EU emergency funding to IOs.

## History of Migration State Capacity in Greece

As with Italy, the institutions regulating migration in Greece have a long history with roots in war, international interventions, and economic crises. Greek governments on both sides of the political spectrum have invested little in migration state capacity, while international organizations have frequently stepped in to assist migrants and refugees since the early twentieth century. The most important trends in Greek migration state capacity are (1) early regulation of emigration, (2) legal compliance but lack of implementation, and (3) international interventions to assist refugees. Like Italy, Greece was first an emigration state, but later drew more immigration as it was viewed as the doorstep to Europe. Correspondingly, much of the early Greek migration state capacity was oriented around protecting emigrants and encouraging return migration. Later, Greece was transformed into an immigration state with EU laws on the books but rarely implemented on the ground. Greek governments failed to invest in migration state capacity, in part because they were unhappy with the Dublin agreement that places most of the burden on frontline states. Finally, IOs intervened in Greece to assist refugees when the government could not on two major occasions nearly 100 years apart. This history of international interventions, particularly in states on the European periphery, was an important factor in why the EU subcontracted migration management to the UN in 2015.

### *Early Modern Greece (1829–1923)*

Migration controls were a key part of the state formation process.<sup>1</sup> Migration state capacity provides the state with the tools to embrace its citizens and expel those who are not. Some scholars credit the 1848 Italian refugees in Greece with sparking an early state building process.<sup>2</sup> The early Greek state responded to Italian refugees first by monitoring the dissidents, second by regulating accommodation, and third by deporting those deemed a threat. The dissidents who fled the failed 1848 Italian revolutions were initially greeted with hospitality, but in 1849 the Greek minister of interior banned additional Italian refugees from settling in overcrowded Athens and ordered his officials to direct new arrivals to other cities.<sup>3</sup> The ministry attempted to distribute refugees evenly throughout Greece but did not have enough capacity to communicate or enforce the plan. As more refugees arrived, the state feared that the Italians would bring their rebellion to Greece and so increased police surveillance by conducting a census in 1850

of all Italian refugees, including their professions and place of residence.<sup>4</sup> Eventually, in 1852, the Ministry of Interior ordered the arrest and deportation of 36 foreigners who were considered a threat to the regime.<sup>5</sup> Border control remained restricted, although spotty, for several years—for example, the state refused to allow a boat to land in 1856 because it feared the 300 men aboard were revolutionaries.<sup>6</sup> In this way, the 1848 refugees sparked the early Greek state to build its migration state capacity by increasing its ability to interdict boats, monitor refugees, regulate where refugees lived, and, eventually, to deport refugees. Not all measures were restrictive—indeed, many municipalities provided accommodation and aid for refugees and the state even reimbursed travel home.

The first wave of emigration from Greece occurred from 1890 to 1924 when an estimated 420,000 Greeks emigrated, primarily to the United States and Egypt.<sup>7</sup> The wave was sparked in 1893 when the Greek economy crashed after the price of currants—Greece’s largest agricultural export at the time—collapsed, bankrupting farmers and worsening the country’s trade deficit.<sup>8</sup> As more Greeks emigrated, the Greek economy was increasingly dependent on remittances from abroad. The 1929 global depression hit the Greek economy, and was exacerbated as Greeks in the United States sent fewer remittances home.<sup>9</sup>

The Greek government was concerned with regulating emigration and convened two special commissions (1906 and 1912) that resulted in the 1920 law on emigration.<sup>10</sup> The government had the power to prevent men and women of certain ages from emigrating and prohibited women and minors from traveling without a male family member.<sup>11</sup> The Ministry of Interior regulated immigration agents in ports by requiring passports before travelers could purchase tickets and banning advertisements encouraging emigration. The government also required all carriers to provide 20 third-class tickets each year for free from New York to Greece to encourage return migration.<sup>12</sup> These efforts were partially successful—20,314 people returned to Greece in 1920 alone (up from just 2,986 in 1918).<sup>13</sup> After 1924, emigration decreased from Greece, in part because the United States passed the Johnson-Reed Act, which implemented strict immigration quotas that cut Greek immigration from 34,832 Greeks in 1914 to 95 in 1925.<sup>14</sup>

### ***Refugee Settlement Commission (1923–1930)***

After the end of the First World War and the Greco-Turkish War (1919–22), the international community responded to more than 1 million refugees in

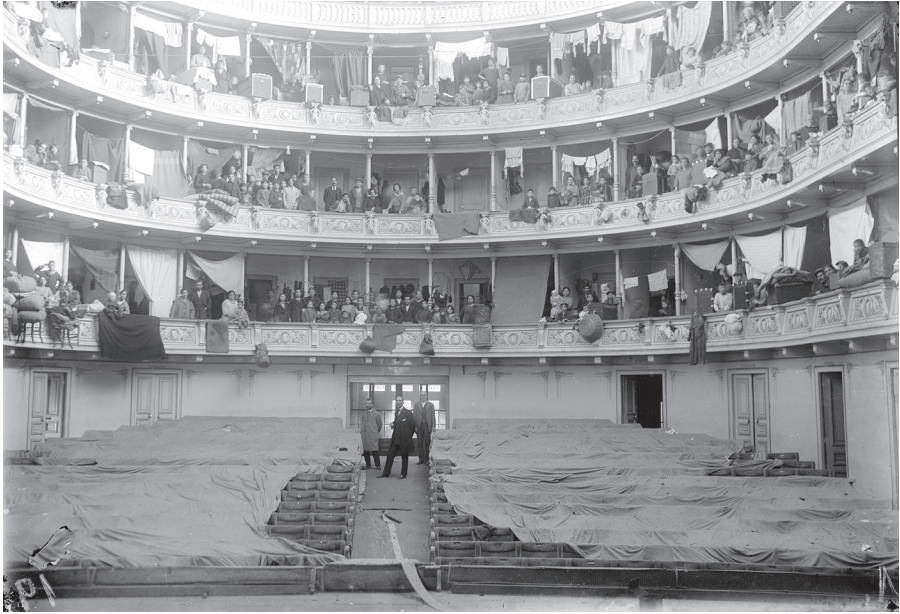


Fig. 5.1. Accommodation for the 1922 Refugees

Individual families displaced after 1922 were temporarily housed in boxes of the Municipal Theater of Athens. (Photograph courtesy of the Josef Hepp archive, ELIA-MIET Photographic Archive.)

Greece first through large charitable initiatives and second by delegating responsibility to an international commission. Instead of investing resources in the struggling Greek state, the League of Nations chose to expend its powers and resources in an international commission that it trusted would deliver results. This pattern of international intervention in Greece foreshadowed similar interventions in 2015–17.

In 1923, Greece and Turkey agreed in the Treaty of Lausanne to a compulsory exchange of their citizens: Turkish citizens who were members of the Greek Orthodox Church and Greek citizens who were Muslim were forced to leave their countries. More than 1.2 million refugees (collectively referred to as Asia Minor refugees), largely destitute and homeless, relocated to Greece in 1922–23. The American Red Cross, the American Women’s Hospital, and the Near East Relief provided assistance for nine months, including food rations for more than 200,000 refugees each day in 1922,<sup>15</sup> but the American Red Cross withdrew its support because it believed that the refugee camps were isolating and “pauperizing” the refugees.<sup>16</sup>

The Greek government struggled to create a meaningful settlement plan for the refugees, in part because the Greek state capacity and financial resources were drained after the punishing war. In addition, the International Finance Committee had been restricting Greek spending and supervising the economy since 1898, after the war with Turkey.<sup>17</sup> The League of Nations created the Refugee Settlement Commission (RSC) to resettle the new refugees as self-sufficient farmers in northern Greece. The RSC was explicitly not providing humanitarian relief, rather its aim was to assist refugees to become engaged in “permanent, productive labor.” Henry Morgenthau, the American chairman of the RSC, explained that “this is a business proposition and not charity.”<sup>18</sup> To do this, the RSC resettled refugees on one million acres of land<sup>19</sup> and used £15 million in loans to prepare the land for cultivation and to compensate previous landowners.<sup>20</sup> This amounted to a radical land reform that expropriated property from foreigners and Muslim refugees leaving to Turkey and transformed a substantial part of Greece into a country of small landholders.<sup>21</sup>

The League of Nations effectively subcontracted refugee resettlement to the RSC, circumventing the Greek government, and scaling up the migration state capacity of a temporary international organization. The RSC was an autonomous body independent of the Greek government, directed by two Greek officials and two officials from foreign governments (the United States and the United Kingdom) but accountable to the League.<sup>22</sup> The League resisted funding the commission directly, instead providing oversight and coordination as a guarantee to international creditors that the loans would not be spent on the military.<sup>23</sup> In the early days, the RSC had control over all the funds, where people were settled, who was compensated, and even the structure of the new Greek government bureaucracies.<sup>24</sup> International officials had the power to decide disputes over land and settlements. Morgenthau admitted that some Greek politicians viewed the RSC as “an intolerable interference with the sovereign rights of Greece.”<sup>25</sup>

Despite the control at the senior level by internationals, the RSC employed mostly Greek staff, and when possible Greek refugees, and seconded officials from the Greek government. For example, at one point 725 agriculturalists were seconded from the Greek Ministry of Agriculture to work for the RSC in northern Greece. In terms of organizational state capacity, the RSC had a strict hierarchy with a headquarters in Athens, three departments (rural resettlement, urban resettlement, and finances), three regional directorates (Macedonia, Thrace, and Old Greece), and within each there were 20 departments such as the technical department

(for building houses, roads, and water supply), and the departments of personnel, veterinary, hygiene, and motor cultivation.<sup>26</sup>

In total, the RSC resettled 578,824 refugees on farms in Macedonia and western Thrace.<sup>27</sup> Many scholars characterize the Treaty of Lausanne, the population exchange, and the RSC as a success because it prevented new wars with Turkey and integrated the Asia Minor refugees into Greek communities.<sup>28</sup> Other scholars question this characterization by pointing to the extreme suffering and violation of human rights, in addition to examples of violence and discrimination toward the newly arrived refugees.<sup>29</sup>

### *Postwar Greece (1945–1974)*

Starting after the Second World War, the second wave of emigration was composed of an estimated 1.4 million Greeks leaving the country from 1945 to 1974.<sup>30</sup> Among this wave were 130,000 people who were forced to seek asylum elsewhere during the Greek civil war (1946–49),<sup>31</sup> while another 18,000 fled the military dictatorship (1967–74).<sup>32</sup> However, the majority of the Greek migrants during this period were guest workers in northern Europe. The Greek government signed recruitment agreements first with Belgium (1957), and later with Germany (1960), Switzerland, Sweden, and the Netherlands to recruit Greeks to work in their booming economies.<sup>33</sup> Many Greeks also traveled abroad for work without an invitation through a recruitment program. Greeks sent more than \$6 billion in remittances from 1960 to 1976, which was primarily invested in housing and real estate.<sup>34</sup>

But by the late 1960s, the second wave of emigration slowed to a trickle and Greeks began to return home. From 1971 to 1986, at least 625,000 Greeks permanently returned, primarily to Athens or Thessaloniki.<sup>35</sup> The return migration was driven by the 1973 oil crisis, the lagging economies in northern Europe, and the end of the military dictatorship in Greece. Despite these economic conditions, many Greek returnees cited other reasons like aging parents, health issues, and homesickness.<sup>36</sup> In 1981, the government created the Ministry of Greek Affairs Abroad to help Greeks return home and to improve the lives of the Greek diaspora. One of the main policies was to provide up to 10,000 drachma (around \$175) in assistance to Greeks returning home.<sup>37</sup>

It was also during the 1970s and 1980s that Greece shifted from a country of primarily emigration to one of immigration. During the 1980s, cen-

sus data reported around 300,000 legal immigrants living in Greece, but there were an estimated 250,000 to 400,000 undocumented migrants during this period.<sup>38</sup> Foreign citizens with residence permits also went up considerably from 16,955 (1974) to 92,440 (1986) to 173,436 (1990).<sup>39</sup> The collapse of communist regimes led to an influx of Albanians, Bulgarians, and Romanians because of the political instability and the lack of economic opportunities in their countries. In 1991 alone, more than 200,000 Albanians came to Greece, often undocumented.

While the Greek government was active in negotiating and signing bilateral agreements for guest workers, the government was racked with turmoil from the civil war and military dictatorship. Emigration was an important safety valve for Greeks fleeing the political turmoil and economic hardship and remittances helped to keep many families afloat. The discrepancy between undocumented migration and legal migration highlights the lack of migration state capacity to process and enforce migration laws.

#### ***National Foundation for Reception and Resettlement of Repatriate Greeks (EYIAPOE)***

While many refugees were part of a wave of return migration during the 1970s, their applications and legal status were dealt with in an ad hoc manner. Following the collapse of communist regimes throughout Europe, some 155,000 ethnic Greeks returned from the former Soviet Union and around 200,000 ethnic Greeks fled from Albania across the border to Greece. However, the Greek government adopted a selective policy to strategically incentivize the return of Greeks (“repatriates”) from the former Soviet Union, while doing little to support Greeks (“expatriates”) from Albania.<sup>40</sup> For example, the Ministry of the Interior granted all returnees from the USSR Greek citizenship and even negotiated bilateral agreements with some countries to secure their pension funds.<sup>41</sup> But Greeks from Albania were required to register for six-month residence permits and later received special identification cards without access to Greek citizenship.<sup>42</sup> In January 1990, the Ministry of Foreign Affairs set up the National Foundation for Reception and Resettlement of Repatriate Greeks (EYIAPOE)—originally part of the ministry but later an independent organization—to systematically address the issue of Greek repatriates from the former Soviet Union.<sup>43</sup> The EYIAPOE paralleled the RSC with plans to resettle repatriates on farmland in Thrace, and was funded by more than \$900 million in loans



from the European Social Fund and the Council of Europe.<sup>44</sup> One of the reasons cited by Greek authorities for why the repatriates were settled in Macedonia and Thrace was to enhance the Greek character in the regions and counterbalance Muslim communities and other ethnic groups.<sup>45</sup> The authorities believed that repatriates from the USSR would lead to economic development in the north, but in contrast Albanian Greeks were viewed as more valuable as an influential minority living in Albania rather than as competition in the domestic job market.<sup>46</sup>

The EYIAPOE developed a three-step plan for resettlement: first, repatriates would arrive at hospitality centers; second, they could move to 10 reception villages made up of around 250 prefabricated homes; and third, they would be permanently settled on a plot of land for farming. Hospitality centers provided key information and helped link new arrivals to health care, employment, accommodation, and language training. In the final step, the EYIAPOE encouraged repatriates to settle in rural areas by dividing the country into four zones and providing financial incentives for the northern regions of eastern Macedonia and Thrace. This included financing 15-year loans, of which 30 percent was interest free.<sup>47</sup> In 1994, the regional government in Thessaloniki established the General Secretariat of Returning Diaspora Greeks to further assist in resettlement.<sup>48</sup> The Greek government created the EYIAPOE and the General Secretariat as new types of migration state capacity (i.e., organizational capacity with their own funding and staff) to incentivize the new type of migration from the former Soviet Union.

By 2000, 155,000 Greeks had repatriated from the former USSR—including 80,000 from Georgia, 31,000 from Kazakhstan, 23,000 from Russia, and 9,000 from Armenia.<sup>49</sup> These Greek repatriates were considered coethnics (*homogeneis*) and thus were privileged in their immigration process, compared to the treatment of foreign nationals (*alloethneis*) in Greece. The Greek government recognized that many had no legal status because they had arrived and overstayed their tourist visas. The 2001 law (see appendix 3) on repatriation required that Soviet Greeks must show their *homogenis* and Greek national consciousness, which was established in an interview with a special committee.<sup>50</sup> The EYIAPOE and the special committees were riddled with complaints about unfair distribution of resources, disappearing funds, and accusations of arbitrary committee decisions.<sup>51</sup>

Evaluations of the EYIAPOE show it was marked with mismanagement and ineffectiveness. In total, the EYIAPOE budget from 1991 to 2002 was around €250 million—not insignificant funding—but later reporting

revealed that the Greek government never matched the EU contributions. The EU cut its loans to Greece in 2001 after it discovered that money meant for housing construction was used to subsidize rents.<sup>52</sup> During the second half of the program (see table 5.1) the EYIAPOE provided accommodation for 20,257 people—but 69 percent was through rented accommodation. This is a tangible representation of the migration state capacity in Greece during this period—but also how the government struggled to increase its capacity despite plentiful resources and legal instruments. The EYIAPOE was officially closed in 2002 and the foundation’s assets and responsibilities were transferred to regional and municipality authorities.

### *Twenty-First-Century Greece*

Throughout the 1990s and 2000s, the Greek government passed successive reforms of the asylum and immigration laws (see appendix 3). While the reforms changed the length of waiting periods or migrants’ access to certain services, governing coalitions from both the center-left and center-right agreed on a lot: specifically, throughout this period, Greek governments agreed to transpose EU directives on migration, to large regularization programs, and to invest little in the migration state capacity of Greece.

As discussed in chapter 2, the EU was active in migration policy during two waves of the CEAS cast (2000–2004) and recast (2005–13). In both waves, Greece transposed the EU directives on migration, including those on asylum and return procedures, family reunification, and the status of long-term residents—sometimes after being put into EU infringement proceedings. Anna Triandafyllidou argues that Greek governments from both the center-left and center-right passed the reforms in 2005 and 2010 in

**Table 5.1. Housing Capacity of EYIAPOE (1994–99)**

Type of Housing	Families	Percent	Individuals	Percent
Hospitality centers	71	1%	169	1%
Reception settlements	333	6%	1,066	5%
Rented accommodation	3,732	72%	14,031	69%
Permanent residences	1,064	21%	4,991	25%
<b>Total</b>	<b>5,200</b>	<b>100%</b>	<b>20,257</b>	<b>100%</b>

Source: Konstantinos Lalenis and Elias Beriatos, “Housing the Refugees: The Greek Experience and Its Political Pitfalls,” in *The Context, Dynamics and Planning of Urban Development: A Collection of Papers*, edited by Yannis Psycharis and Pantoleon Skayannis (Volos, Greece: University of Thessaly, 2008), 286.

order to satisfy the EU directives but resisted implementing them because they viewed Dublin II as unfair to frontline states.<sup>53</sup> This was one of the first signs that Greek leaders were not viewed as credible partners and foreshadowed the lack of implementation, abysmal state capacity, and frequent mismanagement in the coming decades.

Similarly, Greek governments from both sides of the political spectrum oversaw large regularization programs. The slow bureaucratic process of applying for and renewing work and residency permits led to a large undocumented population. Greek businesses advocated for regularization because it was very difficult to come to Greece legally to work and it was nearly impossible to get a residence permit and maintain the conditions to renew the permit. This cycle repeated itself as Greek governments failed to invest in more efficient bureaucracies or create less burdensome procedures. There were three major regularizations in Greece. In 1997, the Simitis II government rolled out regularization in two phases: first, migrants were registered and issued temporary residence permits (white cards), and, second, after proving 40 days of work, migrants were issued a residence permit (green cards). Around 370,000 people were issued white cards in the first phase and 212,000 people were issued residence permits in the second phase. The program was beset with bureaucratic hurdles, lack of capacity to process applications, and poor communication with migrant communities. In 2001, the Simitis III government passed the second regularization program, this time providing 360,000 people with residence permits. Controversially, the programs were seen to benefit the center-left PASOK party, which introduced the legislation, and received many of the votes from the former Soviet Greeks who benefited from regularization.<sup>54</sup> Nevertheless, in 2005, the center-right government regularized another 200,000 people—perhaps in a bid to capture their votes as well.

The third trend is that both the center-left and center-right did not significantly invest during this period in the migration state capacity of Greece. Successive governments passed migration reforms in 1991, 2001, 2005, and 2011 but each failed to invest the resources necessary to actually implement the policy changes on the ground. The Greek asylum system is a prime example. Greece signed the 1951 Refugee Convention, which was transposed into Greek law in 1959. But there was no national procedure for asylum until 1991. The Hellenic Police (within the Ministry of Public Order and Citizen Protection) were primarily responsible for asylum but lacked resources and personnel.<sup>55</sup> The asylum decisions were made in two

instances, first at the police station with an interview, which were most often rejected, and those decisions could be appealed in a second, more detailed interview with the ministry, which could only be appealed to the Council of State on procedural grounds.<sup>56</sup> In practice, asylum seekers only applied at one office in Athens, which in 2007 processed 94 percent of all claims.<sup>57</sup> Every Sunday, asylum seekers stood outside the office at Petrou Ralli in Athens, where 300 people were given an appointment for an interview each week. One Sunday in 2008, Human Rights Watch reported around 1,000 people waiting in line hoping to be selected.<sup>58</sup> In addition, there was no guarantee of free legal assistance in Greece.<sup>59</sup> In 2007, the Consultative Asylum Committee was established to deal with a 19,015 case backlog of appeals.<sup>60</sup> By December 2012, the backlog had grown to 52,000 cases.<sup>61</sup> In addition, asylum seekers were not provided housing and were routinely detained in overcrowded and inhumane conditions.<sup>62</sup> The migration state capacity to offer vulnerable individuals housing was extremely limited: for example, in 2010 there were only 960 places (338 for unaccompanied minors and 622 for adults).<sup>63</sup> This period can be characterized as a chaotic and ad hoc approach, led by Greek institutions, but largely failing to provide meaningful protection and support for refugees because the Greek migration state capacity was abysmally low. Greece saw 168,000 arrivals from 2007 to 2010 (see fig. 5.2).<sup>64</sup> While high for the time period, this chaotic response was the calm before the storm.

### *EU Interventions in Greece*

From 2011 to 2014, EU institutions intervened with emergency funding, EASO, and Frontex hoping to reorganize and reinforce Greece's broken asylum and migration policies. The EU interventions were sparked after two landmark court cases confirmed deep flaws in the Greek asylum system. In January 2011, the European Court of Human Rights ruled in *M.S.S. v. Belgium & Greece* that poor detention conditions, lack of medical care, and lack of housing amounted to inhuman and degrading treatment of asylum seekers in Greece.<sup>65</sup> The court prevented EU member states from deporting asylum seekers back to Greece until the Greek system improved. In a second case in December 2011, the Court of Justice of the European Union found that asylum seekers could not be deported to any member state if there were "substantial grounds for believing that the asylum seeker would face a real risk of being subjected to inhuman or degrading treatment."<sup>66</sup>

The Greek government responded by updating their National Action Plan on Asylum Reform and Migration Management to the European Commission. The Greek Action Plan outlined proposed legislation, presidential decrees, and other initiatives to improve their migration management. The main reforms included a reorganization of the asylum process by creating the new Asylum Service, the new First Reception Services, and the new Appeals Authority (all within the Ministry of Public Order and Citizen Protection).<sup>67</sup> Ten appeals committees were also operational by February 2011 to tackle the huge backlog of cases.

All of the reforms were supported by the European Commission disbursing €9.8 million emergency funding in 2010 from the European Refugee Fund to the Greek government.<sup>68</sup> One EC report explained that “it is clear that the main solution to increase capacity lies with a reinforcement of staffing of the Greek return services.”<sup>69</sup> The EU hoped that by providing the needed cash, the Greek government could increase the number of staff and thus their migration state capacity to deliver more substantive protection for refugees. Disappointingly, the Greek asylum system continued to struggle to register new arrivals and to adjudicate appeals cases, which still had a 37,306 case backlog at the end of 2014.<sup>70</sup>

During this period, the Greek government reported extremely low “absorptive capacity” to administer large disbursements of EU funds. For example, in 2010 only 6 percent of emergency funds available to Greece were used. In other words, the Greek government did not have enough accountability mechanisms and administrative staff to process the emergency funding from the EU, leaving the new Asylum Service, First Reception Service, and Appeals Authority underfunded. The absorptive capacity increased to nearly 60 percent in 2011, but remained shockingly low.<sup>71</sup>

During this period, Greece first requested help from Frontex in October 2010 and from EASO in April 2011. For the first time, Frontex deployed a rapid border intervention team (RABIT) to the Greek-Turkish border on a temporary basis. The RABIT joint operation consisted of 175 officers from 26 member states to assist Greek officials to perform border checks, identify false documents, and screen for trafficking and crime along the Greek-Turkish border in Evros.<sup>72</sup> Frontex also ran a smaller Operation Poseidon to combat irregular migration along land and sea borders in Greece, Bulgaria, and Italy starting in 2008 and a Project Attica to help facilitate deportations starting in 2009. The EASO mission included IT experts and asylum officers to help clear the case backlog, training for the staff in the new Asylum Ser-

vice, and EASO experts seconded to the Greek ministries to help design the reception system. UNHCR was also enlisted to support the Greek Asylum Service's Unit on Training, Quality Assurance and Documentation and to develop standard operating procedures for reception centers.<sup>73</sup>

In sum, the EU interventions (EU funds, Frontex, EASO) in this period aimed to buy-in more state capacity for Greek institutions through collaboration. The joint implementation by Frontex and EASO used seconded staff from member states and joint funding to collaborate on EU migration policy in Greece. More than 140,000 migrants and refugees arrived during this period (2011–14), a roughly similar number to the previous four years.<sup>74</sup> Despite the collaborative EU efforts, human rights groups still reported little substantive protection or support for asylum seekers in Greece.<sup>75</sup> Even after EASO received an explicit mandate to help increase Greece's reception capacity, there were only 1,160 places in 2014, up from 960 in 2010.<sup>76</sup> Greece was not viewed as a credible partner after having begrudgingly adopted EU asylum directives and failing repeatedly to implement the most basic asylum and appeals procedures.

## Greece and the EU: A Credible Partner?

Greece's relationship with other European countries and the EU has evolved through tensions and conflicting interests over economic and migration crises, but also historically before the creation of the EU. The

**Table 5.2. Examples of Types of Migration State Capacity in Greece**

	Border Security	Asylum
Financial resources	EU Internal Security Fund Greek national budget	EU Asylum, Migration and Integration Fund EU emergency funding Greek national budget
Human resources	Greek navy and police	Staff at the Asylum Service and First Reception Service
Organizational	Border Guard Force (Synoriofylaki) Hellenic Coast Guard Ministry of Interior	Hellenic Police Aliens and Immigration Direc- torate of Athens Asylum Service First Reception Service Ministry of Public Order and Citizen Protection
Institutional	<i>See Appendix III</i>	<i>See Appendix III</i>

wide spectrum of political parties in Greece has had a varying impact on Greece's credibility as a trusted partner. This section describes Greece's conflicting interests, and then analyzes the Greek political landscape (including center-left and center-right coalitions, the far right, and the SYRIZA coalition).

Greece did not join the European Community until 1981 after its first accession application was rejected over concerns about cheap labor and poor tax administration. Greece objected to some of the terms of its accession and pushed for the 1985 Integrated Mediterranean Program, which provided special financial assistance to Greece and the southern regions of France and Italy. Greece continued to diverge from the average economic development of other European states throughout the 1990s. Nevertheless, Greece joined the euro in 2001, but it was later revealed that Greece had submitted fraudulent data that misrepresented their budget deficit.<sup>77</sup> This significantly undermined trust in Greece as a credible partner.

### *Conflicting Interests*

Another factor that undermined trust is that Greece and other EU states had conflicting interests embedded in the Schengen and Dublin Conventions. The founding members (Belgium, France, Germany, Luxemburg, and the Netherlands) negotiated the terms of the Schengen Agreement and Convention to remove internal borders and establish a common visa and asylum policy. In order to join the Schengen area, future accession states were required to ratify the 1990 convention and transpose the Schengen acquis into national law. This left little room for accession states to influence the terms of Schengen besides opting-out entirely. In addition, the 1990 Dublin Convention, which replaced Chapter VII of the Schengen Convention related to asylum, was also a prerequisite for future states to join the Schengen area. While Greece was an early member of the European Union, Greece was the tenth state to join the Schengen area. Greece signed the Schengen Convention in 1992 but the removal of internal border checks was not implemented until 2000.<sup>78</sup>

The Dublin Convention compelled Greece to adopt migration policies that were not in its interest because Dublin assigns responsibility to the first state that asylum seekers enter—shifting much of the burden to frontline states.<sup>79</sup> Greece agreed to Dublin, in part, because access to the Schengen area and the promise of economic growth outweighed the downsides of the

Dublin system. But this disjunct between the interests of Greece and the interests of northern EU states laid the foundations for why Greece never built up its migration state capacity. If it did build its capacity, the Dublin system would essentially anchor refugees in Greece. If it did nothing, Greece could shift the burden to other EU states by shirking its responsibility. This tension was reflected in the *M.S.S. v. Belgium and Greece* (2011) case when the European Court of Human Rights suspended all Dublin transfers back to Greece because of the low standards of the Greek asylum procedure and conditions in detention. As a result of the court ruling, the Greek government actually benefited from their failing asylum system because it shifted the burden to other member states.<sup>80</sup> In short, because implementing Dublin was never in Greece's interests, they had no incentive to build a strong migration state capacity.

### *Center-Left and Center-Right Parties*

The two centrist political parties in Greece—the Panhellenic Socialist Party (PASOK) and New Democracy (ND)—alternated in power from 1974 to 2011. New Democracy is a center-right party that pushed primarily liberal economic and market-oriented policies. ND led Greece in 1979 when the country joined the European Economic Community, and has since been a generally pro-EU party. PASOK had its roots as a social democratic party with traditional policies of the left. Initially, PASOK campaigned to leave the European Economic Community but later reversed its position and since 1996 has been a pro-EU party. While both parties transposed EU directives on migration into Greek law, both also delayed implementation and invested few resources in expanding Greece's migration state capacity.

Importantly, ND and PASOK generally agreed on immigration policies, despite framing their reforms slightly differently. Both parties passed migration laws focused on securitizing and controlling migration, particularly at the border (see appendix 3). In 2012, when both parties were in the coalition government, PASOK and ND supported Operation Xenios Zeus, which worked to deport irregular migrants.<sup>81</sup> Both parties also recognized the Greek economy's need for labor migration and passed large regularization programs. One area of disagreement was in how each party approached citizenship: PASOK was more open to granting citizenship to legal migrants, while ND pushed legislation that opened citizenship only to coethnics.<sup>82</sup> Similarly, PASOK emphasized integration and human rights, while ND dis-



regarded integration as a key issue. Finally, both parties consistently blamed the other for uncontrolled migration.

Both parties ultimately approached the 2008 financial crisis in similar ways. ND was in government in the lead up to the crisis but suffered a huge loss in the 2009 elections. PASOK initially campaigned in that election for a large stimulus package but once in power reversed its position and accepted the IMF/EU bailout. Both the ND and PASOK were ultimately in favor of the 2011 IMF/EU bailout package and resulting austerity cuts.<sup>83</sup> This “betrayal” created a political opening that was exploited by populist parties on both the far right and the left.

### *Far-Right Parties*

Greece’s far-right parties—Popular Orthodox Rally (LAOS) and Golden Dawn—are small but have influenced how mainstream parties approach immigration. LAOS, a nationalist party founded in 2000, is openly anti-immigrant, calling for deporting and banning all migrants. LAOS was outspoken against extending citizenship to migrants who were not coethnics.<sup>84</sup>

Golden Dawn is the most extreme, ultranationalist party in Greece. It rose in popularity after the 2008 economic crash by pushing anti-EU, anti-establishment, antiausterity, and anti-immigrant policies. Golden Dawn has an openly racist agenda and inflammatory rhetoric that argues for the deportation of all migrants and for restricting social services to ethnic Greeks. The party gained parliamentary seats in 2012 and 2015, but lost most of its support in the 2019 elections. While Golden Dawn was never in government, the party’s rhetoric—along with that of LAOS and the Independent Greeks (ANEL)—pushed the mainstream parties to be more conservative on immigration.

While the far-right parties were clearly not credible partners, LAOS was in the 2011 technocratic government (PASOK, ND, and LAOS) because of its support for the bailout package.<sup>85</sup>

### *SYRIZA Coalition (2015–2019)*

In the 2015 elections, SYRIZA (Coalition of the Radical Left/Synaspismos tis Rizospastikis Aristeras) won the largest share of the votes and formed a coalition with the Independent Greeks. SYRIZA is a populist coalition of leftist parties that is antiestablishment and opposed to neoliberal reforms.

ANEL was formed in 2012 when Panos Kammenos broke away from the ND after rejecting the proposed bailout package; ANEL is openly nationalist and anti-immigrant, emphasizing the importance of Greek Orthodoxy. Both SYRIZA and ANEL are populist parties that opposed austerity measures.<sup>86</sup> While EU institutions were initially afraid that the SYRIZA-led coalition would refuse the third bailout package, the government reluctantly accepted the bailout agreement in July 2015.

Nevertheless, SYRIZA and ANEL were viewed skeptically by EU institutions. Alexis Tsipras, the Greek prime minister and leader of SYRIZA, throughout the 2015 bailout negotiations portrayed the Troika (the European Commission, the European Central Bank, and the International Monetary Fund) as subverting Greek sovereignty and undermining Greek democracy. But Panos Kammenos, Greek defense minister and leader of ANEL, was more openly Euroskeptic and threatening to the EU. In March 2015, Kammenos stated:

If they deal a blow to Greece, then they should know Greece will suspend the Dublin II treaty, and migrants will get their ID and documents and will travel to Berlin. . . . If Europe leaves us in the crisis, we will flood it with migrants, and it will be even worse for Berlin if in that wave of millions of economic migrants there will be some jihadists of the Islamic State too. . . . If they strike us, we will strike them. We will give to migrants from everywhere the documents they need to travel in the Schengen area, so that the human wave could go straight to Berlin.<sup>87</sup>

Remarkably, this rhetoric was echoed by Nikos Kotzias, Greek foreign minister and member of SYRIZA, who threatened that if Greece left the euro “there will be tens of millions of immigrants and thousands of jihadists.”<sup>88</sup> If the financial crisis and failed reforms had not undermined Greece’s reputation, these direct threats from Tsipras’s cabinet members swept away all credibility and trust with European partners.

Further reiterating the point, there were reports in 2018 that Kammenos and the Ministry of Defense were under investigation by the EU Anti-Fraud Office for misuse of EU funds for refugees. A newspaper reported that the minister had mismanaged funds, awarded contracts to companies with inflated prices, and had not put the contracts to a competitive tender.<sup>89</sup>

Throughout the financial crisis and migration crisis, all of the actors in the Greek political landscape were viewed as not credible partners. When

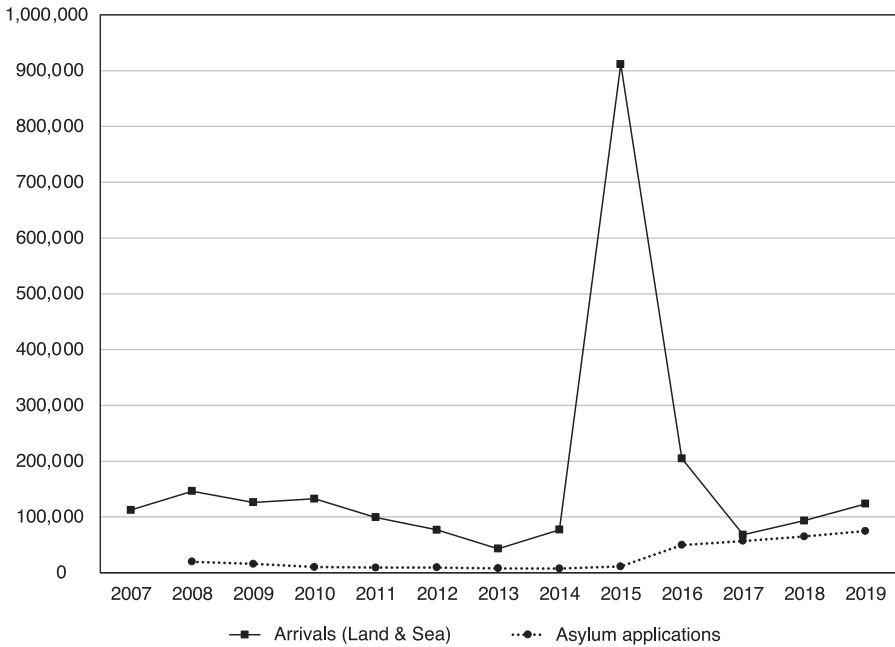


Fig. 5.2. Arrivals and Asylum Applications in Greece, 2007–2019

Source: Eurostat, “MIGR\_ASYAPPCTZA,” Asylum and first-time asylum applicants by citizenship, age, and sex—annual aggregated data (rounded); Hellenic Police, Illegal aliens arrested for illegal entry and stay by police and port authorities (Συλληφθέντες μη νόμιμοι αλλοδαποί, για παράνομη είσοδο & παραμονή, από αστυνομικές και λιμενικές Αρχές).

the 2015 influx of refugees pushed the EU to disburse emergency funding, it was clear that the Greek government was not a trusted partner; instead, the EU turned to international organizations.

### 2015–2017: Subcontracting in Greece

The next phase marks a change in kind rather than degree of migration flows: starting in August 2015, thousands of people arrived in Greece each day, peaking at 10,006 people on 20 October. From September 2015 to March 2016, more than 660,000 people arrived by sea (see fig. 5.2).<sup>90</sup> Up until October 2015, migrants and refugees could disembark on a Greek island, buy a ferry ticket to the mainland, and travel onward, typically to

other northern European countries without necessarily registering with Greek authorities. During this period, the primary focus of the government, IOs, and NGOs was on humanitarian aid during transit migration. The arriving migrants and refugees did not intend to stay in Greece or lodge an asylum claim with Greek authorities. At the end of 2015, the typical transit route was from Turkey to Greece by boat; from Greece to North Macedonia to Serbia by bus, train, or on foot.<sup>91</sup> From Serbia, migrants traveled either to Croatia or Hungary and then onward to Austria, Germany, Denmark, and Sweden.

On 21 August 2015, Germany suspended the Dublin rules for Syrians arriving in country and allowed them to apply through the regular asylum process.<sup>92</sup> But on 22 August 2015, Macedonia closed its border with Greece, effectively stranding 57,000 migrants and refugees in Greece.<sup>93</sup> Thousands of migrants were bottlenecked near the city of Idomeni, leading to shocking scenes of violence as Macedonian border guards beat people attempting to cross the Greece-Macedonia border.<sup>94</sup> A makeshift camp grew to nearly 14,000 people in Idomeni as migrants waited, hoping the border would reopen.<sup>95</sup> Other countries quickly followed suit, imposing temporary border controls in Germany (13 September), Austria (14 September), Hungary (15 September), and Croatia (17 September).

Growing pressure and outrage peaked on 2 September when newspapers around the world published the image of Aylan Kurdi, a three-year-old child whose body had washed up on the shore. EU officials recognized the extent of the refugee crisis and the need to respond. The next sections lay out the response by the Greek government, EU institutions, international organizations, and civil society. It is not my contention that all of the response was subcontracted to IOs or that all of the UN's work in Greece was a result of the crisis—rather, it was a mixed response, but a significant amount of funding and responsibilities were subcontracted to IOs, specifically UNHCR and IOM.

### *Civil Society*

Media accounts celebrated volunteers and civil society groups as the “heroes” of the refugee crisis.<sup>96</sup> During the first six months (August 2015–February 2016), thousands of volunteers, informal groups, churches, NGOs, and anarchists traveled to the Greek islands, primarily Lesvos, hoping to provide direct aid to refugees. Civil society—anarchists, volunteers

with NGOs, and staff members of international NGOs—filled essential gaps by providing aid while refugees were traveling and organizing camps.

Anarchists and antiracist groups have been active in Greece for decades in loosely organized networks around the no border movement and antideportation campaigns. On Lesbos, activists from Welcome2Europe, Youth without Borders, and the Village of All Together created PIKPA, a self-organized camp for migrants, in 2012. The no borders movement, along with other anarchist networks, has a nonhierarchical structure and refuses to cooperate with most NGOs, IOs, or state actors. Anarchists from around Europe traveled to Greece in solidarity; one volunteer explained that “the anarchist migrant support in Athens felt like a recovery center for disappointed activists from other countries.”<sup>97</sup> Many of the squats in Athens were also run by anarchists who had taken over vacant housing as accommodation for refugees. The most famous example was City Plaza, an abandoned hotel in Athens, that repurposed the 120 rooms to house some 350 refugees. City Plaza was self-organized through public assemblies, and refugees and anarchists volunteered for chores, cooking, and cleaning. In 2017, around 2,500 migrants and asylum seekers lived in other squats around Athens.<sup>98</sup>

Volunteers with NGOs made up another major group in the civil society response. These individuals often traveled to Greece at their own expense to volunteer from a few weeks to several months with organizations like A Drop in the Ocean, Boat Refugee Foundation (Stichting Bootvluchteling), or Lighthouse Relief. Others volunteered with NGOs performing search and rescue operations with private boats run by Médecins Sans Frontières, Proactiva Open Arms, and Sea-Watch.<sup>99</sup> NGOs provided a variety of aid, ranging from meeting boats on the shore to providing food and clothing in camps to organizing activities for children. While most of these NGOs were staffed with international volunteers, there were volunteers from local Greek organizations like the Dirty Girls of Lesbos, who washed and recycled blankets from camps, and The Smile of the Child, who supported unaccompanied minors.

The last group of civil society were the staff of international NGOs. These were primarily employees for organizations like the International Rescue Committee, Médecins Sans Frontières, Save the Children, the Danish Refugee Council, Mercy Corps, and Oxfam. Many of the high-level staff had previous experience in emergencies in other parts of the world and were deployed to Greece on temporary assignments. Local Greeks were also employed to help implement projects. Interviewees often commented

on the cultural divide between professionalized staff and the informal volunteers: the staff were constrained by the legal mandates of their international NGOs, while volunteers created parallel systems of coordinating aid.

Largely because the Greek government did not provide coordination in the first six months, civil society filled the void by improvising everyday coordination mechanisms, such as Facebook groups and WhatsApp chats, peer-to-peer refugee coordination, maps of services, and field-level working groups.<sup>100</sup> *Everyday coordination mechanisms* are the informal processes for decision-making and communication that support implementation during regular or day-to-day delivery of aid. Everyday coordination threatened the Greek government's authority because it was informal, created parallel systems, and relied on consensus decision-making—sometimes spreading rumors or encouraging migrants to travel undocumented to Germany. In response, the Greek government cracked down on civil society actors by forcing volunteers to register and by arresting at least five volunteers for smuggling. The charges were later dropped. The strength of the civil society response is more evidence that the Greek government lacked state capacity and was not a credible partner.

### ***Greek Government***

By September 2015, there was a clear recognition that something needed to be done. In theory, the Greek government was responsible for leading, coordinating, and making all final decisions on migration management in its territory. In practice, the Greek authorities were unable to register, support, or even offer aid to the thousands of migrants entering each day during the crisis. The Greek response was ad hoc, including major gaps in services and shirking of responsibilities. The Ministry of Migration Policy established the Coordination Body for the Management of the Refugee Crisis and issued a steady stream of decisions, including policies on encampment, decongestion from islands to mainland, and registration and preregistration exercises. At one point, the ministry announced that the only way to register for an asylum interview was to call a single Skype hotline.<sup>101</sup> This approach was plagued with problems because of technical issues and complaints that the system was not fair. Despite the ministry's efforts, the backlog was enormous, with estimates of around 60,000 unregistered asylum seekers and thousands of appeal backlogs.

The Greek military stepped into the role of operational support because

no other ministry had the capacity to deploy thousands of people to build camps, set up tents, and deliver aid.<sup>102</sup> Across the country, the Greek military was the legally responsible entity in most of the temporary and permanent camps, after constructing accommodation (tents or containers), wash facilities, catering, and security fences. In practice, the military did not manage the camp; instead, aid and services were often coordinated by an appointed NGO or UNHCR. The Ministry of Defence received €92.8 million (51 percent of emergency support funneled through the Greek government), reflecting the military's essential role in the operational response to the crisis, followed by the Ministry of Health, which received €27.5 million (see table 5.3).<sup>103</sup> Despite the military's response, many migrants continued to sleep rough on the streets or set up ad hoc camps around bus and train stations.

Other Greek ministries also took action: for example, the Ministry of Health, in partnership with the Hellenic Centre for Disease Control and Prevention, received €24.2 million to coordinate a "Comprehensive Emergency Health Response to Refugee Crisis."<sup>104</sup> The Ministry of Education conducted a survey of accommodation and educational activities for refugee children and made recommendations on the inclusion of refugee children in the Greek educational system.<sup>105</sup>

The Greek response was paid for through a hodgepodge of funding from the Greek national budget, the Asylum, Migration and Integration Fund (AMIF) and Internal Security Fund (ISF) (2014–20), Frontex grants,

**Table 5.3. EU Financial Support to Greek Government, 2015–17**

Greek Agency	# of grants	Total amount	%
Ministry of Defence	4	€ 92,800,000	51.4%
Ministry of Health	2	€ 27,450,000	15.2%
Ministry of Interior and Administrative Reform	5	€ 19,800,000	11.0%
Ministry of Infrastructure, Transport and Networks	1	€ 12,760,000	7.1%
First Reception Service	4	€ 8,350,000	4.6%
Hellenic Coast Guard	4	€ 6,670,000	3.7%
General Secretary for Co-Ordination	1	€ 5,990,000	3.3%
Hellenic Police	3	€ 5,580,000	3.1%
Asylum Service	1	€ 1,180,000	0.7%
<b>Total</b>	<b>25</b>	<b>€ 180,580,000</b>	<b>100%</b>

Source: Author's calculation based on EC, "Managing Migration: EU Financial Support to Greece," 11 August 2017.

and the Emergency Support Instrument (ESI) of the European Civil Protection and Humanitarian Aid Operations (ECHO). It is difficult to calculate total spending on the crisis, because the Greek national budget was not coded specifically for the crisis. For example, it is difficult to identify the salaries for Greek police, army, and navy officers who accounted for a large portion of the response. The EU funds allocated €259,348,877 from the AMIF and €166,814,388 from the ISF for Greece from 2014 to 2020.<sup>106</sup> European Economic Area grants (from Norway, Iceland, Liechtenstein) allocated €24.2 million for projects related to unaccompanied minors, sending experts to Chios and Lesvos to improve reception, and the operational costs of four reception centers.<sup>107</sup> In addition, Greece received grants from Frontex, primarily for the Hellenic Police and Coast Guards. But Greece continued to struggle with the absorptive capacity to process and spend the European funding. One EC official explained:

Greece has the highest amount of money in the [AMIF and ISF] national envelope. It's not spent at all, so they have money there, but they cannot spend it. We had to try to find alternative ways of making sure that things are progressing on the ground while continuing to put pressure on the Greek authorities because this is not sustainable on our terms.<sup>108</sup>

The Greek government's lack of capacity to spend EU funds is one reason EU institutions turned to IOs to subcontract emergency tasks. For example, the National Centre for Social Solidarity (EKKA), the Greek agency responsible for the referral of asylum seekers to social housing, did not receive any EU funding during this period. While accommodation—or reception capacity in EU terminology—was essential to the response, the National Centre for Social Solidarity failed to deliver any substantial increase in reception places for the previous five years. Instead, the EU turned to other IOs to delegate this responsibility.

Second, the Greek government was not committed to implementing EU migration policies that disproportionately burdened frontline states. During the early days of the response, some Greek officials refused to fingerprint all the migrants who entered their territory—essentially circumventing the Dublin system so those migrants would not later be returned to Greece. The Greek government also was slow to establish camps in the hope that migrants would continue onward to other European countries rather than staying in Greek camps and submitting an asylum claim in Greece. Finally,



other scholars have pointed to government-created information vacuums and frequent policy changes that increased distrust in the legal pathways to relocation within Europe.<sup>109</sup> Instead, asylum seekers often relied on rumors and smugglers to cross borders undetected.

### *EU Institutions*

EU institutions responded to the refugee crisis in five ways: institutional reforms, the EU-Turkey deal, the hotspot approach, intra-EU relocation, and the ECHO emergency support instrument. First, all of these initiatives were set against the backdrop of the Greek debt crisis following the 2008 recession. The former EU Task Force for Greece (2007–14) was aimed at EU-guided institutional reforms to stabilize the Greek state and the economy, including negotiations for debt packages, administrative reforms, and strict austerity cuts. The task force's successor, the Structural Reform Support Service, began working in 17 June 2015 with similar goals, one of which was to “strengthen the migration management capacity.”<sup>110</sup> The EC's Structural Reform Support Service assisted in restructuring Greek ministries by moving the First Reception Service from the Ministry of Citizen Protection to the Ministry of Interior, and creating an autonomous Ministry of Migration Policy, including the Asylum Service. The restructuring left responsibility for social housing for asylum seekers with EKKA in the Ministry of Labour, Social Security and Solidarity, causing ongoing frustration and fragmentation. Much of the reorganization and reinforced administration was paid for by the EU funds (AMIF and ISF), but this sent mixed messages because overall the Greek civil service was cutting staff and budgets.

Second, through a series of meetings (October 2015, November 2015, and March 2016), the EU-Turkey Joint Action Plan and Statement was negotiated to stop the mass influx of migrants from Turkey and the Structural Reform Support Service was tasked with implementing the agreement. The plan promised €3 billion in aid to refugees in Turkey in exchange for Turkey's commitment to register all Syrians, actively patrol the Turkish coast, and accept the return of all irregular migrants.<sup>111</sup> The agreement also aimed to liberalize Turkish visas to the EU by October 2016 and to revisit the Turkey accession process. While the EU affirmed its commitment to nonrefoulement and against collective expulsion, the 18 March 2016 state-

ment set out to “break the business model of the smuggler” by immediately returning migrants back to Turkey.<sup>112</sup> Many NGOs claimed this agreement violated an individual’s right to claim asylum and due process.<sup>113</sup> In practice, very few returns (only 2,735) of irregular migrants to Turkey took place in four years.<sup>114</sup>

Third, the EU’s new “hotspot” approach (as discussed in chapters 3 and 4) established joint centers where EU agencies along with national authorities worked to register and screen incoming migrants.<sup>115</sup> The hotspots were criticized for human rights violations including inhumane conditions, lack of health care and accommodation, and slow processing times.<sup>116</sup> Five hotspots were established in Lesbos, Chios, Samos, Leros, and Kos and staffed by 442 Frontex officers and 116 EASO staff in October 2016, increasing to 448 Frontex and 232 EASO staff by the end of 2017.<sup>117</sup> Unlike in Italy, Greece had not adopted standard operating procedures by September 2017 and the EC stepped in to publish a template for Greece to adopt.<sup>118</sup> This is another instance where the EU did not view the Greek government as a credible partner with whom it could coordinate or collaborate.

Fourth, the Council agreed to an intra-EU relocation scheme to move 160,000 asylum seekers from Greece and Italy to other EU member states starting in September 2015 but, by the end of December 2017, only 21,710 people has been relocated from Greece and 11,444 from Italy (21 percent of the 160,000 target).<sup>119</sup> These four responses are examples of collaboration because EU member states worked jointly to implement the policies.

The fifth EU response was to provide €772 million in emergency aid—73.2 percent of which went to international organizations and only 23 percent to the Greek government (see fig. 5.3). This is a clear pattern of subcontracting. The Council created the Emergency Support Instrument (ESI) on 15 March 2016, which for the first time allowed ECHO to administer fast-track humanitarian aid within EU member states, which had previously been reserved for emergencies outside of the EU.<sup>120</sup> In April 2020, the ESI was activated a second time to help member states respond to the COVID-19 pandemic.<sup>121</sup> As one EC official explained, “at the peak of the [refugee] crisis on the eastern border of the Union, we were in a completely asymmetrical situation: we had more instruments and more money to help Serbia or Macedonia to cope with the migration situation”—that is, more instruments and money than they had for EU states. The EC needed a funding instrument to address

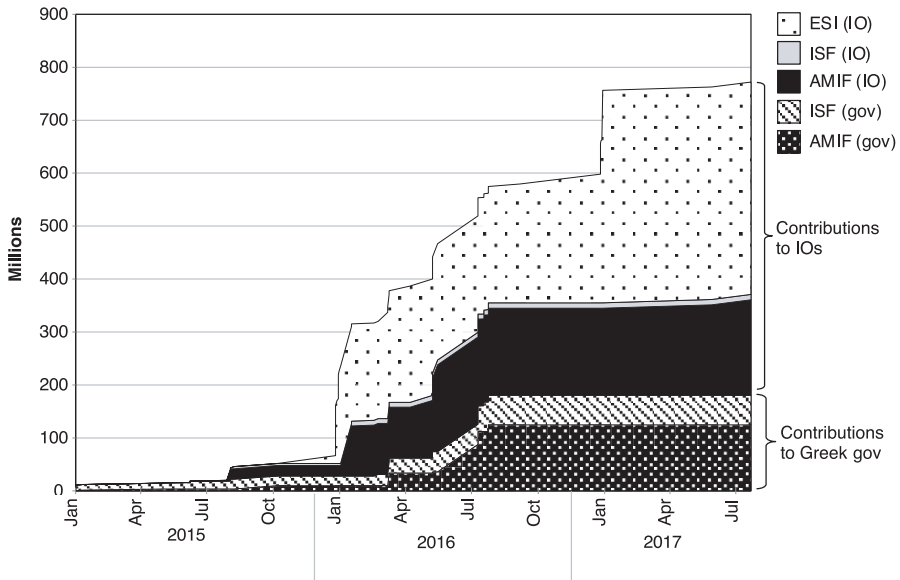


Fig. 5.3. EU Funding for Refugee Crisis in Greece, 2015–2017

Source: Author's calculation based on European Commission, "Managing Migration: EU Financial Support to Greece," 11 August 2017.

the failure of one of our member states to play its role as primary responder to the deteriorating humanitarian situation. The missing tool in our toolbox was very quickly identified as humanitarian aid inside the European Union. . . . we could not use [external aid as] the legal basis for an intervention inside the union—that is why we developed this new concept of emergency support, which is an instrument that is inspired by the principle of humanitarian aid. It will be implemented in a more or less a humanitarian way; the working method is the working method of humanitarian aid but it is different with regard to the relation to the government because this is about a EU member state. It is not as if we are dealing with a failed state—it has to do with the relation between the EU and the institutions of the member states and whether the member states are responding or not to the crisis.<sup>122</sup>

The new ESI provided aid for “food assistance, emergency health care, shelter, water, sanitation and hygiene, protection and education.”<sup>123</sup> The Council allowed for IOs, NGOs, and national authorities to apply, but only IOs

and NGOs received funding.<sup>124</sup> Figure 5.3 shows that IOs received 73.2 percent of the total EU emergency funds from 2015 to 2017. This reveals that three-quarters of EU emergency funding was subcontracted to IOs.

### *International Organizations*

The largest recipients of ESI funding were international organizations, like UNHCR, IOM, UNICEF, the Danish Refugee Council, and the International Federation of Red Cross (see table 5.4). UNHCR received €346 million (61 percent of aid given to IOs) over just three years. On 26 January 2016, UNHCR and the EC signed a “delegation agreement” providing €80 million to UNHCR to assist Greece in setting up the hotspot approach and relocation scheme, in addition to expanding the asylum reception capacity. The delegation agreement was a rare financial tool where the EU provides “indirect management” (i.e., less supervision), thus “delegating” discretion and financial oversight to UNHCR.<sup>125</sup> UNHCR used its own financial oversight for grants, procurement, and implementation. This was the only delegation agreement within the emergency funding from 2015 to 2017.

More generally, the EU subcontracted to IOs some fundamental tasks

**Table 5.4. EU Financial Support Subcontracted to IOs, 2015–17**

	Number of grants	Total amount	Percent
UNHCR	10	€ 346,060,000	61.2%
IOM	4	€ 66,300,000	11.7%
DRC	2	€ 33,200,000	5.9%
IFRC	2	€ 23,000,000	4.1%
IRC	1	€ 19,230,000	3.4%
Oxfam	1	€ 13,250,000	2.3%
MDM	2	€ 11,100,000	2.0%
NRC	1	€ 11,000,000	1.9%
Arbeiter-Samariter-Bund	1	€ 9,300,000	1.6%
Save the Children	1	€ 9,180,000	1.6%
UNICEF	1	€ 8,500,000	1.5%
Mercy Corps	1	€ 7,150,000	1.3%
Terre des Hommes	1	€ 4,700,000	0.8%
CARE	1	€ 3,500,000	0.6%
<b>Total</b>	<b>29</b>	<b>€ 565,470,000</b>	<b>100%</b>

*Source:* Author’s calculation based on European Commission, “Managing Migration: EU Financial Support to Greece,” 11 August 2017.

*Note:* DRC (Danish Refugee Council), IFRC (International Federation of Red Cross and Red Crescent Societies), IRC (International Rescue Committee), MDM (Médecins du Monde), NRC (Norwegian Refugee Council), CARE (Cooperative for Assistance and Relief Everywhere, previously Cooperative for American Remittances to Europe).

like providing accommodation, leading coordination, and relocating refugees. These are examples of secondary delegation in which EU member states (including Greece) delegated some competencies on migration policy to the EU, which later delegated to IOs. For example, the EU funded UNHCR to expand accommodation to 20,000 places through apartment rentals, hotel vouchers, and host families.<sup>126</sup> This accommodation was originally for refugees waiting to be relocated through the EU relocation scheme, but expanded to vulnerable people identified by UNHCR. Accommodation was initially slow in being procured: the scheme had 6,035 places available in May 2016, but quickly increased to 21,057 places by December 2016.<sup>127</sup> UNHCR helped identify 21,229 people to move to another EU country via the EU relocation scheme, and a total of 38,534 individuals were housed through the UNHCR scheme by November 2017.<sup>128</sup> The accommodation scheme was renamed Emergency Support to Integration and Accommodation (ESTIA) and marked a shift away from encampment in Greece to providing vouchers for renting apartments in cities. Participants were also given monthly cash stipends pegged at the same level of Greek social benefits—all administered by UNHCR.<sup>129</sup> The EU expanded the program in 2019 and 2020, continuing to subcontract to UNHCR to the tune of more than €175 million each year.<sup>130</sup>

The EU also funded UNHCR to support coordination by establishing a structure of national and field-level working groups in refugee protection, education, WASH (Water, Sanitation, and Hygiene), shelter, and health and nutrition. The UNHCR representative acts as the national refugee coordinator and the main interlocutor with the Greek government. The government is supposed to take the lead, but in practice the Greek government did not have the capacity or the willingness to actively participate. One UNHCR official explained:

When it comes to Greece, it is challenging because coordination is a new thing and the government is not used to being advised by an external body to tell them how to do things. It is not a bad thing that the government is confident that they know how to run things. Unfortunately, they do not [know how to coordinate] because it is new. We understand and we welcome the fact that the government wants to take care of its own affairs because responding to a crisis in your own territory is the state's responsibility. But when the state doesn't have the resources or the expertise then the UN and the humanitarian community steps in. This is the case here and this is the case everywhere.<sup>131</sup>

Project coordinators across Greece reported frustration with the government, which asserted government authority yet lacked the capacity to deliver. The UNHCR official continued: “You move one step forward and you take two steps back. You think this minister or this secretary is doing this or pushing this agenda forward and all of a sudden it becomes: ‘No, we are going to do it ourselves.’ And then you wait until it fails and you then step in again.”<sup>132</sup>

Because UNHCR considers itself the “the agency of first and last resort for refugees,” if the government fails to provide protection or services, the burden falls to UNHCR.<sup>133</sup> For example, asylum seekers had no way to get from the camps to their appointments at regional asylum offices and without the appointment they had no status, so UNHCR started providing transportation to asylum appointments. In another example, although the Greek military was officially responsible for most of the temporary and permanent sites (remember, refugee camps were rebranded “sites” in Europe), the military did not necessarily coordinate the aid or services within the camp. One Greek navy commander responsible for a camp near Athens told me, “I don’t know how it will be done because it is not my level to decide or to know that.”<sup>134</sup> Instead, the government appointed UNHCR and a few other NGOs to provide “site management support” (referred to as SMS in Greece but also called CCCM or “camp coordination, camp management” in other countries). During a few chaotic months (June–September 2016), the government and UNHCR disagreed on the number of camps in Greece and who was responsible for coordinating aid within them. At one camp, an NGO was appointed the site management support lead without ever being consulted or requesting the role. The EU leaned on international organizations to provide and coordinate direct aid to refugees and migrants when the Greek government would not.

The most frequently cited reason in interviews for subcontracting in Greece was because IOs were more efficient and had greater capacity than the Greek government or the EU agencies. A high-level official at ECHO explained that they selected UNHCR and IOM because of “the capacity to be operational and quick so that they can be mobilized and reduce the amount of time of project management cycle. A quick mobilization by UNHCR or IOM shows [they have] this capacity.”<sup>135</sup> UNHCR and IOM described a similar rationale—the capacity to deploy quickly—as key to subcontracting to IOs in Greece. For example, a UNHCR official explained:

The EU knows that we [UNHCR] are efficient, especially when it is a crisis situation. They know we have the means and the emergency capacity, deployment, everything. In a matter of weeks, we turned from a very small office—there were 10 to 200, then 300, then 400—and brought all of the mechanisms from the UN. I don't think EASO can do that, not yet anyways.<sup>136</sup>

EU officials were aware of the limitations of the Greek government and wanted to find alternative ways of subcontracting capacity to respond to the crisis. One EU official said of the delegation agreement with UNHCR:

For the time being, the [Greek government] are not there yet. In the meantime, we are encouraging them to put all the structures in place to make sure that they can use [EU funding] . . . but for efficiency purposes it's better to use this kind of financial arrangement.<sup>137</sup>

As the 2015–17 crisis unfolded, the EU considered the Greek government's record of failed implementation and inability to spend the allocated EU funding before looking for other actors with more capacity, expertise, and efficiency. This logic helps to explain the large percentage of emergency funding subcontracted to IOs in Greece during this period.

The second reason interviewees used to explain subcontracting or delegation to IOs was to work with an organization that was accountable and had a track record of delivery (i.e., credible commitment). For example, a high-level official at ECHO explained that they selected UNHCR and IOM in Greece because

they have done similar kinds of projects in other places of the world successfully. . . . UNHCR and IOM are regarded as experienced actors—even if they are intervening in areas that normally would pertain to the national government.<sup>138</sup>

ECHO acknowledged that the Greek government would normally be responsible for supporting refugees, but that Greece's record of failure with refugees made it unlikely to be a credible partner to deliver this new wave of emergency aid. Instead, the EU turned to IOs with better reputations and records of delivering during refugee crises. Another EU official from DG-HOME explained:

This is a complex environment for Greece. It was decided that it's better to give this money to UNHCR who is a credible, reliable partner with whom we [have been] working for years, whom we can trust and have the obligation to deliver. We follow this very closely at the Commission to see implementation on the ground. We are having meetings, hundreds of meetings, to see where they stand, which are the challenges and as I said in the context of this delegation agreement, which is a huge amount of money, 80 million. It is a sign of trust towards UNHCR—these things are not done easily. It's a big amount of money. It's a sign of confidence that UNHCR can deliver and deliver on the ground.<sup>139</sup>

This official emphasized the importance of trust, credibility, and reliability in selecting how to respond to the refugee crisis. Greece was not viewed as a credible partner because it had failed to provide adequate housing for refugees, fair application processes, safe and humane detention for refugees, and was repeatedly in EU infringement proceedings for the last 20 years. The second emphasis in the quote above is that UNHCR had an *obligation* to deliver, creating more accountability between the EU and IOs. UNHCR is obliged to deliver certain targets (e.g., 20,000 places for accommodation) because of the terms of the delegation agreement. This contractual agreement can be more strictly enforced than the relationship between the EU and the Greek government. The EU can also punish UNHCR if it fails to deliver by not renewing contracts or cutting funding.

## Conclusion

Throughout the decades preceding the 2015–17 crisis, the Greek government repeatedly revealed its low state capacity to support migrants and refugees. The Greek government repeatedly failed to implement reforms, improve conditions in detention and reception centers, and reduce the backlog. By the eve of 2015, it was clear that the Greek government was not a credible partner for implementing EU policies. In response, the EU subcontracted major responsibilities to IOs, particularly UNHCR and IOM. The EU funneled €565.5 million (73.2 percent) of the EU emergency funds to IOs working in Greece. By 2017, the UNHCR presence had increased to 511 staff, while the Greek Asylum Services had only 451 employees and EASO had 172.<sup>140</sup> While the Greek government officially “coordinated” the



response, the majority of the EU funding and many of the actual deliverables (number of beds, relocations, camp management) were implemented by international organizations.

Empirically, this chapter tested the necessary conditions for subcontracting: Greece did not have the state capacity and was not a credible partner to implement the minimum humanitarian response, thus leading to subcontracting. While Greece suffered from the euro crisis and austerity cuts, mismanagement of funds, and low absorptive capacity, these only compounded the underlying conditions of low migration state capacity and lack of credible partners. Fundamentally, successive Greek governments did not build or invest in their migration state capacity and showed themselves to not be trustworthy interlocutors with EU institutions. As a result, during the 2015–17 crisis, the EU subcontracted major responsibilities for migration management to international organizations.

In addition, it is important to note the pattern of international interventions in Greece. In two cases—the RSC and UNHCR delegation agreement—the preferred mode of migration management in Greece was through international leadership and subcontracting to IOs. This geopolitical dynamic is particular to states on the periphery and on the external border, in which powerful states often dictate policy to less powerful states. In this case, the powerful states literally subcontracted the tasks to someone else.

## Postscript

Greece held parliamentary elections in July 2019 in which New Democracy won an outright majority of seats, ending SYRIZA's five years in power. Kyriakos Mitsotakis, the new prime minister and leader of New Democracy, promised “strict but fair” migration policies and reform to the asylum system. The government quickly passed legislation to increase the speed of asylum decisions, restrict appeals, build closed detention centers, extend the maximum period of detention, and reduce the residency permit for subsidiary protection to just one year.<sup>141</sup> Remarkably, the new law allowed the police and military to conduct asylum interviews and removed UNHCR appointed experts from appeals committees. The government also insisted on taking over the management of the ESTIA accommodation program from UNHCR by the end of 2020—all in an apparent attempt to reassert Greek sovereignty over migration and asylum policy.

In September 2019 and again in February 2020, Turkish president Recep Tayyip Erdoğan threatened to flood Greece with refugees unless the EU provided more humanitarian aid, resulting in a showdown between Greek and Turkish officials. Mitsotakis responded: “Mr. Erdoğan must understand that he cannot threaten Greece and Europe in an attempt to secure more resources to handle the refugee [issue].”<sup>142</sup> These pressures added to increasingly desperate conditions in refugee camps and overcrowded hotspots on the Greek islands, in addition to the backlog of more than 97,023 pending asylum applications.<sup>143</sup> In response, the Greek Asylum Service and EASO announced a surge in staff, aiming to hire more than 700 people in 2020.<sup>144</sup>

On 27 February 2020, the Greek government responded to the COVID-19 pandemic by closing the border and blaming the initial spread of the virus on “illegal entries.”<sup>145</sup> The government also closed the Greek Asylum Service, suspending all asylum procedures and instituting a strict lockdown in camps and reception centers. The Greek Coast Guard and Frontex were even caught participating in unlawful pushbacks of asylum seekers in the Aegean Sea.<sup>146</sup> However, Greece was widely praised for its quick and relatively successful response at slowing the spread of disease. But when the rest of Greece opened for summer tourism, the lockdown continued for refugee camps despite the few cases of coronavirus. By September, the Moria camp, part of the hotspot on Lesbos, had been under lockdown for nearly six months when a fire destroyed the camp. Moria was originally designed to accommodate 2,000 people, but was severely overcrowded with more than 12,000 people when the camp burned down. The refugees slept rough for a week before being moved to a temporary tent city at a nearby site. UNHCR criticized the Greek government for failing to improve the living conditions at the new camp.<sup>147</sup> True to form, the Greek government shifted the blame, stating that it was not their responsibility because the tents were “provided by UNHCR and bear its logo.”<sup>148</sup>



## CHAPTER 6

# Conclusion

This book has tried to make sense of international cooperation and migration management by describing the goals and institutions of migration management in Europe and developing a theory to understand when and how cooperation on migration policy takes place. At the widest descriptive level, migration management is a useful term that helps identify and measure cooperation based around six goals: adjudicating who should enter a country, stopping migrants who should not enter, monitoring and regulating migrants who have temporary permission to stay, removing migrants who should not have entered, deterring migrants so they never come at all, and controlling emigration and diaspora. At different times, these six goals interact, reinforce, or contradict each other, but nevertheless migration institutions in the EU have used these goals to organize and build state and regional capacity to implement migration policies. The term is analytically useful because it combines policy debates on discrete migration policies (like border security and asylum) and brings into dialogue the institutions that coordinate, collaborate, and subcontract across policies. Other analysts address the development of migration management as a political agenda and ideology, but do not attempt to explain when and why states cooperate on migration management in the EU and what variables influence the structure of that cooperation.

This book makes three arguments to explain international cooperation on migration management in Europe. First, I push back against the widespread use of “cooperation” to describe all types of interactions between two or more states; I differentiate between coordination, collaboration, subcontracting, and unilateralism, and focus on which institutions are doing the implementation. This contribution to the literature corrects for conceptual stretching by narrowly defining coordination, collaboration, subcontracting, and unilateralism. There are important differences in the amount

and type of resources necessary for each subtype, in addition to each subtype's different impact on sovereignty. For example, studies that do not distinguish which institutions are implementing the policies will miss that coordination rarely challenges sovereignty, while collaboration and subcontracting are careful to define the boundaries of joint or delegated actions. In addition, without the more specified definitions, other theories could not identify the difference between subcontracting to IOs (particularly outside of regional IOs) and collaboration between states and EU agencies. The narrow definitions of coordination, collaboration, subcontracting, and unilateralism allow for more accurate categorization of policies and for theorizing about what factors influence their internal structure.

Second, I show how cooperation evolved over time as state and regional institutions learned from failure and increased their capacity, often growing from coordination to collaboration. The case studies in chapter 3 show the role of historical legacies and path dependency in the evolution of state and EU migration institutions. It is important to recognize that the EU is a specific type of regional actor because it is one of the most developed regional institutions in the world, with significant financial resources and a long history of facilitating cooperation. EU member states began with coordination of migration policies—through the Common European Asylum System and the Schengen Borders Code—but when those policies failed to achieve their migration management goals, they moved down the decision tree from coordination to collaboration. This intervention corrects previous accounts that characterize policy implementation as binary (i.e., either coordination or collaboration) and shows how states and regional institutions experiment with a range of mechanisms that mix implementation by different actors. States and regional institutions learn from policy failures and capitalize on the political will created after crises to move toward greater collaboration and stronger regional institutions.

Third, when faced with a crisis, the way states and regional institutions cooperate is based on the capacity and credibility of partners on the ground. I tested a typology of necessary conditions—state capacity and credible partners—that lead to coordination, collaboration, subcontracting, or unilateralism. The typology contributes to the literature on cooperation and principal-agent theory because it elaborates the relationship between variables, particularly how capacity and credibility interact to influence the subtype of cooperation. Traditional principal-agent theorists suggest that delegation can occur *only* with low capacity or *only* with a lack of credible

partners, but this typology shows that those forms of cooperation would be better classified as coordination or collaboration. The previous theories of delegation look primarily at delegation within state or regional institutions, rather than external delegation (better described as subcontracting) to IOs. The typology shows that both conditions are necessary for subcontracting to an IO to occur.

## The Politics of Implementation

This book also shows the importance of studying the politics of implementation. Political scientists—especially those focused on the EU and migration—often focus on the controversial politics during the decision-making stage of the policy cycle. The high politics of European summits, Council meetings, and European Parliament legislation grab headlines but are only part of the picture of EU migration policy. Instead, the politics of implementation reveal that agreements in the Council are not necessarily decisive on the ground; rather, during implementation, state capacity and trust are key to how migration policies are actually carried out. When a state like Greece had low capacity and was not a credible partner, the EU subcontracted responsibility to international organizations—not because of disagreements in the Commission or Council, but because of the functionalist problem of capacity and trust. Which institutions have the capacity to deliver? Which actors can be trusted to deliver? In 2015–17 in Greece, the answer was UNHCR and other IOs—not the Greek institutions.

Studying the implementation stage of the policy cycle opens up new questions about the EU's operational capacity, diverse contexts for implementation, problems of local buy-in, and street-level bureaucrats. EU institutions have developed robust capacity for making decisions at the supranational level but are only recently gaining the operational capacity to intervene in the field. Chapter 3 showed how Frontex and EASO developed significant operational capacity where EU officers have expertise, staff, budget, equipment, and authority to act, where previously they had none. Some scholars frame this as a process of supranational state formation in which the EU builds more of its own operational capacity, sometimes competing with national states for legal authority and capacity—setting the stage for a clash over sovereignty.

Another problem during implementation is that EU migration policies

must be applied in very diverse operational contexts. For example, the challenges of search and rescue in the central Mediterranean are different from those in the east where most boats only travel a few dozen kilometers. Similarly, the land borders between Greece and Turkey and between Hungary and Serbia face different migration flows and different local challenges. For example, in some areas EU actors must work alongside their local counterparts who resent the EU presence and either resist or slow walk implementation that aligns with EU interests. Another way that locals resist implementation is the phenomenon of NIMBY (not in my back yard), where mayors or local associations protested refugee camps being created in their areas, which blocked the implementation of EU policies that seemed straightforward.

Implementation is always local. Put another way, policy decisions are always implemented by a person, usually a street-level bureaucrat, who must deal with the typical constraints on time, resources, and disillusionment. Michael Lipsky defined street-level bureaucrats as “public service workers who interact directly with citizens in the course of their jobs and who have substantial discretion.”<sup>1</sup> The street-level bureaucrats in EU migration management are the Frontex or EASO officer in the hotspots, the UNHCR field officer coordinating sites, the Italian police officer registering asylum seekers, or the Greek asylum officer answering the Skype calls. Each of these actors had limited amounts of time but were faced with an overwhelming demand from the thousands of migrants and refugees who were in need. They also lacked the resources or authority to change the system that lay broken in front of them. Finally, many people, including the volunteers, became emotionally exhausted by coming face-to-face with real human suffering. While not unique to EU migration management, the challenges of street-level bureaucrats reveal why it is so difficult to implement policies and why the EU found it easier to subcontract to IOs.

## Migration and Sovereignty

This project also has larger significance to debates about sovereignty and migration. Many theorists conceptualize sovereignty as a state’s autonomy and absolute control of people crossing their borders—but this understanding of sovereignty requires high levels of state capacity and credibility. What happens when a state lacks the capacity to control its own borders—or

worse, doesn't want to? What happens to sovereignty when a state is forced to rely on a regional or international organization to control its own borders? This book has shown the variation in types of cooperation—from coordination to collaboration to subcontracting to no cooperation at all—when states lack the capacity needed to respond. As Stephen Krasner points out, sovereignty as an international norm is hypocritical because it is frequently violated and has varying shades of gray.<sup>2</sup> The case studies in this book show how states rely on regional institutions and IOs when they need capacity and expertise, not necessarily compromising their sovereignty—as both Greece and Italy requested assistance—but showing the weakness of their sovereignty when challenged by exogenous events. Even some of the richest countries in the world with some of the most developed regional institutions needed to rely on international organizations when challenged by the mass influx of migrants and refugees.

At the EU level, there is more pooling of sovereignty with regard to migration than ever before. Chapter 3 described the gradual transfer of legal competency from the third pillar to the first, expanding the role of EU institutions in decisions about immigration and asylum policies. The more remarkable development was the development of EU operational capacity in Frontex and EASO to do work on the ground, rather than simply provide training and advice. During this period, the EU transformed Frontex into the European Border and Coast Guard and proposed transforming EASO into a fully fledged EU Asylum Agency, both with the right to intervene to preserve the Schengen area and CEAS.<sup>3</sup> The right to intervene at the EU's external border can be triggered if a member state does not act or refuses to act and the Council passes an implementing act to deploy Frontex. This is a very tangible challenge to the sovereignty of member states. While migration management was assumed to be a core sovereign task, EU institutions have found ways of coordinating, collaborating, and subcontracting that responsibility to different state, regional, and global actors.

## Unreliable States

Another question about sovereignty raised by this book is what makes a state unreliable. Sometime states are not credible partners for implementing policies that they claim are their sovereign responsibility. For example, most states assert that controlling their border, fingerprinting all people



entering their territory, and processing asylum applications are sovereign tasks. It follows that the EU should expect its member states to fulfill the minimum expected of sovereign states (i.e., controlling the border), especially as part of the Schengen area. But for decades, Greece was not a credible partner for implementing what most EU states believed was a core sovereign task. What does it mean for the concept of sovereignty when a state shirks a part of its sovereign duty? The EU's decision to subcontract to the UN in Greece reveals some of the tensions over sovereignty between state and regional institutions. The EU attempted for decades to hold Greece to a common migration policy, while Greece was reluctant to bear the majority of the refugee burden. This situation reveals the complex nature of sovereignty when it comes to migration and borders: states assert full authority over their border, but if the migration pressure is too much, the state may shirk that authority in order to avoid being stuck with the burden alone.

This book has shown that when states have conflicting interests, they may compromise some of their commitments in order to maintain their higher priorities. Again, the best example is Greece, which had conflicting interests in EU migration policies. It was overwhelmingly in Greece's interests to join the Schengen area because the country benefited from European tourism and freedom of movement for Greek citizens, but it was not in their interest to implement the Dublin Convention, which stuck Greece with most of Europe's asylum seekers because of its position on the southern external border. The result was that Greece became an unreliable state: Greece reaped the benefits of Schengen, while simultaneously free riding the Dublin system by not fingerprinting all people at the border and by ignoring most Dublin transfers. While the EU would consider this bad behavior on Greece's part, the outcome was a *de facto* burden sharing whereby refugees distributed themselves among member states that are not on the external border.

This project also has larger significance to the debates on migration policy more generally. Many academic studies are pessimistic about the potential for international cooperation on migration policies, but this book has laid out the variety of subtypes of cooperation and shown how cooperation on migration exists and is developing on all levels of this spectrum. The variety of cooperation is, in part, a result of the difficulty in achieving coordination or collaboration on migration—forcing actors to improvise new ways of addressing the same problems. For example, the EU improvised a delegated strategy to address the refugee crisis in Greece because other

types of cooperation had failed. Similarly, civil society actors improvised everyday coordination in the face of the overwhelming need and clear inaction by state and regional officials. In this landscape, migration policy should not be thought of as exclusively an issue for coordination; rather, cooperation on migration management has the potential to take on a variety of forms.

In 2018, states signed two broad agreements on migration: the Global Compact for Safe, Orderly and Regular Migration and the Global Compact on Refugees. These two compacts have the potential to be the most comprehensive and ambitious initiatives for international cooperation on migration policy. This reflects both the stark increase in displacement and migration in the last decade and the pressing need for organized responses. While the 2015–17 refugee crisis in Europe was not the largest displacement in the world or the most dire, Europe’s geopolitical importance made migration a priority for international cooperation on the global stage. The EU was a leader in pushing for the two compacts and will be instrumental in the implementation phase of the compacts in the years to come.<sup>4</sup>

One of the cross-cutting issues of this research is how states respond to large flows of migrants, but there is a lingering question: Can any state be prepared for a mass influx of migrants and refugees? While not the main research question of this book, the project speaks to the lack of state capacity, even in developed countries in the Global North, and the answers depend on whether the large movements of people are one-off or the “new normal.” If it is one-off, states may not find it practical to build up a permanent state capacity to process and support large numbers of migrants and refugees. Instead, it is more practical to temporarily subcontract capacity to IOs like UNHCR or IOM. If it is the new normal, states must confront the questions of (1) whether it is *practically* possible for states to mobilize the resources to increase state capacity for the sustained time period, and (2) whether it is *politically* possible to mobilize resources in shifting political climates that are often hostile to migrants. The proposed 2020 Pact on Migration and Asylum revealed that the EU does not yet have the political will to build EU-wide burden sharing mechanisms or the long-term capacity of EU migration institutions. The pact’s proposed new mechanisms include voluntary pledges and differentiated responsibilities (e.g., contributing to relocations or returns) to get more buy-in from member states, but not universal participation in mandatory quotas. What seems more likely is the steady increase in migration state capacity at the regional level in the

form of larger budgets and more staff in EASO and Frontex. It remains to be seen how the EU and individual member states will resolve this tension between what is practically possible and what is politically possible.

A second lingering question emerged from this research: Does it matter which institutions are responsible for implementation, particularly in migration management? Are there differences in outcomes for refugees or outcomes for states when national agencies, EU institutions, or IOs are primarily responsible for implementing policies? Future research should compare outcomes for refugees (e.g., education, employment, legal status, or health) and for states (e.g., unemployment, economic growth, crime, health). Other studies could be devised to evaluate whether refugee camps run by national agencies or IOs save money and are more efficient per refugee. Still other measures could be developed to analyze whether different institutions are more accountable, respect human rights, and follow the rule of law. This type of analysis could shift the policy debate away from the question of which institutions can and are supporting refugees to which institutions are *better* at supporting refugees. It steps away from arguments about delegation and sovereignty, and asks states and policymakers to be more rational about choosing which outcomes are important, and which actors can actually achieve the desired outcomes.

The limitations of this book are many. First, the research project drew its case studies from Europe, which limits the generalizability of the findings because European states typically have highly developed economies and higher state capacity than other regions. In addition, the EU represents one of the most advanced and complex regional institutions in the world. These two factors make the European response to the refugee crisis in 2015–17 different from other regional refugee crises. Despite acknowledging the serious differences, there were striking commonalities between Europe and other regions. First, administrative capacity among EU member states is heterogeneous. In chapters 4 and 5, Greece fundamentally had less capacity to coordinate a response, while Italy was able to mobilize its own resources and administer EU funding to support refugees. This highlights the heterogeneity of sovereignty even among rich, developed countries. Second, states in the Global North may perceive their sovereignty to be more absolute than states in the Global South, but when faced with a crisis, states in the Global North may still delegate sovereign tasks to IOs. While Greece consented to delegating responsibility to the UN, Greece was also pushed into

accepting assistance from the EU and the UN because they did not have the capacity to do it themselves. This gray zone of coerced consent is often discussed in the Global South but can also be found in the politics of the Global North.

A second limitation was that the case studies examined just two of the 28 EU member states; a study with more resources could have examined how all 28 states responded to the 2015–17 refugee crisis. A large-*N* study would necessarily require less detail, less fieldwork, and encounter problems of comparability (for example, not all 28 are border states). Instead, the research project chose to focus on Greece and Italy as the two states on the EU external border that had the most arrivals during this period. One of this study's strengths is the use of thick description, participant observation, and in-depth interviews with policymakers and practitioners in the field.

While this book focused on cooperation in EU migration management, further research should work to systematically apply the framework to other regions of the world. It would be fruitful to compare the complex arrangements for cooperation within the EU to other regions, particularly in Africa or Asia where regional institutions are beginning to tackle issues related to migration and displacement. Have regional cooperation arrangements in other regions developed differently down the cooperation decision tree? Have other regions leapfrogged or stalled along the way? In addition, what is the structure of subcontracting when low capacity states in the Global South face migration influxes but do not have access to large aid packages from the North? Do states in the Global South delegate to different actors than the Global North?

Another direction for future research could be to zoom out by asking: Which IOs should be managing refugee camps—both in Europe and elsewhere? This is an important question because, as was demonstrated above, states are choosing to subcontract a diverse set of responsibilities to IOs, but there is not much evidence for which IOs are best placed, most efficient, or most accountable for managing refugee camps or migration more generally. A comparative project could analyze the different economic, educational, legal, and health outcomes for refugees, in addition to outcomes for states, like economic growth or crime rates. This type of analysis could begin to provide an evidence base for state officials to make decisions about which of the different institutional arrangements are most desirable and which are known to have a negative impact.

## Policy Implications and Recommendations

The above discussion reflects the theoretical contributions of this book; it is also necessary to discuss how these data and findings can be applied to policy recommendations. These recommendations focus on how to delegate better, before turning to short- and long-term actions.

The core of this research was to better understand why, when, and how cooperation occurs in migration management. These findings—while steeped in theory, new definitions, and historical trajectories—can make cooperation better. First, policymakers should recognize what delegation—or, more specifically, subcontracting—is and what it can achieve. Subcontracting is the transfer of policy implementation to an external institution to buy-in administrative capacity and to ensure credible commitment to policies. It is not a solution to side-step domestic politics or to create political will for policies, which also vex subcontracting. Institutions can subcontract core tasks related to capacity and implementation and take care to subcontract to institutions with a track record for delivering. Second, policymakers should understand their position within larger shifts of responsibility for migration policy. This can be seen in the evolution of international cooperation on migration management from noncooperation to coordination to collaboration to (sometimes) subcontracting. While subcontracting is a bespoke policy tool for implementing in low capacity and noncredible states, it is part of a mixture of other policy tools being used at the same time. Any trend toward subcontracting should be seen as a trend toward more complex state cooperation on migration. Finally, policymakers should transfer learning from policy failures to new types of cooperation: for example, failure in coordination should be used when designing new policies of collaboration or subcontracting.

### Short-Term Actions

Policymakers should focus on concrete, short-term actions like selecting the best actor for implementation, making subcontracts more specific, requiring accountability and transparency, building diverse coalitions, and supporting civil society.

### **Select the Best Actor**

First, the best actor should be carefully screened and selected for implementation. “Best,” of course, depends on the desired outcomes, but officials should focus on actors that can deliver quickly on administrative capacity and credible commitments. There are evolving practices on how to screen potential partners: for example, organizations sometimes submit documented evidence of a track record of implementing similar projects, details of their internal structures that ensure accountability, or testimonies on their reputation and actual capacity. Evaluating these criteria can be hard, especially in new places where UNHCR, IOM, and other potential partners do not have a history of operations. There is often a trade-off between expertise in a policy area or experience in the local region. Another emerging practice is to shorten the contract length and make renewal contingent on delivering outcomes; for example, five-year contracts can be shortened to 3+1+1 or 1+1+1+1+1 with each subsequent year contingent on hitting their targets.

### **Design Better Subcontracts**

The second short-term action is to design better subcontracting agreements. The contractual agreement is an important and understudied area of international cooperation. The delegation agreement between the EC and UNHCR defined the financial arrangements, time period, and some of the tasks but was not concrete on all of the deliverables and did not specify the UN’s managerial role in camps and other processes. In Greece, the agreement was most specific about delivering 20,000 additional reception places, but was vague about UNHCR’s role in establishing hotspots, running camps, and supporting the relocation scheme. What resulted was UNHCR becoming the “provider of last resort” in many camps and focused primarily on hitting the 20,000 target, along with general coordination. In March 2016, UNHCR pulled out of some of the Greek hotspots because it opposed the conditions and lack of safeguards—but this made it difficult for UNHCR to fulfil its subcontractual agreement to support the EU in implementing the hotspots.<sup>5</sup> Good subcontracts should be as specific as possible, envisioning scenarios of disagreement as well as changed circumstances.

Another area that requires greater specificity is in delineating IOs relationships with national agencies and other coordination mechanisms.

The Greek government, the EU, and UNHCR all held their own coordination meetings, leading to overlap and duplication. In interviews, EU and UNHCR officials frequently complained about attending too many coordination meetings. Subcontracts should lay out the coordination structure to decide and communicate decisions, in addition to providing information to all stakeholders. In Greece, many of these coordination mechanisms popped up after the delegation agreement was signed and the UN was forced to adapt to the changing landscape of aid, coordination, and funding.

### *Increase Accountability and Transparency*

A third action should be to build into subcontracting agreements rigorous mechanisms for accountability and transparency. The first way that subcontracted agents are typically held accountable is that if they do not deliver results, the contract can be terminated and the agents are punished within the bounds of the contract. This is a form of internal accountability to the EC and can result in agents being blacklisted from future contracts and entered into the EC's Central Exclusion Database. In addition, the European Anti-Fraud Office and the European Court of Auditors have the authority to perform on-the-spot checks and desk reviews of documents and accounts. The EC-UNHCR agreement also relied on standard internal processes in the UN. The reputation of the UN and these internal processes for accountability made it an attractive actor to select for delegation because there was less risk of financial mismanagement or that the organization would go rogue.

However, there is little external accountability because these documents were not accessible to the public. I gained access to the EC-UNHCR delegation agreement, which was not publicly available, five months after submitting a freedom of information request and some parts were redacted. Specific reporting on outcomes, evaluations, and detailed funding should be easily accessible so that partner organizations and other stakeholders can act as checks to ensure delegated responsibilities are being achieved. Besides the benefits of accountability, more transparency also allows for best practices to be shared and lessons learned by other parts of the sector.

The third area that needs redress is democratic accountability. This harks back to the frequent critique within EU studies that many European institutions suffer from a democratic deficit because they lack accountabil-

ity by democratically elected institutions.<sup>6</sup> The decisions of the EC are insulated from the European Parliament, although they are sometimes discussed in the European Parliament's Committee on Civil liberties, Justice and Home Affairs or if the European Court of Auditors submits a report. This is particularly important because when IOs like UNHCR are delegated responsibility, they must be held accountable for their actions—but there are no democratic mechanisms for holding UNHCR accountable.<sup>7</sup> Only the EC has powers to terminate or audit the EC-UNHCR agreement. IOs should be held to the same standards as states, ensuring that decisions are made according to the rule of law and that all migrants are treated humanely. Crucially, subcontracting should not be used as a way to remove political decisions from democratic oversight and accountability. Subcontracting agreements should include requirements to report to more democratic institutions, like the European Parliament. This model of accountability could be piloted and lessons shared across other institutional arrangements. In addition, subcontracts could include mechanisms to ensure the human rights of migrants, like a mandatory human rights liaison or an ombudsman available to report abuse.

### ***Build Coalitions***

Coalitions are needed to pass legislation, but they are also necessary during the implementation stage. Policymakers need to build coalitions of new stakeholders between national and regional institutions to empower IOs and make the subcontracting a success. Instead of viewing subcontracting as a way to circumvent recalcitrant institutions, policymakers should use subcontracting as an opportunity to relieve overwhelmed actors and bring them into a shared commitment to deliver better results. This is, of course, difficult work as building coalitions between actors can run against political interests and long-standing rivalries and requires long-term investments.

### ***Support Civil Society***

A final short-term action is that states should support civil society actors and build their capacity, instead of cracking down on or restricting their activities. While this would require a fundamental shift in how the Greek government views civil society actors helping migrants, it is a necessary one. States can help civil society to become more professionalized and



require a minimum standard by including those organizations in training sessions and coordination mechanisms. This would provide both goodwill between grassroots organizations and the state and improve the coordination of aid on the ground. The state can learn from the everyday coordination of civil society, just as volunteers can learn from public officials.

## Long-Term Actions

In the long term, policymakers should focus on three elements: building capacity and commitment in national governments, building regional institutions that are fit for purpose, and building a normative framework for subcontracting to IOs.

### *Incentivize the Building of Migration State Capacity*

The first long-term action is to build the capacity of states to manage migration. This can be done through regional funds like the EU Asylum, Migration and Integration Fund or the Internal Security Fund, but also through sharing of expertise at the regional level about what type of capacity is most needed. In Greece, it was clear that the national agencies lacked the basic administrative capacity to process asylum paperwork and coordinate camps or housing; in addition, they lacked appropriate financial accountability to receive EU funds. Over the long term, states should establish strong but basic procedures that can be scaled up in times of increased migration. Regional institutions outside of Europe could also leverage regional funds to ensure baseline levels of migration state capacity and financial accountability in every country. Regional funds should also be used to incentivize commitment to coordination or collaboration policies. While conditionality has its critics, regional institutions wielding a large enough carrot should not need to use other types of penalties or sanctions. In 2016–20, the EU was struggling with the right balance of carrot and stick: for example, the EU plan to relocate refugees arriving in the southern border to all EU states failed because Visegrád countries lacked the commitment to implement EU policies. While the EC began the infringement procedure, the EC should incentivize participation in collaborative schemes, in addition to penalizing those who are obstructionist.

### *Institutions That Are “Fit for Purpose”*

The second long-term action is to build regional institutions that are fit for purpose and that better fill the needs of member states. EU institutions like EASO and Frontex were originally designed as hubs to connect states with expertise or capacity to those states that needed assistance. The more recent challenges show that these institutions did not have the mandates or capacity to assist states on their actual needs: states needed extra capacity to process asylum applications and manage camps, but EASO and Frontex had neither. The new mandate for Frontex (renamed the European Border and Coast Guard Agency) and the proposed new mandate for the EU Agency for Asylum would increase their operational staff and expand their powers to process cases. Without these revised mandates, the EU migration agencies will remain institutions designed for a different era.

Despite these proposals, there remains no institutional actor responsible for ensuring the human rights of migrants throughout Europe. The EU needs an analogous institution like the UN Special Rapporteur on the human rights of migrants with the mandate to hold accountable EU institutions and member states that systematically violate migrants’ rights. The European Union Agency for Fundamental Rights has run several ad-hoc projects on asylum, migration, and borders—but it does not have a permanent mandate to assess the human rights of migrants in every member state.

### *Normative Frameworks*

The third long-term action is to build a normative framework to guide how states delegate to IOs on certain core tasks of migration management, especially during crises. This normative framework would outline under what conditions subcontracting could occur and why subcontracting in this form does not threaten state sovereignty and is democratically accountable. The framework would clarify the role of national agencies, regional institutions, and IOs during large influxes of migrants and refugees and differentiate between the roles of IOs during and after crises. More clearly defined roles could reduce some of the competition and conflicts between actors in the field and improve coordination. The normative framework should also establish a global actor in charge of coordinating all actors responding in

migration crises, similar to the Inter-Agency Standing Committee that coordinates all UN humanitarian actors.

By providing a normative basis for subcontracting in global migration governance, a normative framework would reduce transaction costs and pass on learning from past responses without starting from scratch with each new crisis. States are already at work developing this normative framework: first in the 2016 New York Declaration for Migrants and Refugees and, second, in the 2018 Global Compact for Safe, Orderly and Regular Migration and the Global Compact on Refugees. The Global Compact for Migration established IOM as the lead migration agency in charge of coordination through the UN Network on Migration.<sup>8</sup> In addition, the Comprehensive Refugee Response Framework (annex I of the New York Declaration) lays out a framework for how states in the Global North and Global South can design coherent, coordinated, and inclusive responses for displaced people. These are steps in the right direction, but states are hesitant to sign on to normative commitments to migrants and refugees and implementation of the Global Compacts will be key.

## Conclusion

This book began with a simple puzzle: Why is the UN running refugee camps in some of the richest countries in the world? The short answer is that the EU brought in the UN's expertise and capacity to temporarily fill gaps in the Greek asylum system. The Greek government had low state capacity and was not trusted as a partner for implementing EU policies. When the largest wave of migrants and refugees arrived in Greece in 2015, the EU subcontracted responsibility to the UN to get the job done. Subcontracting also conveniently bypassed messy Greek domestic politics and overruled Greek objections to the Dublin system. In contrast, in Italy the government built up a stronger state capacity over several decades of previous crises and the center-left governments proved themselves trustworthy for implementing EU policies. As a result, from 2014 to 2017, the EU coordinated the Italian response by funneling more than 99 percent of the funding through government agencies. In both cases, mechanisms for EU-wide burden sharing failed, while coordination and subcontracting anchored refugees in Italy and Greece.

Ultimately, EU migration management was built on avoiding responsi-

bility. Underlying this system was a fundamental conflict of interests between states on the external border and those further north. In both Italy and Greece, EU interventions of coordinating or subcontracting reinforced a system of unequal burden sharing in which states on the periphery were saddled with a disproportionate amount of asylum seekers. To overcome conflicting interests, the EU would need to undertake a fundamental rethinking of the Dublin system and devise a new system of how EU member states share the burden beyond financial solidarity. Current reforms notwithstanding, it is unlikely that the EU and its member states will end the practice of subcontracting any time soon. Instead, I described above how to make subcontracting better, more accountable, and more inclusive.

European politics shift quickly and elections impact the credibility of new governments: in 2018, the Italian center-left government was replaced by a new right-wing coalition between the M5S and the Lega, drastically shifting the Italian approach to migration and EU cooperation. In little more than a year, the government fell (or was sabotaged by Salvini), resulting in a political realignment and a new coalition between M5S and the Democratic Party and ushering in another reversal of policies toward migration and the EU. Similarly, the SYRIZA-led coalition lost control after the 2019 Greek elections, leaving New Democracy to form a new government and implement sweeping reforms to migration policies. While the EU approach to migration remains to coordinate in Italy and subcontract in Greece, the future is uncertain as the necessary conditions (migration state capacity and credible partners) continue to shift.

Beyond Greece and Italy, European politics have become more polarized and influenced by populist parties that thrive on anti-immigrant rhetoric. Disappointingly, EU institutions have adapted to the anti-immigrant populists, instead of challenging them. For example, in 2019 Margaritis Schinas of Greece was appointed to the new European Commission with a portfolio responsible for migration, which was euphemistically called “Protecting Our European Way of Life.” Members of the European Parliament were outraged at the insinuation that immigration was a threat to European values and the title was quickly changed to “promoting” the European way of life.<sup>9</sup> Nevertheless, this signaled an approach that the EC would be more hawkish toward migration to protect EU institutions from challenges by populist parties.

European institutions are adapting in order to survive but should be careful that they are not twisted into defending what they were established

to oppose. We are living in remarkable times when the European Union—once established as the great defender of human rights—is now propping up dictators, funding closed detention facilities, and ignoring migrants sold at slave markets. The UN is also finding itself twisted into the position of implementing EU policies that it opposes and redirecting resources from emergencies in the Global South to fill gaps in capacity for European states. Delegating responsibility may be an effective strategy to survive a crisis but it is not a long-term strategy for building a community of democracies.

# APPENDIX I

## Timeline of Migration State Capacity in Europe

Date	Policy	Type of Cooperation
<b>1976</b> <i>Detail:</i>	<b>TREVI Group</b> Intergovernmental meetings with national security, police, and immigration officials to prevent terrorism	<b>Coordination</b>
<b>1985</b> <i>Detail:</i>	<b>Schengen Agreement</b> Gradual removal of internal border controls between Belgium, France, Luxembourg, West Germany, and the Netherlands	<b>Coordination</b>
<b>1986</b> <i>Detail:</i>	<b>Ad Hoc Group on Immigration</b> Set up the Centre for Information, Discussion and Exchange on Asylum (CIREA) and the Centre for Information, Discussion and Exchange on the Crossing of Border and Immigration (CIREFI) Exchange information at the ministerial level on admission/expulsion, visas, asylum, false documents, external border, and refugees from the Balkans	<b>Coordination</b>
<b>1988</b> <i>Detail:</i>	<b>Group of Co-ordinators on the Free Movement of Persons (Rhodes Group)</b> Regular meetings between senior officials at ministries of interior and the EC to discuss measures for the removal of internal borders	<b>Coordination</b>
<b>1990</b> <i>Detail:</i>	<b>Schengen Convention</b> Laid out the measures necessary for implementing the removal of internal border checks Created a common visa policy	<b>Coordination</b>
<b>1993</b> <i>Detail:</i>	<b>Maastricht Treaty</b> Made asylum and immigration policy a matter of “common interest”; required unanimous decisions in Council	<b>Coordination</b>
<b>1997</b> <i>Detail:</i>	<b>Dublin Convention</b> Asylum seekers must apply in the first country they enter Created a mechanism for transferring applicants to the first country	<b>Coordination</b>
<b>1999</b> <i>Detail:</i>	<b>Amsterdam Treaty</b> Moved immigration and asylum to the community method decisions in Council Incorporated Schengen Agreement into EU law	<b>Coordination</b>
<b>1999–2002</b> <i>Detail:</i>	<b>Strategic Committee for Immigration, Frontiers and Asylum (SCIFA and SCIFA+)</b> Senior-level officials from ministries of interior discussing border control issues preparing for Council meetings	<b>Coordination</b>
<b>1999–2005</b> <i>Detail:</i>	<b>Common European Asylum System (CEAS)</b> Adopted directives on asylum procedures and qualifications, reception conditions, and temporary protection	<b>Coordination</b>

Date	Policy	Type of Cooperation
<b>2000</b>	<b>Eurodac</b>	<b>Coordination</b>
<i>Detail:</i>	Shared database of asylum seekers' fingerprints and other data	
<b>2002–3</b>	<b>External Borders Practitioners Common Unit (PCU)</b>	<b>Coordination and Collaboration</b>
<i>Detail:</i>	Established national contact points in each member state 17 joint projects and operations	
<b>2004</b>	<b>Visa Information System (VIS)</b>	<b>Coordination</b>
<i>Detail:</i>	Shared database of visa information including biographical data, fingerprints, photographs, and previous travel and visas	
<b>2006</b>	<b>Schengen Information System (SIS)</b>	<b>Coordination</b>
<i>Detail:</i>	Shared database of alerts on arrest warrants, stolen property, missing persons, and refusal of entry or stay Set up national SIRENE (Supplementary Information Request at the National Entry) bureau in each country	
<b>2004</b>	<b>European Agency for the Management of Operational Cooperation at the External Borders (Frontex)</b>	<b>Collaboration</b>
<i>Detail:</i>	Created new EU agency to support member states to implement border controls Rapid border intervention teams (RABIT) and joint deportations	
<b>2005–13</b>	<b>Recast of CEAS</b>	<b>Coordination</b>
<i>Detail:</i>	Address inconsistencies in asylum rates and Dublin system Revisions to directives on reception conditions, asylum procedures and qualifications Revised Dublin III and Eurodac regulations	
<b>2007–13</b>	<b>SOLID Programme</b>	<b>Coordination</b>
<i>Detail:</i>	Created European Refugee Fund, External Borders Fund, Return Fund, and Integration Fund €3.95 billion to upgrade external border and share the financial burden	
<b>2008</b>	<b>Eurosur</b>	<b>Collaboration</b>
<i>Detail:</i>	Shared database with information on irregular border crossings, criminal activity, and monitoring human trafficking Created network of National Coordination Centres	
<b>2009</b>	<b>Treaty of Lisbon</b>	<b>Coordination</b>
<i>Detail:</i>	Made asylum and migration issues a “common policy” Qualified majority voting in Council and codecisions with European Parliament	
<b>2010</b>	<b>European Asylum Support Office (EASO)</b>	<b>Collaboration</b>
<i>Detail:</i>	Created new EU entity to support member states in implementing CEAS	
<b>2011</b>	<b>European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)</b>	<b>Coordination</b>
<i>Detail:</i>	Created new EU agency responsible for managing large IT systems like Eurodac, SIS, and VIS	

Date	Policy	Type of Cooperation
<b>2016–20</b> <i>Detail:</i>	<b>Second recast of CEAS [proposed]</b> Time limits in processing and appeals, fast-tracking cases, harmonizing the EU list of safe countries, and changes to Eurodac Proposal to upgrade EASO's mission and administer a fairness mechanism for relocation of asylum seekers within EU	<b>Coordination</b>
<b>2015</b> <i>Detail:</i>	<b>EU hotspots approach</b> Joint reception operations between Frontex, EASO, Europol, and Eurojust in 10 locations (5 in Greece and 5 in Italy)	<b>Collaboration</b>
<b>2015</b> <i>Detail:</i>	<b>EU relocation scheme</b> Relocation of 160,000 asylum seekers from Italy and Greece based on voluntary commitments by member states	<b>Collaboration</b>
<b>2015–21</b> <i>Detail:</i>	<b>EU Emergency Trust Fund for Africa</b> €4.8 billion for aid to prevent irregular migration and displacement Fund projects to address root causes of migration in Africa	<b>Coordination</b>
<b>2016</b> <i>Detail:</i>	<b>EU-Turkey statement</b> In exchange for EU visa liberalization and €3 billion aid, Turkey will accept the return of irregular migrants crossing to Greece and work to prevent irregular crossings	<b>Collaboration</b>
<b>2016–17</b> <i>Detail:</i>	<b>EU Facility for Refugees in Turkey</b> €3 billion for aid for refugees in Turkey	<b>Coordination</b>
<b>2016</b> <i>Detail:</i>	<b>Emergency Support Instrument</b> €700 million for emergency support operations for refugees from ECHO budget Additional €100 million for the Asylum, Migration and Integration Fund and the Internal Security Fund	<b>Subcontracting, Coordination</b>
<b>2020</b> <i>Detail:</i>	<b>Pact for Migration and Asylum [proposed]</b> Proposed EU Agency for Asylum Increased the standing corps of EBCG Revised Dublin system with limits to appeals, extended period for transfers, and increased detention to prevent absconding Expand hotspot and prescreening procedure Right to intervene if Schengen or CEAS are threatened Voluntary pledges to contribute to relocation or supporting returns	<b>Coordination and collaboration</b>





## APPENDIX II

### Timeline of Migration State Capacity in Italy, 1986–2020

	State Capacity	Government	Coalition
<b>1986</b>	<p><b>Foschi Law</b> (Law No. 943)</p> <ul style="list-style-type: none"> <li>- Defined rights of migrants in Italy</li> <li>- Measures to address irregular migration, exploitation, and hiring of undocumented migrants</li> <li>- Prioritized employing Italian and EU workers</li> <li>- Equal access for migrants to social welfare</li> <li>- Established fund to assist in repatriation of migrants</li> <li>- Amnesty for 105,00 irregular migrants</li> <li>- Responsibilities assigned to Ministries of Labour and Foreign Affairs; regional and city councils</li> </ul>	<b>Craxi</b>	<p><b>Pentapartito</b></p> <ul style="list-style-type: none"> <li>- Christian Democratic</li> <li>- Center and center-left</li> <li>- pro-Europe</li> </ul>
<b>1990</b>	<p><b>Martelli Law</b> (Law No. 39)</p> <ul style="list-style-type: none"> <li>- Defined refugee status</li> <li>- Established the central asylum commission</li> <li>- Moved asylum from administrative to ordinary courts</li> <li>- Created procedure for refusal of entry</li> <li>- Specified expulsion procedure</li> <li>- Quotas for labor migrants</li> <li>- Temporary accommodation funded by central government but implemented by regional and local councils</li> <li>- Amnesty for 222,000 irregular migrants</li> </ul> <p><b>Dublin Convention</b></p> <ul style="list-style-type: none"> <li>- Process for determining which state is responsible for reviewing an asylum application, usually the first country of entry, or family reunification</li> <li>- Implemented on 1 September 1997</li> </ul> <p><b>Schengen Agreement</b></p> <ul style="list-style-type: none"> <li>- Removal of passport checks at borders with other member states</li> <li>- Implemented on 26 October 1997</li> </ul>	<b>Andreotti VI</b>	<p><b>Pentapartito</b></p> <ul style="list-style-type: none"> <li>- Christian Democratic</li> <li>- Center and center-left</li> <li>- pro-Europe</li> </ul>

	State Capacity	Government	Coalition
<b>1992</b>	<b>Citizenship Law</b> (Law No. 91) - Grants citizenship to children of foreigners who were born or resident in Italy	<b>Andreotti VII</b>	<b>Quadrupartito</b> - Christian Democratic - Center and center-left - pro-Europe
<b>1995</b>	<b>Dini Decree</b> (Law No. 489) - Access to public health services for migrants - Expanded expulsion powers - Established first detention centers - Amnesty for 246,000 irregular immigrants - Failed to be converted into law within 60 days but later approved in 1996 as Law No. 617 <b>Puglia Law</b> (Law No. 563) - Construction of first aid and reception centers (CPSA) - Deployment of armed forces to counter irregular migration	<b>Dini</b>	<b>Independent</b> - Government of experts - pro-Europe
<b>1998</b>	<b>Turco-Napolitano Law</b> (Law No. 40) - More strict border checks - Institutionalized system of detention centers - Further expanded and detailed expulsion powers - Established the National Fund for Migration Policies - Created residency permits for migrants seeking jobs - Access to public schools for migrant children - Amnesty for 215,000 irregular migrants <b>Consolidated Act on Immigration</b> <b>“Testo Unico”</b> (Law No. 286) - Combined disperse laws on migration into one law	<b>Prodi I</b>	<b>The Olive Tree</b> - Center-left - pro-Europe - Giorgio Napolitano, minister of interior, was former Italian Communist Party

	State Capacity	Government	Coalition
<b>2002</b>	<b>Bossi-Fini Law</b> (Law No. 189) - Revised quotas - Created residency permits linked to employer - Expanded deportations - Italian navy to fight human trafficking - Amnesty for 634,728 irregular migrants, specifically caregivers and domestic workers - Established identification centers for detention and status determination of asylum seekers - Created SPRAR	<b>Berlusconi II</b>	<b>House of Freedoms</b> - Center-right - Partnered with Lega Nord and National Alliance
<b>2004</b>	<b>Law No. 271</b> - Appointed justices of the peace to supervise expulsion and detention	<b>Berlusconi II</b>	<b>House of Freedoms</b> - Center-right - Partnered with Lega Nord and National Alliance
<b>2008</b>	<b>Treaty of Friendship, Partnership and Cooperation between Italy and Libya</b> - Reinforced Libya's land borders - Built detention centers in Libya - Criminalized support of traffickers - Increased support for Libyan Coast Guard	<b>Berlusconi IV</b>	- Center-right - Partnered with Lega Nord and Movement for the Autonomies
<b>2009</b>	<b>Law No. 94</b> - Criminalized "illegal entry and residence in the territory" - Foreigners must present a residency permit for all government services, except hospitals, schools, and birth certificates - Helping or housing irregular migrants punishable with 3 years in prison - Reorganize detention system; rename Temporary Residence Centers and Temporary Residence and Assistance Centers as Identification and Expulsion Centers (CIE) <b>Law No. 102</b> - Amnesty for domestic care workers, around 300,000 people	<b>Berlusconi IV</b>	- Center-right - Partnered with Lega Nord and Movement for the Autonomies
<b>2012</b>	<b>Law No. 109</b> - Implemented EU directive on sanctions on employers of irregular migrants - Amnesty for 23,000 people	<b>Monti</b>	<b>Independent</b> - Multiparty coalition - Partnered with People of Freedom the Democratic Party

	State Capacity	Government	Coalition
<b>2013</b>	<b>Operation Mare Nostrum</b> - Italian navy operation aimed at saving lives and stopping smugglers - Operations ran from 18 October 2013 to 13 October 2014 - 700–1,000 military personnel, 5 military vessels, 7 helicopters, and 1 plane - Rescued 170,000 people - €114 million budget	<b>Letta</b>	<b>Grand Coalition</b> - Multiparty coalition - Partnered with the Democratic Party and People of Freedom
<b>2015</b>	<b>Law No. 142</b> - Implemented EU directives on reception and asylum procedures - Guidelines for reception of unaccompanied minors - Introduction of temporary “Extraordinary Reception Centers” (CAS) - National and regional coordination committees responsible for the fair distribution of asylum seekers across the regions	<b>Renzi</b>	- Center-left - pro-Europe
<b>2017</b>	<b>Italy-Libya Memorandum of Understanding</b> - Cooperation between the security and military institutions to prevent irregular migration - Technical support for the Libyan Coast Guard - Improved reception centers in Libya - Reinforced the land border of southern Libya - Supported international organizations with voluntary returns - Job creation in Libya to combat emigration	<b>Gentiloni</b>	- Center-left - pro-Europe
<b>2017</b>	<b>Minniti Law (Law No. 13)</b> - Shortened the time limit for applying for asylum - Removed the right to a second appeal - Increased staff in territorial commissions	<b>Gentiloni</b>	- Center-left - pro-Europe

	State Capacity	Government	Coalition
<b>2018</b>	<p><b>Salvini Law</b> (Law No. 132)</p> <ul style="list-style-type: none"> <li>- Eliminated humanitarian protection and replaced with 1-year “special permits” for health, natural disasters, domestic violence, exploitation</li> <li>- Allowed for the deportation of asylum seekers convicted of theft, possession of drugs, and other misdemeanors</li> <li>- Extended the period of detention in first reception centers and hotspots</li> <li>- Replaced SPRAR reception system with SIRPOIMI and restricted to only recognized refugees and unaccompanied minors</li> <li>- Restricted asylum seekers and those with humanitarian protection to extraordinary reception centers (CAS)</li> <li>- Increased funding for repatriation</li> <li>- Power to revoke citizenship for terrorism</li> </ul>	<b>Conte I</b>	<ul style="list-style-type: none"> <li>- Populist and far right</li> <li>- Coalition between Lega and MS5</li> <li>- Anti-EU</li> </ul>
<b>2019</b>	<p><b>Security Decree</b> (Law No. 53)</p> <ul style="list-style-type: none"> <li>- Power to block NGO rescue boats from disembarking and fined up to €1 million if they do so</li> <li>- Increase funding for police to prevent irregular migration</li> </ul>	<b>Conte I</b>	<ul style="list-style-type: none"> <li>- Populist and far right</li> <li>- Coalition between Lega and MS5</li> <li>- Anti-EU</li> </ul>
<b>2020</b>	<p><b>Cura Italia</b> (Law No. 18)</p> <ul style="list-style-type: none"> <li>- Nationwide COVID-19 lockdown including reception centers</li> <li>- Funding for reception centers extended until 31 December 2020</li> <li>- Extended the period of stay in the reception centers</li> <li>- Residency permits extended until 31 August 2020</li> <li>- Allow non-EU citizens to work in health care facilities if they hold a residence permit</li> </ul> <p><b>Decree No. 150</b></p> <ul style="list-style-type: none"> <li>- Italian ports designated as unsafe because of COVID-19, blocking disembarkment of migrants from non-Italian boats</li> </ul> <p><b>Decree No. 1287</b></p> <ul style="list-style-type: none"> <li>- New arrivals held on quarantine ships</li> </ul> <p><b>Relaunch Decree (Decree No. 34)</b></p> <ul style="list-style-type: none"> <li>- Temporary (6 month) amnesty for irregular migrants employed in agriculture, domestic work, or personal care if they were residing in Italy before 8 March 2020</li> <li>- Reopened the SIPROIMI reception centers to asylum seekers</li> </ul>	<b>Conte II</b>	<ul style="list-style-type: none"> <li>- Coalition between MS5 and Democratic Party</li> </ul>



# APPENDIX III

## Timeline of Migration State Capacity in Greece

	State Capacity	Government	Coalition
1929	<p><b>Law 4310</b></p> <ul style="list-style-type: none"> <li>- First immigration law but little enforcement</li> <li>- Included rules governing passports, police controls, deportation</li> <li>- Required foreigners to have work and residence permit</li> </ul>	<b>Venizelos</b>	<b>Liberal Party</b>
1959	<p><b>Decree 3989</b></p> <ul style="list-style-type: none"> <li>- Implemented the 1951 Refugee Convention into Greek law</li> <li>- Greece reserved the right to deny work or residence permits to asylum seekers</li> </ul>	<b>Karamanlis</b>	<b>National Radical Union</b>
1990	<p><b>Law 1893</b></p> <ul style="list-style-type: none"> <li>- Established the National Foundation for Reception and Resettlement of Repatriate Greeks (EYIAPOE)</li> <li>- EYIAPOE assisted in the return and resettlement of Greeks living in the former USSR</li> </ul>	<b>Mitsotakis</b>	<b>New Democracy</b>
1991	<p><b>Act 1975</b></p> <ul style="list-style-type: none"> <li>- Established new procedures for applying for asylum</li> <li>- Created first border patrol squads and procedure for expulsion</li> <li>- Albanian Greeks were granted temporary residence permits and some access to social services</li> <li>- Residency permits required invitation from employer</li> <li>- No access to public services for undocumented migrants</li> </ul> <p><b>Law 1947</b></p> <ul style="list-style-type: none"> <li>- EYIAPOE was made tax exempt, given power to expropriate land, and to use other government resources without payment</li> </ul>	<b>Mitsotakis</b>	<b>New Democracy</b>
1992	<p><b>Law 2080</b></p> <ul style="list-style-type: none"> <li>- Broadened the scope of EYIAPOE to also apply to some Albanian repatriates and to provide assistance to Greeks still living abroad</li> </ul>	<b>Mitsotakis</b>	<b>New Democracy</b>



	State Capacity	Government	Coalition
<b>1993</b>	<p><b>Law 2130</b></p> <ul style="list-style-type: none"> <li>- Formalized the process of “verification of nationality” in order to grant citizenship to Greeks from the former Soviet Union</li> </ul>	<b>Mitsotakis</b>	<b>New Democracy</b>
<b>1996</b>	<p><b>Law 2452</b></p> <ul style="list-style-type: none"> <li>- Amended the asylum procedures</li> <li>- Introduced humanitarian reasons to stay after refused asylum</li> </ul>	<b>Simitis II</b>	<b>PASOK</b>
<b>1997</b>	<p><b>Decrees 358 and 359</b></p> <ul style="list-style-type: none"> <li>- Regularization of undocumented migrants in two phases—first, registration and issuing a temporary residence permit (white card) and, second, after proving 40 days’ work, issuing a residence permit (green card)</li> <li>- Phase 1: 370,000 people regularized; Phase 2: 212,000 people issued residence permits</li> </ul> <p><b>Dublin Convention (Dublin I)</b></p> <ul style="list-style-type: none"> <li>- Procedure for determining which country is responsible for processing an asylum seeker’s application</li> </ul>	<b>Simitis II</b>	<b>PASOK</b>
<b>1999</b>	<p><b>Decree 189</b></p> <ul style="list-style-type: none"> <li>- Right to work for refugees, asylum seekers, and humanitarian grounds</li> </ul> <p><b>Decree 61</b></p> <ul style="list-style-type: none"> <li>- Family reunification for refugees</li> <li>- Accelerated deportation for asylum seekers from safe third countries</li> </ul> <p><b>Decree 266</b></p> <ul style="list-style-type: none"> <li>- Reorganized the Lavrion Centre for accommodation for asylum seekers; must leave 30 days after receiving refugee status</li> <li>- Access to social services for refugees and asylum seekers</li> </ul>	<b>Simitis II</b>	<b>PASOK</b>
<b>2000</b>	<b>Schengen Agreement</b> enters into force	<b>Simitis II</b>	<b>PASOK</b>
<b>2001</b>	<p><b>Act 2910</b></p> <ul style="list-style-type: none"> <li>- Migration policy transferred to the Ministry of Interior</li> <li>- Revised asylum procedures and deportation process</li> <li>- Set up immigration committees that would renew residency permits</li> <li>- Added student visas as a category</li> <li>- Reduced time for family reunification</li> <li>- Access to all social services for legal migrants</li> <li>- Access to schools for undocumented children</li> <li>- Introduced seasonal work permits and quotas for work permits</li> <li>- Regularized 360,000 people</li> </ul>	<b>Simitis III</b>	<b>PASOK</b>

	State Capacity	Government	Coalition
<b>2002</b>	<p><b>Decree 366</b></p> <ul style="list-style-type: none"> <li>- Established the Centers for Temporary Residence of asylum seekers</li> </ul> <p><b>Act 3013</b></p> <ul style="list-style-type: none"> <li>- Foreigner must have a contract from employer for work permit</li> </ul> <p><b>Action Plan for the Social Integration of Immigrants (2002–5)</b></p> <ul style="list-style-type: none"> <li>- Active integration policies including training and information centers for migrants, training for the labor market, cultural exchanges, and emergency centers</li> </ul> <p>Established the <b>Immigration Policy Institute (IMEPO)</b> for studying immigration in Greece</p>	<b>Simitis III</b>	<b>PASOK</b>
<b>2005</b>	<p><b>Law 3386</b></p> <ul style="list-style-type: none"> <li>- Established interministerial committee to coordinate migration policy</li> <li>- Implemented EU directives on family reunification and status of long-term residents</li> <li>- Reorganized separate stay and work permits into different categories of permits (study, work, family reunification)</li> <li>- New permits for financial investors over €300,000</li> <li>- New protections for victims of human trafficking</li> <li>- Required to prove fluency in Greek language and Greek history for long-term residency</li> <li>- Revised deportation procedure</li> <li>- Barred undocumented migrants from accessing any public services</li> <li>- Regularized 200,000 people</li> </ul>	<b>Karamanlis I</b>	<b>New Democracy</b>
<b>2006</b>	<p><b>Decree 80</b></p> <ul style="list-style-type: none"> <li>- Created temporary protection status</li> </ul>	<b>Karamanlis I</b>	<b>New Democracy</b>
<b>2007</b>	<p><b>Law 3536</b></p> <ul style="list-style-type: none"> <li>- Expanded access to regularization</li> <li>- Removed regularization fee for children</li> <li>- Simplified procedures to prove fluency in Greek language</li> </ul>	<b>Karamanlis I</b>	<b>New Democracy</b>
<b>2009</b>	<p><b>Decree 81</b></p> <ul style="list-style-type: none"> <li>- Reorganized asylum process and transferred authority to the local police</li> </ul>	<b>Karamanlis II</b>	<b>New Democracy</b>

	State Capacity	Government	Coalition
<b>2010</b>	<p><b>Decree 114</b></p> <ul style="list-style-type: none"> <li>- Transposed EU directive on asylum procedures into Greek law</li> <li>- Established Appeals Committees (or “Backlog Committees”) within the Ministry for the Protection of the Citizen</li> </ul> <p><b>Law 3838</b></p> <ul style="list-style-type: none"> <li>- Revised naturalization rules for citizenship</li> <li>- Lowered residency requirement from 10 to 7 years</li> <li>- Children of foreign parents receive Greek citizenship if parents have resided in Greece for 5 years</li> <li>- After 5 years of residency, foreigners have right to vote in local elections</li> </ul> <p><b>Law 3852</b></p> <ul style="list-style-type: none"> <li>- Created new Councils for Migrant Integration at municipal level</li> </ul> <p><b>National Action Plan on Asylum Reform and Management of Migration Flows</b></p> <ul style="list-style-type: none"> <li>- Submitted to the EU regarding reforms necessary in Greece</li> </ul>	<b>Papandreou</b>	<b>PASOK</b>
<b>2011</b>	<p><b>Law 3907</b></p> <ul style="list-style-type: none"> <li>- Creation of new agencies, Asylum Service and First Reception Service, within the Ministry of Citizen Protection</li> <li>- Implemented EU directives on detention and return</li> <li>- Established preremoval centers</li> <li>- Regularization of undocumented migrants or rejected asylum seekers who had lived in Greece for 12 years</li> </ul> <p><b>Law 4018</b></p> <ul style="list-style-type: none"> <li>- Created one-stop shops to renew residence and seasonal work permits</li> </ul> <p><b>Decision 15055</b></p> <ul style="list-style-type: none"> <li>- Decreased number of welfare stamps to 120 a year for renewal of residence permit</li> </ul>	<b>Papandreou</b>	<b>PASOK</b>
<b>2012</b>	<p><b>Law 4058</b></p> <ul style="list-style-type: none"> <li>- Established the National Coordinating Centre for Border Control and Surveillance, which reports to the Ministry of Public Order and Citizen Protection</li> </ul> <p><b>Decree 116</b></p> <ul style="list-style-type: none"> <li>- Implemented EU directive on asylum procedures</li> </ul>	<b>Papademos Samaras</b>	<b>PASOK New Democracy New Democracy PASOK</b>

	State Capacity	Government	Coalition
2013	<p><b>Decree 113</b></p> <ul style="list-style-type: none"> <li>- New asylum procedure</li> <li>- Implemented elements of recast EU directives</li> </ul> <p><b>Decree 141</b></p> <ul style="list-style-type: none"> <li>- Implemented recast EU directive on asylum procedures</li> </ul>	<b>Samaras</b>	<b>New Democracy PASOK</b>
2014	<p><b>Law 4251</b></p> <ul style="list-style-type: none"> <li>- Reorganized the categories of residence permits</li> <li>- Implemented EU directive on blue cards for high-skilled migrants</li> </ul> <p><b>Decree 167</b></p> <ul style="list-style-type: none"> <li>- Implemented EU directive on asylum procedures</li> </ul> <p><b>Decision 7315 and 30651</b></p> <ul style="list-style-type: none"> <li>- Procedure for granting residence permits on humanitarian grounds and for international protection</li> </ul>	<b>Samaras</b>	<b>New Democracy PASOK</b>
2015	<p><b>Law 4332</b></p> <ul style="list-style-type: none"> <li>- Children born in Greece have the right to apply for citizenship</li> </ul>	<b>Tsipras I</b>	<b>SYRIZA coalition</b>
2016	<p><b>Law 4375</b></p> <ul style="list-style-type: none"> <li>- Implemented recast EU directives on asylum procedures, reception, Dublin II regulation</li> <li>- Major overhaul of the asylum procedure and reception system</li> <li>- Created new Independent Appeals Committees under the Appeals Authority within the Ministry of Interior</li> <li>- Free legal assistance during appeals</li> </ul> <p><b>Law 4399</b></p> <ul style="list-style-type: none"> <li>- Changed the composition of the Appeals Authority and the right to request oral hearings</li> </ul> <p><b>Decree 123</b></p> <ul style="list-style-type: none"> <li>- Established new Ministry of Migration Policy</li> <li>- Transferred the General Secretariat of Migration Policy, Asylum Service, Directorate for Economic Migration Policies from the Ministry of Interior to the new ministry</li> </ul> <p><b>Decision 245258</b></p> <ul style="list-style-type: none"> <li>- Established the Coordination Body for the Management of the Refugee Crisis led by the Ministry of Defense</li> </ul> <p><b>Decision 13257</b></p> <ul style="list-style-type: none"> <li>- Established fast-track procedure* for those arriving on the Greek islands subject to EU-Turkey statement</li> </ul> <p><i>*Note: EASO officers were allowed to conduct asylum interviews under the fast-track procedure.</i></p>	<b>Tsipras II</b>	<b>SYRIZA coalition</b>

	State Capacity	Government	Coalition
2017	<b>Law 4461</b> - Appeals Committees can be assisted by EASO	<b>Tsipras II</b>	<b>SYRIZA coalition</b>
2018	<b>Law 4540</b> - Implemented elements of recast EU directives on reception and asylum - Ministry can remove appeals judges who cause “unjustified delays” <b>Law 4554</b> - Established procedure and Committee for Unaccompanied Minors <b>Decision 868</b> - Extended the duration of international protection applicants’ cards <b>Decision 8269 and 18984</b> - Restriction of movement of asylum applicants on islands of Lesbos, Rhodes, Samos, Kos, Leros, and Chios	<b>Tsipras II</b>	<b>SYRIZA coalition</b>
2019	<b>Law 4636</b> - Created accelerated procedure where cases must be decided within 28 days - Removed additional protections for vulnerable asylum seekers - Extended maximum period of detention to 18 months - Planned to build closed reception centers - Asylum seekers must wait 6 months before applying for work permits - Asylum interviews can be conducted by police or military - Introduced safe third countries list - Revised the asylum appeals process - Reduced residency permit for subsidiary protection to one year - Removed UNHCR appointed experts from Independent Appeals Committees	<b>Mitsotakis</b>	<b>New Democracy</b>
2020	<b>Provisional Insurance and Health Care Number (PAAYPA)</b> - Asylum seekers issued a temporary number that is deactivated if they are refused or transitioned to permanent number if they are granted protection.	<b>Mitsotakis</b>	<b>New Democracy</b>

## NOTES

### Chapter 1

1. See, for example, Patrick Kingsley, *The New Odyssey: The Story of Europe's Refugee Crisis* (London: Guardian Faber Publishing, 2016); Kim Malcolm, *A Country Within: A Journey of Love and Hope during the Refugee Crisis in Greece* (New York: Thunderhooves Press, 2018); Teresa Thornhill, *Hara Hotel: A Tale of Syrian Refugees in Greece* (London: Verso Books, 2018).

2. Legal definitions are socially and politically constructed and it is important to acknowledge their political role in justifying exclusion. See Heaven Crawley and Dimitris Skleparis, "Refugees, Migrants, Neither, Both: Categorical Fetishism and the Politics of Bounding in Europe's 'Migration Crisis,'" *Journal of Ethnic and Migration Studies* 44, no. 1 (2018): 48–64.

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4. Andrew Geddes finds that the recent crisis in Europe did not create new ideas about migration but did provide more resources for old policy ideas. Geddes interviewed EU and national officials who reported that they were not considering new policy ideas, rather they continued the same policy debates from before. See Andrew Geddes, "Crisis, 'Normality' and European Regional Migration Governance," in *The Dynamics of Regional Migration Governance*, ed. Andrew Geddes et al. (Cheltenham, UK: Edward Elgar, 2019), 73–90.

5. John Torpey, *The Invention of the Passport: Surveillance, Citizenship and the State* (Cambridge: Cambridge University Press, 2000).

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7. Elizabeth F. Cohen, *Illegal: How America's Lawless Immigration Regime Threatens Us All* (New York: Basic Books, 2020).

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Can Development Agencies Do Better?,” Future UN Development System Project, Briefing #34, January 2016, [http://www.futureun.org/media/archive1/briefings/FUNDS\\_Brief37\\_European\\_Migrant\\_Crisis\\_Jan2016.pdf](http://www.futureun.org/media/archive1/briefings/FUNDS_Brief37_European_Migrant_Crisis_Jan2016.pdf)

10. Gil Loescher, *Beyond Charity: International Cooperation and the Global Refugee Crisis* (Oxford: Oxford University Press, 1993).

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12. Loescher, *Beyond Charity*, 62.

13. Kenneth N. Waltz, *Theory of International Politics* (Reading, MA: Addison-Wesley, 1979); John J. Mearsheimer, *The Tragedy of Great Power Politics* (New York: W. W. Norton, 2001).

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16. Randall Hansen, Jobst Koehler, and Jeannette Money, “Introduction: Incentivizing Cooperation,” in *Migration, Nation States, and International Cooperation*, ed. Randall Hansen, Jobst Koehler, and Jeannette Money (New York: Routledge, 2011), 10.

17. Hansen, “Making Cooperation Work,” 19.

18. Axelrod and Hamilton, “The Evolution of Cooperation”; Axelrod, *Evolution of Cooperation*.

19. Axelrod and Keohane, “Achieving Cooperation under Anarchy,” 232–34.

20. Jeannette Money and Sarah P. Lockhart, *Migration Crises and the Structure of International Cooperation* (Athens: University of Georgia Press, 2018); Jeannette Money and Sarah P. Lockhart, “The Paucity of International Protections: Global Migration Governance in the Contemporary Era,” *Global Summitry* 3, no. 1 (2017): 45–67.

21. Alexander Betts and Gil Loescher, *Refugees in International Relations* (Oxford: Oxford University Press, 2011), 53–84; Alexander Betts, *Protection by Persuasion: International Cooperation in the Refugee Regime* (Ithaca: Cornell University Press, 2009), 13–15.

22. Betts, *Protection by Persuasion*, 176.

23. Andrew Moravcsik, “Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach,” *Journal of Common Market Studies* 3, no. 4 (1993): 473–524; Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Ithaca: Cornell University Press, 1998).

24. Natascha Zaun, “States as Gatekeepers in EU Asylum Politics: Explaining the Non-Adoption of a Refugee Quota System,” *Journal of Common Market Studies* 56,

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31. Virginie Guiraudon, “European Integration and Migration Policy: Vertical Policy-Making as Venue Shopping,” *Journal of Common Market Studies* 38, no. 2 (2000): 251–71; Virginie Guiraudon, “The Constitution of a European Immigration Policy Domain: A Political Sociology Approach,” *Journal of European Public Policy* 10, no. 2 (2003): 263–82; Jef Huysmans, “The European Union and the Securitization of Migration,” *Journal of Common Market Studies* 38, no. 5 (December 2000): 751–77.

32. Andrew Geddes, *Immigration and European Integration: Towards Fortress Europe* (Manchester: Manchester University Press, 2000), 64–65.

33. Geddes, *Immigration and European Integration*, 24–26.

34. Petra Bendel, “Everything under Control? The European Union’s Policies of Immigration,” in *The Europeanization of National Policies and Politics of Immigration: Between Autonomy and the European Union*, ed. Thomas Faist and Andreas Ette (New York: Palgrave Macmillan, 2007), 3–31.

35. Christof Roos, *The EU and Immigration Policies: Cracks in the Walls of Fortress Europe?* (New York: Palgrave Macmillan, 2013), 87, 181.

36. Lahav, *Immigration and Politics in the New Europe*, 9.

37. Kaija Schilde, *The Political Economy of European Security* (Cambridge: Cambridge University Press, 2017), chapter 6.

38. Eiko R. Thielemann, “Between Interests and Norms: Explaining Burden-Sharing in the European Union,” *Journal of Refugee Studies* 16, no. 3 (2003): 270.

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pean Union (New York: Palgrave Macmillan, 2011); Diego Acosta Arcarazo and Andrew Geddes, “Transnational Diffusion or Different Models? Regional Approaches to Migration Governance in the European Union and Mercosur,” *European Journal of Migration and Law* 16, no. 1 (2014): 19–44.

40. Boswell and Geddes, *Migration and Mobility in the European Union*, 49. See also Guiraudon, “Constitution of a European Immigration Policy Domain.”

41. Boswell and Geddes, *Migration and Mobility in the European Union*, 47–48.

42. Arcarazo and Geddes, “Transnational Diffusion or Different Models?,” 21.

43. Michael Collyer, “Geopolitics as a Migration Governance Strategy: European Union Bilateral Relations with Southern Mediterranean Countries,” *Journal of Ethnic and Migration Studies* 42, no. 4 (2016): 606–24.

44. Michael Howlett and M. Ramesh, *Studying Public Policy: Policy Cycles and Policy Subsystems* (Oxford: Oxford University Press, 1995), 11. Christina Boswell and Andrew Geddes describe similar stages as “talk, decision, and action,” while Gallya Lahav and Virginie Guiraudon identify the stages as policy inputs, outputs, and outcomes. See Boswell and Geddes, *Migration and Mobility in the European Union*, 45; Gallya Lahav and Virginie Guiraudon, “Actors and Venues in Immigration Control: Closing the Gap between Political Demands and Policy Outcomes,” *West European Politics* 29, no. 2 (2006): 201–23.

45. A few notable exceptions include Antje Ellermann, *States against Migrants: Deportation in Germany and the United States* (Cambridge: Cambridge University Press, 2009); Geddes, *Immigration and European Integration*, 24–26.

46. Boswell and Geddes reject the policy cycle model as too simplistic because it does not represent the nonlinear, multileveled governance common in the EU. I have retained the policy cycle model for this study in order to isolate the implementation stage and fill a gap in the literature. See Boswell and Geddes, *Migration and Mobility in the European Union*, 43–44.

47. Haas, *Uniting of Europe*; Lindberg, *Political Dynamics of European Economic Integration*; Lindberg and Scheingold, *Europe’s Would-Be Polity*; Alan S. Milward, *The European Rescue of the Nation-State* (Berkeley: University of California Press, 1992); Moravcsik, “Preferences and Power in the European Community”; Moravcsik, *Choice for Europe*; George Tsebelis and Geoffrey Garrett, “The Institutional Foundations of Intergovernmentalism and Supranationalism in the European Union,” *International Organization* 55, no. 2 (2001): 357–90; Christopher J. Bickerton, Dermot Hodson, and Uwe Puetter, “The New Intergovernmentalism: European Integration in the Post-Maastricht Era,” *Journal of Common Market Studies* 53, no. 4 (2015): 703–22.

48. Geddes, *Immigration and European Integration*, 26.

49. Ellermann, *States against Migrants*.

50. Ellermann, *States against Migrants*, 13; Antje Ellermann, “Coercive Capacity and the Politics of Implementation: Deportation in Germany and the United States,” *Comparative Political Studies* 38, no. 10 (2005): 1219–44.

51. Ellermann, *States against Migrants*, 14–16.

52. Geddes, *Immigration and European Integration*, 30. See also James F. Holli-

field, Philip L. Martin, and Pia M. Orrenius, “The Dilemmas of Immigration Controls,” in *Controlling Immigration: A Global Perspective, Third Edition*, ed. James F. Hollifield, Philip Martin, and Pia Orrenius (Stanford: Stanford University Press, 2014), 3–44.

53. Andrew Geddes, “The Politics of European Union Migration Governance,” *Journal of Common Market Studies* 56 (2018): 120–30; Andrew Geddes et al., “Introduction: The Dynamics of Regional Migration Governance,” in *The Dynamics of Regional Migration Governance* (Cheltenham, UK: Edward Elgar, 2019), 1–14.

54. Author’s interview with resettlement officer at UNHCR, Brussels, June 2016.

55. Andrew Geddes and Andrew Taylor call this a “capacity bargain.” See Andrew Geddes and Andrew Taylor, “How EU Capacity Bargains Strengthen States: Migration and Border Security in South-East Europe,” *West European Politics* 36, no. 1 (2013): 51–70.

56. Adam Przeworski and Henry Teune, *The Logic of Comparative Social Inquiry* (New York: Wiley-Interscience, 1970), 32–34; and Jack S. Levy, “Case Studies: Types, Designs, and Logics of Inference,” *Conflict Management and Peace Science* 25 (2008): 10.

57. Author’s calculation based on Eurostat, “Unemployment by Sex and Age—Annual Average [une\_rt\_a]” and “Quarterly Government Debt [gov\_10q\_ggdebt],” 2009–17.

58. Interviews were completed in five types of organizations: 9 interviewees in EU institutions (Directorate-General for Migration and Home Affairs [DG-HOME], European Civil Protection and Humanitarian Aid Operation [ECHO], European External Action Service [EEAS], EASO), 28 interviewees in UN agencies (UNHCR, IOM, UNICEF), 9 interviewees in national institutions (ministries of interior, asylum and border agencies), 12 interviewees in academia, and 28 interviewees in NGOs (Médecins Sans Frontières, Save the Children, the Red Cross, and the Norwegian Refugee Council, among others).

59. In my initial contacts with officials in the EU, UN, or other groups, I asked them to refer me to other people who were knowledgeable about the subject of migration management in Europe. This grew quickly from a handful of contacts to 86 interviewees across six countries.

60. Barney Glaser and Anselm Strauss, “Grounded Theory: The Discovery of Grounded Theory,” *Sociology: The Journal of the British Sociological Association* 12 (1967): 27–49.

61. The thematic coding scheme included key concepts like coordination, collaboration, delegation, Europeanization, and sovereignty, among others.

62. Torpey, *The Invention of the Passport*, 6.

## Chapter 2

1. Max Weber, “Politics as a Vocation,” in *From Max Weber: Essays in Sociology*, ed. H. H. Gerth and C. Wright Mills (Oxford: Oxford University Press, 1946), 77–128.

2. John Torpey, *The Invention of the Passport: Surveillance, Citizenship and the State* (Cambridge: Cambridge University Press, 2000), 4.

3. Max Weber, *Economy and Society: An Outline of Interpretive Sociology* (New York: Bedminster Press, 1968).

4. James F. Hollifield, “The Emerging Migration State,” *International Migration Review* 38, no. 3 (2004): 885–912.

5. Harold D. Lasswell, “The Garrison State,” *American Journal of Sociology* 46, no. 4 (1941): 455–68.

6. Richard Rosecrance, *The Rise of the Trading State: Commerce and Conquest in the Modern World* (New York: Basic Books, 1986).

7. James F. Hollifield, *Immigrants, Markets, and States: The Political Economy of Postwar Europe* (Cambridge, MA: Harvard University Press, 1992), 126.

8. Similarly, Michael Mann used the term “infrastructural power” to identify “the capacity of the state to actually penetrate civil society, and to implement logistically political decisions throughout the realm.” See Michael Mann, “The Autonomous Power of the State: Its Origins, Mechanisms and Results,” *European Journal of Sociology* 25, no. 2 (1984): 189.

9. James F. Hollifield and Michael Orlando Sharpe, “Japan as an ‘Emerging Migration State,’” *International Relations of the Asia-Pacific* 17, no. 3 (2017): 371–400; Mathew Coleman, “The ‘Local’ Migration State: The Site-Specific Devolution of Immigration Enforcement in the U.S. South,” *Law and Policy* 34, no. 2 (2012): 159–90; Erica Consterdine, *Labour’s Immigration Policy: The Making of the Migration State* (Cham, Switzerland: Palgrave Macmillan, 2018).

10. Martin Painter and Jon Pierre, “Unpacking Policy Capacity: Issues and Themes,” in *Challenges to State Policy Capacity: Global Trends and Comparative Perspectives*, ed. Martin Painter and Jon Pierre (New York: Springer, 2004).

11. Painter and Pierre, “Unpacking Policy Capacity,” 2.

12. Painter and Pierre, “Unpacking Policy Capacity,” 4–5.

13. Antje Ellermann, *States against Migrants: Deportation in Germany and the United States* (Cambridge: Cambridge University Press, 2009), 13.

14. Kaija Schilde, *The Political Economy of European Security* (Cambridge: Cambridge University Press, 2017), 33.

15. Hollifield, *Immigrants, Markets, and States*, 124.

16. Migration state capacity is analogous to Hollifield’s “state strength” and Painter and Pierre’s “administrative capacity.”

17. Theda Skocpol identifies three elements for the effectiveness of state capacity: loyal and skillful officials, plentiful resources, and military control of the territory. Each element is hard to change quickly because they are structurally embedded in institutions. For example, high-skilled officials are usually trained over many years at elite universities and resources come from either established taxation systems or aid from external actors, which often have restrictions on how they are used. Similarly, Stacy VanDeveer and Geoffrey Dabelko identify three elements of state capacity as human resources, organizations, and institutions. See Theda Skocpol, “Bringing the State Back In: Strategies of Analysis in Current Research,” in

*Bringing the State Back In*, ed. Peter B. Evans, Dietrich Rueschemeyer, and Theda Skocpol (Cambridge: Cambridge University Press, 1985), 16–17; Stacy D. VanDeveer and Geoffrey D. Dabelko, “It’s Capacity, Stupid: International Assistance and National Implementation,” *Global Environmental Politics* 1, no. 2 (2001): 18–29.

18. Douglass C. North, “Institutions,” *Journal of Economic Perspectives* 5, no. 1 (1991): 97–112; Douglass C. North, “Institutions and Credible Commitment,” *Journal of Institutional and Theoretical Economics* 149, no. 1 (1993): 11–23.

19. These indicators focus on asylum seekers but others could be developed for other areas of migration policy like labor migration or border security.

20. Fiona Adamson and Gerasimos Tsourapas, “The Migration State in the Global South: Nationalizing, Developmental, and Neoliberal Models of Migration Management,” *International Migration Review* (2019): 853–82.

21. Adamson and Tsourapas, “Migration State in the Global South,” 861.

22. North, “Institutions and Credible Commitment”; Kenneth A. Schepsle, “Discretion, Institutions, and the Problem of Government Commitment,” in *Social Theory for Changing Society*, ed. Pierre Bourdieu and James S. Coleman (Boulder, CO: Westview Press, 1991), 245–65.

23. Qualified majority voting is the most common system of voting used by the Council of the EU. It has two conditions in order to pass: first, 55 percent of member states must vote in favor and, second, those member states that voted in favor must represent 65 percent of the total EU population. The Treaty of Lisbon has applied these revised QMV rules to migration policy since 2014. See chapter 3 for a discussion of the history of EU competency on immigration and asylum.

24. Mark E. Schaffer, “The Credible-Commitment Problem in the Center-Enterprise Relationship,” *Journal of Comparative Economics* 13 (1989): 359–82.

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26. *Economist*, “Measuring Well-Governed Migration: The 2016 Migration Governance Index,” April 29, 2016, 25.

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28. Helen Milner, “International Theories of Cooperation among Nations: Strengths and Weaknesses,” *World Politics* 44, no. 3 (1992): 486.

29. Joseph M. Grieco, “Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism,” *International Organization* 42, no. 3 (1988): 485–507; Robert Keohane and Joseph S. Nye, *Power and Interdependence: World Politics in Transition* (Boston: Little, Brown, 1977).

30. Sartori, “Concept Misformation in Comparative Politics,” 1040.

31. Milner, “International Theories of Cooperation among Nations”; Oran R.

Young, *International Cooperation: Building Regimes for Natural Resources and the Environment* (Ithaca: Cornell University Press, 1989).

32. Young, *International Cooperation*, 85.

33. Robert Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton University Press, 1984), 51.

34. Alexander Betts, *Protection by Persuasion: International Cooperation in the Refugee Regime* (Ithaca: Cornell University Press, 2009), 32; Andreas Hasenclever, Peter Mayer, and Volker Rittberger, *Theories of International Regimes* (Cambridge: Cambridge University Press, 1997), 48; Lisa L. Martin, “The Rational State Choice of Multilateralism,” in *Multilateralism Matters: The Theory and Praxis of an Institutional Form*, ed. John Gerard Ruggie (New York: Columbia University Press, 1993), 101.

35. Hasenclever, Mayer, and Rittberger, *Theories of International Regimes*, 48. The authors argue that compliance mechanisms are not necessary for coordination because coordination will be self-executing when it is in the states’ common interests. In my framework, compliance mechanisms are represented in the formal nature of agreements, allowing analysis of compliance within both coordination and collaboration.

36. Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999), 4.

37. Andrew Geddes and Andrew Taylor, “How EU Capacity Bargains Strengthen States: Migration and Border Security in South-East Europe,” *West European Politics* 36, no. 1 (2013): 51–70; Walter Mattli, “Sovereignty Bargains in Regional Integration,” *International Studies Review* 2, no. 2 (2000): 149–80.

38. This is based on Sandra Lavenex’s definition of subcontracting as “the EU outsources the implementation of pertinent projects to these organisations and IOs as transmitters or ‘transfer agents.’” See Sandra Lavenex, “Multilevelling EU External Governance: The Role of International Organizations in the Diffusion of EU Migration Policies,” *Journal of Ethnic and Migration Studies* 42, no. 4 (2015): 555.

39. Other studies define delegation as “a conditional grant of authority from a *principal* to an *agent* that empowers the latter to act on behalf of the former . . . limited in time or scope and must be revocable by the principal.” See Darren G. Hawkins, David A. Lake, Daniel L. Nielson, and Michael J. Tierney, *Delegation and Agency in International Organizations* (Cambridge: Cambridge University Press, 2006), 7.

40. Mathew D. McCubbins and Thomas Schwartz, “Congressional Oversight Overlooked: Police Patrols versus Fire Alarms,” *American Journal of Political Science* 28, no. 1 (1984): 165–79; Alexander Ballmann, David Epstein, and Sharyn O’Halloran, “Delegation, Comitology, and the Separation of Powers in the European Union,” *International Organization* 56, no. 3 (2002): 551–74; Mark A. Pollack, “Delegation, Agency, and Agenda Setting in the European Community,” *International Organization* 51, no. 1 (1997): 99–134; R. Daniel Keleman, “The Politics of ‘Eurocratic’ Structure and the New European Agencies,” *West European Politics* 25, no. 4 (2002): 93–118; Mark Thatcher and Alec Stone Sweet, “Theory and Practice of

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41. Alexander Ballmann, David Epstein, and Sharyn O’Halloran, “Delegation, Comitology, and the Separation of Powers in the European Union,” *International Organization* 56, no. 3 (2002): 551–74; Christian Joerges and Jürgen Neyer, “From Intergovernmental Bargaining to Deliberative Political Processes: The Constitutionalisation of Comitology,” *European Law Journal* 3, no. 3 (1997): 273–99; Renaud Dehousse, “Comitology: Who Watches the Watchmen?,” *Journal of European Public Policy* 10, no. 5 (2003): 37–41; Mark A. Pollack, “Control Mechanism or Deliberative Democracy? Two Images of Comitology,” *Comparative Political Studies* 36, nos. 1–2 (2003): 125–55; Gijs Jan Brandsma, *Controlling Comitology: Accountability in a Multi-Level System* (London: Springer, 2013); Adrienne Heritier, Catherine Moury, Carina S. Bischoff, and Carl Fredrik Bergstrom, eds., *Changing Rules of Delegation: A Contest for Power in Comitology* (Oxford: Oxford University Press, 2013); Gijs Jan Brandsma and Jens Blom-Hansen, “Negotiating the Post-Lisbon Comitology System: Institutional Battles over Delegated Decision-Making,” *Journal of Common Market Studies* 50, no. 6 (2012): 939–57; Adrienne Héritier and Catherine Moury, “Contested Delegation: The Impact of Co-Decision on Comitology,” *West European Politics* 34, no. 1 (2011): 145–66.

42. Bill Frelick, Ian M. Kysel, and Jennifer Podkul, “The Impact of Externalization of Migration Controls on the Rights of Asylum Seekers and Other Migrants,” *Journal of Migration and Human Security* 4, no. 4 (2016): 190–220; Daniel Wunderlich, “Implementing EU External Migration Policy: Security-Driven by Default?,” *Comparative European Politics* 11, no. 4 (2013): 406–27; Georgia Papagianni, “Forging an External EU Migration Policy: From Externalisation of Border Management to a Comprehensive Policy?,” *European Journal of Migration and Law* 15, no. 3 (2013): 283–99; Daniel Wunderlich, “Europeanization through the Grapevine: Communication Gaps and the Role of International Organizations in Implementation Networks of EU External Migration Policy,” *Journal of European Integration* 34, no. 5 (2012): 485–503; Thomas Graae Gammeltoft-Hansen, “Outsourcing Migration Management: EU, Power, and the External Dimension of Asylum and

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45. Hawkins et al., *Delegation and Agency in International Organizations*, 7.

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51. Majone, “Two Logics of Delegation,” 106.

52. Andrew Moravcsik, “The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe,” *International Organization* 54, no. 2 (2000): 217–52.

53. Majone, “Two Logics of Delegation,” 104.

54. Pollack, “Delegation, Agency, and Agenda Setting,” 109.

55. Hawkins et al., *Delegation and Agency in International Organizations*, 26–31.

56. McCubbins and Schwartz, “Congressional Oversight Overlooked.”

57. Hawkins et al., *Delegation and Agency in International Organizations*, 30.

58. Thatcher and Sweet, “Theory and Practice of Delegation to Non-Majoritarian Institutions,” 6.

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## Chapter 5

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6. Beat Habegger, “Democratic Accountability of International Organizations: Parliamentary Control within the Council of Europe and the OSCE and the Prospects for the United Nations,” *Cooperation and Conflict* 45, no. 2 (2010): 186–204; Vivien A. Schmidt, “The European Union: Democratic Legitimacy in a Regional State?,” *Journal of Common Market Studies* 42, no. 5 (2004): 975–97; Vivien A. Schmidt, “Democracy and Legitimacy in the European Union Revisited: Input, Output and ‘Throughput,’” *Political Studies* 61, no. 1 (2013): 2–22; Andrew Moravcsik, “Reassessing Legitimacy in the European Union,” *Journal of Common Market Studies* 40, no. 4 (2002): 603–24.

7. Ruben Andersson points out that “subcontracting chains” make accountability difficult. Frontex or other European institutions easily shift the blame to other actors because subcontracting shields them from direct responsibility. See Ruben Andersson, *Illegality, Inc.: Clandestine Migration and the Business of Bordering Europe* (Berkeley: University of California Press, 2014), 276 and 278.

8. Micinski, *UN Global Compacts*, 16, 37–38.

9. Jennifer Rankin, “MEPs Damn ‘Protecting European Way of Life’ Job Title,” *The Guardian*, 9 September 2019, <https://www.theguardian.com/world/2019/sep/11/meps-damn-insulting-protecting-our-european-way-of-life-job-title>



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