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Uçarer, Emek M.

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EU Asylum Governance and E(xc)lusive Solidarity: Insights From Germany

Emek M. Uçarer

Department of International Relations, Bucknell University, USA; ucarer@bucknell.edu

Abstract

The response to the so-called refugee crisis of 2015 in the European Union was haphazard and inconsistent with the stated mission of solidarity. This article situates the EU's response and its Common European Asylum System (CEAS) as defensive integration producing the lowest common denominator policies. It argues that the rise of right-wing populism redefines solidarity in narrow and exclusionary terms, in contrast to the inclusive and global solidarity espoused by the EU. Drawing on Germany as a case study of how domestic populist pressures also rise to the European level, the article juxtaposes the demise of the EU's temporary relocation system (an attempt at internal inclusive solidarity) and the success of the EU–Turkey deal (an attempt at externalization and risk avoidance), both initiatives led by Germany. Solidarity efforts championed by Germany were quickly stymied by (Central Eastern European) member states that not only rejected efforts at temporary solutions but blocked efforts to develop permanent mechanisms and a substantive CEAS reform.

Issue

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1. Introduction

"Member states' expected loyalty in implementing EU policy appears not to be sufficient," opined the European Parliament in 2011, adding: "If solidarity is needed, then Union action may be required" (European Parliament, 2011). These words foreshadowed what was to come soon. Until the start of the war in Ukraine, 2015 witnessed the highest influx of people seeking protection in Europe since the end of World War II. In 2016, European Commission President Jean-Claude Juncker observed that:

> At the end of 2015, the EU could look back on a year when European solidarity withstood what may have been the greatest trials it has faced since the end of World War II. European solidarity will prevail in 2016 as well, so long as member states' leaders follow through on meeting their commitments. (Juncker, 2016)

This was, at best, a rather charitable depiction of developments in the European Union.

2015 no doubt presented very serious logistical and governance challenges for receiving countries as well as the EU as a whole. Individuals attempting to reach the EU, while not a recent phenomenon, demanded urgent policy responses. Opinions differed on the best course of action, underscoring difficulties that plague EU-wide governance of migration, especially during times of multiple crises. In addition to Brexit, the financial, and the so-called refugee crises, governance was additionally rendered difficult with the rise of populism, which fanned the flames of domestic anti-immigration sentiments and percolated up to the European level. Later, the pandemic would further add to these woes. Building on the literature on European migration governance, work on populist right-wing parties, and juxtaposing the success of the EU–Turkey deal, the nonuse of the Temporary Protection Directive (TPD), and the demise of the temporary relocation scheme using process tracing methods, this article begins to explore the 2015–2016 episode

as a recasting of solidarity, putatively a principle of the EU's Area of Freedom Security and Justice and therefore also of the Common European Asylum System (CEAS). It weaves together two concurrent stories with Germany at the center. The first is the domestic politics of the summer of 2015 and its aftermath in Germany, a country that received a significant portion of the arrivals. The second is the EU's failed solidarity-based response, despite Germany's leadership efforts, especially when it came to sharing risk and responsibility. The article thus seeks to connect the national and European levels and does so against the backdrop of the EU's CEAS, now in its third phase and an example of defensive integration in Europe. The German and EU cases solidly point to a solidarity deficit: Internally, risk and responsibility are distributed unevenly and inequitably across EU member states; externally, efforts center on avoiding or limiting exposure and therefore responsibility. The domestic and regional rise of populism recasts solidarity and shifts it towards exclusion.

2. The Common European Asylum System as Defensive Integration

The birth and governance difficulties in EU's CEAS is well-documented in the literature. Established in 1999 to formulate common standards between member states in receiving and processing asylum seekers and their claims (Comte, 2020; Lott, 2022; Paoli, 2016; Uçarer, 2022), CEAS legislation crystallized around the Asylum Procedures Directive determining the procedural rules governing asylum applications, the Reception Conditions Directive setting standards on the living conditions of asylum seekers upon arrival, the Qualification Directive defining who can lay claim to refugee status, the Dublin Regulation allocating member state responsibility for processing an asylum claim, and the EURODAC Regulation assisting the Dublin Regulation by setting up a fingerprinting system, also resulting in the launching of the European Asylum Support Office to support the implementation of CEAS in member states. The first wave of CEAS instruments was adopted between 2003–2005, and the second wave, in 2010–2013, delivered revisions to existing documents. CEAS currently finds itself in its (stalled) third phase (Guild, 2021).

The CEAS portfolio has typically yielded lowest common denominator instruments because decisions initially needed unanimity. Unanimity afforded a veto for each member state, and the decision-making environment constrained the European Commission and the European Parliament (Uçarer, 2022). Even after the EU moved towards the Ordinary Legislative Procedure and normalized the role of the Commission and the Parliament after the Amsterdam Treaty, policy output maintained the defensive and restrictive tenor of earlier days (Ripoll Servent & Trauner, 2014). As the EU expanded to Central and Eastern Europe, these new members also started playing a role in buttressing restric-

tive trends. Consequently, whereas the EU's rhetoric proclaimed its commitment to the protection of human rights, the right to seek asylum included, its institutional setup favored restictionist policy outcomes (Lavenex, 2018). Furthermore, while the EU legislation was calibrated to limit access to EU territory, the protection of the asylum seekers' human rights was largely delegated to member states whose implementation policies, despite minimum thresholds imagined by the EU, remained disparate. The second phase of the CEAS reflects the continuation of this defensive core rather than rethinking exclusionary measures through the lens of human rights (Trauner & Lavenex, 2015).

The third phase of the CEAS was stalled between 2013 and 2016. In 2016, with the 2015 crisis providing an opportunity to restart negotiations, the European Commission proposed a package of six pieces of legislation to reform the CEAS. In 2017, the European Parliament and the Council reached a broad agreement on all but two of these instruments: the reform of the Dublin system and the Asylum Procedure Regulation. The Dublin system to assign responsibility for asylum applications needs revision because it distorts responsibility towards members at the external borders of the EU. As such, it is an instrument that fundamentally undermines solidarity with frontline states, as evident in the 2015 episode. That the EU members continue to be stalled on its rehabilitation is telling.

In short, the 2015 events were not a significant catalyst for change for the CEAS, instead underscoring fragmentation between member states, reintroducing border controls, and aiming to pass the buck. The crisis did not end EU cooperation in the CEAS, but brought on an episode of "defensive integration" (Kriesi et al., 2021, p. 331): Member states engaged simultaneously in internal re-bordering (through temporarily suspending Schengen) and external re-bordering by attempting to shore up external borders (Schimmelfennig, 2021), for example through a robust European border and coast guard. The CEAS thus has a policy heritage that has produced minimum protection standards, if that, for the EU (Niemann & Zaun, 2018), and its inability to adequately address the 2015 fallout points to ongoing tendencies hardened by newer challenges, dissonant with EU's stated commitment to solidarity.

3. The European Union and the Quest for Inclusive Solidarity

Solidarity, though not new nor explicitly defined, is one of the EU's foundational principles, reflected in the preamble to the 1951 European Coal and Steel Community Treaty. At its core, solidarity is a willingness to share risk and responsibility. In most contexts, it also requires acceptance and support of the "other" (Kymlicka, 2015), especially in times of need. Both the EU and its member states are large and differentiated societies relying on robust systems of division of labor

and mutual dependence, and therefore emblematic of a shift from Durkheim's mechanical to organic solidarity. Banting and Kymlicka (2017, pp. 4–5) identify three types of solidarity: civic solidarity (tolerance and absence of prejudice), democratic solidarity (support for equality, human rights, due process, and the rule of law), and redistributive solidarity (transfer of resources towards the poor and vulnerable). The internal solidarity towards (fellow) member states envisioned by the EU aspires to all three and applies to a community conceived broadly as a group of states with shared goals and commitments. Practical applications of solidarity are therefore the basis of redistributive EU policies in social and regional policy which assist poorer members from EU coffers. While redistributive solidarity typically involves financial and material support, in the field of refugees and asylum seekers, it can additionally require redistributive relocation of people from areas that are highly impacted by influx to areas of lower density. The literature generally considers redistributive solidarity to be more challenging than civic or democratic solidarity (Banting & Kymlicka, 2017).

Article 80 of the 2007 Treaty on the Functioning of the European Union envisions "solidarity and fair sharing of responsibility including its financial implications, between the member states" (European Union, 2012). The Court of Justice of the European Union (CJEU) has repeatedly affirmed (internal) solidarity "based on mutual trust between the member states, as a general principle inferred from the nature of the Communities and the principle of loyal cooperation between the EC institutions and the member states" (European Parliament, 2011, p. 6). In addition to the trust and loyalty referenced here, Goldner Lang (2013) adds fairness towards the over-burdened and necessity to ensure stability in the EU as relevant markers. The EU frequently linked solidarity to responsibility during the refugee crisis, calling for managing the refuge challenge "by working together, in a spirit of solidarity and responsibility" (European Council, 2015a). There is, however, less agreement on whether solidarity extends to the relocation of people (European Parliament, 2011, pp. 31–36). Inclusive internal solidarity is implicit in the EU and imagined to extend to all members.

EU's commitments under international law also have an external element beyond the EU as they obligate recipient states to process asylum applications regardless of origin, thus extending human rights protections to those in flight. The global regime also expects solidarity through burden-sharing with countries experiencing large influxes. The refugee regime therefore also hinges on *external* solidarity with third countries as well as persons seeking protection, "others" from a national or EU standpoint. The EU is embedded in this system of external obligations to solidarity. The 2015 episode highlights shortfalls in both internal and external dimensions.

4. Populist Right-Wing Radical Parties and Exclusive Solidarity

Populism, on the rise in Europe since the 1990s, stands in stark contrast to inclusive and global solidarity. Populists juxtapose the "pure" people and the "corrupt" elite, privileging "the will of the people" (Mudde & Rovira Kaltwasser, 2017; Müller, 2016). While there are examples of populism on the left, it manifests mostly on the right. Crises provide fertile ground for its activation. Typically, these parties are nativist, maintaining that "nonnative elements (persons or ideas) are fundamentally threatening to the homogeneous nation-state" (Rooduijn, 2018). In addition to expansively imagining the "other," and therefore leaning exclusionary, they also tend to be authoritarian, anti-pluralist, frequently Eurosceptic, lay exclusive claim to representing "the people," and consider all others to be illegitimate outsiders (Müller, 2016). Mudde and Rovira Kaltwasser (2013) show the prevalence of exclusionary populism in Europe in material (exclusion from resources), political (exclusion from participation), and symbolic ways.

Populist right-wing radical (PRR) parties mobilize and leverage immigration as a wedge and nativism as a strategy for electoral success (Dostal, 2017; Ivarsflaten, 2008, p. 14; Mudde, 2017). Nativism goes hand in hand with what Triandafyllidou (2020, p. 801) terms "neo-tribal nationalism" premised on a rejection of "diversity from within or from outside" and is thus closed and exclusionary. These stances have political and policy consequences, resulting in welfare chauvinism and activating, as Schmidt and Spies (2014, p. 521) observe, "natives' racial prejudices to undermine redistributive policies" to preserve welfare benefits for "legitimate" citizens, all elements of material exclusion (see also Kymlicka, 2015; Marx & Naumann, 2018). Since EU rules offer a variety of protections for European citizens as quasi-insiders in member states, welfare chauvinism is most successfully directed at non-European "others" (such as refugees or non-Christians) and is a proxy for opposition to redistributive solidarity at the EU level. Cultural protectionism, a defense of the national community against " 'intruders' both from within (immigrants) and outside (supranational political institutions such as the European Union or the United Nations)" is also prevalent (Oesch, 2008). Nativism, whether presenting as welfare chauvinism or cultural protectionism, thus limits the "us" and expands the "other" and, while it insists on solidarity, such solidarity is narrow, highly exclusionary, and meant for the in-group.

The so-called refugee crisis contributed to a marked increase in welfare chauvinistic attitudes which, at least in the case of Germany, was present among supporters of all parties, though not of the same intensity (Marx & Naumann, 2018). PRR parties and their calls for material and political exclusion of the "other" cause political ripples beyond elections by forcing shifts in mainstream parties' immigration stances when they seek to preserve

votes by accommodating the populist right (Kymlicka, 2015; van Spanje, 2010) allowing them to influence policy from outside the government (Kallis, 2018, p. 67; König, 2017). PRRs, therefore, present migration governance with challenges both domestically and (directly or indirectly) in the EU, especially during times of crisis. The exclusionary thrust of PRR populism thus manifests itself as exclusionary solidarity at the national level and, from there, also threatens—or at least complicates—inclusive solidarity at the European level. Informed by this literature, what follows is a discussion of the failure of solidarity-inspired governance efforts in Europe, illustrated by how the domestic politics of populism might have militated against inclusive solidarity at both the national and European level, further enabling the defensive integration strategies of sealing off external borders while reinstituting internal ones. Germany's attempts to lead Europe out of the 2015 crisis, and where it failed and succeeded, provide an initial glimpse into these dynamics.

5. Between Alternative für Deutschland and a Hard Place: The Solidarity of German Right-Wing Populism

Alternative für Deutschland (AfD) was founded in 2013 by Eurosceptic economists and intellectuals disillusioned by Germany's center-right, just six months before the federal elections. It was a single-issue party that strongly rejected the Euro and the Eurozone bailout packages (Franzmann, 2016; Schmitt-Beck, 2017). Comprising also nationalist conservatives, AfD first entered elections in 2013 when, while below the 5% necessary to gain seats in the *Bundestag*, it garnered 4.7% of the national vote, a remarkable showing for a first-time party conjured at the last minute. In just five years, it was chairing the budget committee in the *Bundestag*. Within a year of its launch, AfD also performed well in the 2014 European Parliament elections and garnered 7.1% of the German national share, securing seven of the 96 German seats. Starting with the *Landtag* elections in 2014 (Saxony, Brandenburg, Thuringia), it began entering state legislatures with 9.7–12.2% of the vote. 2015 saw it expand into Western Germany with an even bigger electoral success after the summer of 2015, entering Saxony-Anhalt, Baden-Wuerttemberg, and Rheinland-Pfalz legislatures.

After an internal leadership change that saw the nationalist and anti-immigration wing prevail, Frauke Petry, known for her anti-Islamist views and her calls for firing on people if necessary to prevent illegal border crossings, took the reins and the party pivoted sharply towards anti-immigration, nativist and nationalist rhetoric. Enjoying particular success in Eastern Germany, AfD launched into a strident critique of Angela Merkel's emphasis on Germany's *Willkommenskultur* ("welcome culture") through its *Herbstoffensive 2015* ("fall offensive 2015"). The crisis framing was purposeful as populists frequently need to maintain an air of permanent (if manufactured) crisis to agitate (Müller, 2016).

Dubbing the summer of 2015 as *Asylchaos* ("asylum chaos"), AfD's new leaders Petry and Jörg Meuthen accused the government of inviting uncontrolled immigration and framing the issue as "the people's will vs. government/elite mismanagement" (Geiges, 2018; Schmitt-Beck, 2017).

AfD politicians clearly saw mobilization potential in the events of the summer of 2015. Alexander Gauland, a long-time nationalist conservative CDU member of the *Bundestag* who later became the co-leader of AfD, thought the influx and the government's handling thereof was "a gift" for AfD; Björn Höcke, leading the right wing of the AfD, implored: "Asylum is a topic where the AfD can and must score points now" (as cited in Geiges, 2018, p. 52, author's translation). The emergent themes were uncontrolled mass migration causing a crisis and draining resources from citizens (Petry, as cited in Geiges, 2018, p. 60, asked: "How social is Germany really *to its own citizens*?") and an emphasis on being overrun at home and in the region (Petry, as cited in Geiges, 2018, p. 57, said: "The simple fact is that neither Germany nor other European countries have an unlimited capacity to receive"). She also clearly securitized the issue: "In 2015, it seems completely unproblematic that a million, maybe more, people migrate to Germany, people we don't know and whose intentions in Germany are unclear" (as cited in Geiges, 2018, p. 58). Speaking to European ramifications, Höcke maintained that Europe would suffer because of a "welcome party that got out of hand" (as cited in Geiges, 2018, p. 58). AfD's rallies dubbed Chancellor Merkel the *Weltflüchtlingskanzlerin* ("world refugee Chancellor"), allowing the AfD to lay claim to the issue while mainstream parties were trying hard not to politicize.

By this point, migration had become the single most important issue for the German population during the elections (Dostal, 2017) and AfD scored important electoral gains in the *Landtag* elections in 2016. In February 2016, CDU scrambled to contain the damage during the federal election season, while positioning themselves as the mainstream address for the national conservative right (as opposed to the AfD), an attempt they would repeat in 2018, with equally limited success. AfD's electoral success continued with the federal election of 2017, when it achieved 12.6% of the vote and became the third-largest party in the *Bundestag* and the main opposition after the CDU/CSU/SPD coalition. Gauland and the economist Alice Weidel who led the party at the *Bundestag*, both displayed significant anti-immigrant tendencies: The former cast the refugee issue as a watering down of German identity, and the latter framed it as an economic burden. Both positions are consistent with situating solidarity with its "rightful" beneficiaries, namely (a narrowly-defined) German people. Both display elements of material and political exclusion.

In January 2018, AfD's first federal legislative proposal was an attempt at hindering family reunification (material exclusion) to avoid "the continued arrival

of millions of relatives and the *threat to the welfare state*, society, domestic peace, and constitutional order" (Knight, 2018, emphasis added). In April 2018, AfD even went to the *Verfassungsgericht* (German Constitutional Court) with three complaints that the 2015 actions of Chancellor Merkel's government had infringed on the rights of the *Bundestag*, as well as violated the separation of powers. While AfD's complaints were unanimously rejected by the *Verfassungsgericht* in December 2018, the move was a personal attack against Chancellor Merkel and kept the "crisis" in the headlines by portraying the German people as the victims of irresponsible government/elite actions. Migrants themselves were also not spared. In a recent parliamentary debate on the budget, Weidel said: "Burkas, girls with headscarves, men with knives, and other ne'er do wells will not secure our prosperity, our economic growth and, above all, *our welfare state*" (Frankfurter Allgemeine Zeitung, 2018, author's translation, emphasis added). In both cases, Germany and German people are depicted as the victim, first at the hands of the migrant "other" and then at the hands of the irresponsible government. Rösel and Samartzidis (2018, p. 10) show that AfD succeeds in places where the electorate already feels that government policies do not demonstrate sufficient solidarity with the disenchanted voters. Recasting solidarity as a responsibility towards only "deserving Germans" is therefore both a response to this disenchantment and a successful electoral strategy (Weiland, 2018).

This strategy continued to pay off in the *Landtag* elections in Saxony and Brandenburg in September 2019, where AfD garnered 27.5% and 23.5% of the vote respectively. In October 2019, it received 22% of the vote in Thuringia, a state that was formerly run by a left coalition. In the 2021 federal elections, AfD maintained its strength in the east but suffered losses elsewhere in Germany, possibly due to pandemic concerns outweighing immigration. Domestically, it is plausible to maintain that the ascendance of the populist stance of the AfD has caused a shift in attitudes towards asylum seekers from mainstream parties. This is quite evident in the coalition agreements between CDU and the SPD, partners in the "grand coalitions" of 2013 and 2017. While the former agreement casts migration as an opportunity, the latter (post-2015 and post-AfD) cautions that the carrying capacity of the country must not be strained any further (Rasche, 2018). Public opinion likewise swayed: In 2017, 56% of Germans supported a quantitative limit for refugees living in Germany, and 26% considered refugees to be Germany's main foreign policy issue (ahead of all issues polled; see Erlanger, 2017, p. 8).

AfD was clearly able to capitalize on the wedge issue of migration and frame the German response as irresponsible inclusiveness that rendered the German people victims of elite largesse. It insisted that German loyalties should lie with Germans, not with dangerous others. The souring of the initially welcoming public opinion also helped. The November 15 Paris attacks, followed in short

succession by the 2015 New Year's Eve sexual violence in Cologne and Hamburg and the 2016 Islamist terror attack that targeted a Berlin Christmas market caused a significant shift in public opinion, played into AfD's hands, and reignited debates about German asylum policies (Dostal, 2017, p. 592). These developments almost resulted in the collapse of the German government in 2018 and, if nothing else, hastened the end of Chancellor Merkel's remarkable reign in German politics. In short, populist politics by AfD and the mainstream efforts to retain votes reframed solidarity towards narrower and exclusionary ends both materially and in political terms.

6. The EU Level: Solidarity's Unfulfilled Promise

Our gaze now shifts to the European level. The EU, through CEAS, had been attempting to govern asylum for several decades before 2015. Some instruments of solidarity were already in place before the summer of 2015. Importantly, the TPD (2001/55/EC) was devised in 2001 as a response to the displacement from the dissolution of Yugoslavia and was designed to respond to situations of mass influx from third countries. Article 1 of the TPD lays out its dual purpose: providing protection (for up to three years) to those fleeing conflict in large numbers and doing so in a manner that displays burden-sharing among member states. It is therefore an instrument that has potential for both external solidarity (with those fleeing) and internal solidarity (with members most affected). This solidarity would be inclusive (influx from any origin would be considered) and could assist countries such as Germany, Sweden, and Greece, which bore the main brunt of the influx. It needed to be activated by a qualified majority decision at the suggestion of the European Commission and the request of a member state. Curiously, this instrument was never activated, although Italy attempted, unsuccessfully, in 2011 in response to the increase in arrivals after the Arab Spring (Gluns & Wessels, 2017). Given the disproportionate impact of this mass influx in Germany, it was the most likely country to seek to activate this instrument in 2015. But it didn't.

This can be attributed to various factors. First, what constitutes a mass influx is vague and it is unclear whether the mass influx should be generally experienced in Europe or in a particular country. Second, the TPD does not have a system for redistributing the arrivals and hinges on the willingness of both the receiving country and the fleeing individual for relocation to occur, making redistributive solidarity through relocation complicated. Third, the deep divisions between member states on how to respond and the relatively small perceived benefits would have prevented an affirmative vote. While Germany could initially count on the support of its coalition of the willing (Austria, Belgium, Luxembourg, Sweden, Finland, Slovenia, Portugal, France, and Greece), this coalition became increasingly tenuous. Merkel eventually even lost the firm support of Austria and France.

The coalition of the unwilling, on the other hand, included Hungary, Poland, Czechia, Slovakia, and the UK (von Schmickler & Börnsen, 2016), making German efforts risky in political terms. And finally, Germany would incur significant financial costs to implement the TPD if approved while receiving little in return from the EU (Gluns & Wessels, 2017).

With this (relatively weak) solidarity instrument untapped, Chancellor Merkel was forced to consider other paths to stem the flow and address inequity. Germany's initial efforts were congruent with inclusive solidarity at home and in Europe. However, when the dust settled, the policies that were adopted were solidarity-deficient. Internal inclusive solidarity within the EU involves protections against racism and xenophobia and promotion of diversity in the civic realm, protection of equality, due process, and access to courts in the democratic realm, and welfare and social services for protection seekers, and burden-sharing and assistance to member states in the redistributive realm. External inclusive solidarity with those outside the EU involves equal application of international law, nondiscrimination based on national origin and religion, and resisting deflective policies that restrict access. The EU could also uphold human rights protections, and redistribute risk and responsibility by supporting resettlement into its territory. EU's efforts at external and redistributive solidarity in particular fell well short of this potential.

EU's efforts to restrict and deflect asylum-seeking in its territory predate 2015 and is well-documented (Lavenex, 2018; Zaun, 2018) and have been attributed to its dysfunctional institutional dynamics (Lehmann, 2018), identity politics (Börzel & Risse, 2017), and power politics between refugee receiving countries and others (Zaun, 2018). EU's internal responsibility sharing resolve, not particularly strong to begin with, contributed to the challenges it is currently facing. In some ways, Schengen's asylum provisions, solidified with Dublin, were redistributive mechanisms driven by the notion of responsibility (nominally amounting to relocation) but unencumbered by significant solidarity (Goldner Lang, 2013; Lott, 2022; Paoli, 2016; Wagner et al., 2018).

In addition to the TPD discussed above, the EU also has some internal redistributive solidarity instruments. Financial instruments, such as the European Refugee Fund, seek to assist with financial burden-sharing (primarily for member states). Its redistributive efforts to share people are much less robust and exacerbate geographic vulnerabilities in perimeter countries. Member states' commitment to displaying external solidarity has fared even worse, with the undesirable costs of refugee protection typically driving political decisions. These serious institutional shortcomings, coupled with a weak will, and an unusually pronounced refugee influx on the heels of the financial crisis hampered the EU's ability to respond effectively to the current crisis. Pleas for solidarity, whether from Germany or EU institutions, largely remained in the realm of the rhetorical.

The events of 2015 laid bare the weaknesses of the EU's capacity to equitably manage this influx as well as the limits of the promise of internal and external solidarity. This period was marked by a sharp increase in arrivals in Europe and their problematically uneven distribution. Importantly, the percentage of asylum seekers was very small compared to the EU population (0.22%) but masked the variance between member states: while Slovakia and Poland had 0% asylum seekers by percentage of population, Germany had 0.69% (more than three times the EU average), Austria had 0.97%, and Sweden 1.33% (roughly six times the EU average). Meanwhile, the numbers of UNHCR's populations of concern were dramatically higher in other places closer to the Syrian conflict: 3.77% for Turkey, 9.31% in Jordan, 12.61% for Iraq, and 17.6% in Lebanon (data compiled from UNHCR, 2017). Such variance should have triggered both internal and external solidarity mechanisms in CEAS. Instead, it yielded ad hoc restrictive responses by many EU members, Chancellor Merkel's calls notwithstanding, and implementation of policies intended to pass on, rather than share, responsibility to other states within and outside the EU. Despite requests from frontline countries such as Greece and Italy, no substantial internal solidarity was forthcoming.

External solidarity with asylum seekers and non-EU states struggling with the developments was also in short supply, leaving many highly exposed and vulnerable. Unlawful push-backs and collective expulsions, especially in Central and Eastern Europe, were coupled with detention of arrivals, highly problematic under international law, and raising questions under the European Convention on Human Rights (Amnesty International, 2015, p. 11). The internal mechanisms of assigning responsibility for asylum seekers based mainly on point of arrival (the Dublin system) was already dysfunctional from a solidarity standpoint, placing undue burden on perimeter member states, especially those in the geographic vicinity of the flows. Dublin had been the target of various legal challenges at the European Court of Human Rights and the CJEU even before 2015. This system had additional adverse consequences for the receiving countries and asylum seekers, a dual failure in internal and external solidarity. It was under these circumstances that Germany, which was about to start feeling the impact of AfD's ascent, attempted to lead the EU towards a collective solution as AfD and its populist agenda were also beginning to make inroads in the EU.

7. Germany's Leadership and the Elusiveness of Solidarity: The Temporary Relocation System and the EU–Turkey Deal

In 2015, Germany needed to assert leadership, championing two remaining paths. The first was to put in place a mechanism at the EU level to relocate arrived asylum seekers who were distributed very unevenly. This, the temporary EU relocation system, was an intra-EU

redistributive solidarity mechanism. The second, the EU deal with Turkey, was not a solidarity instrument but was rather designed to shift responsibility away from the EU and its member states. Germany played a key role in both schemes. Only the latter non-solidarity scheme was successful.

The temporary EU relocation system, a relatively strong instrument of redistributive/material solidarity proposed by the European Commission, was championed by Germany. In two stages, the Commission rolled out a plan to redistribute 160,000 persons throughout the EU territory in an attempt at solidarity through sharing of people. The decision overrode opposition from the V4 countries (Czech Republic, Hungary, Poland, and Slovakia). In December 2015, Hungary and Slovakia challenged the decision by filing lawsuits with the CJEU to annul this decision (https://curia.europa.eu). While the CJEU ultimately found against them, their efforts to scupper solidarity based on a permanent quota system was ultimately successful (Kirchner, 2020). The temporary relocation system actually produced very modest actual transfers of people. By April 2017, only 16,340 of the initial 160,000 were transferred, a tiny portion of the target five months before it expired on 27 September 2017 (European Commission, 2017). The acceptance of relocated individuals also remained uneven, with Germany and France taking the lead in absolute numbers and only Malta and Finland meeting their quota. Hungary and Poland did not participate, the Czech Republic did not relocate anyone after May 2016 and Bulgaria, Croatia, and Slovakia met only 2% of their relocation targets. The fact that only 16,000 could be relocated in more than 18 months surely was not the high mark of internal solidarity (ECRE, 2017).

Subsequent efforts focused on developing a permanent quota-based system to redistribute persons. Italy had been asking for "obligatory burden-sharing" since 2009. Germany, which had its own federal quota mechanism, was also in favor but was unable to lead the EU on this, sidelined by countries with strong populist politics at home, including Italy, Austria, Hungary, Poland, and Slovakia. Negotiations at the EU level became mired in further discord. The analysis of an anonymous EU official is apt: "Unless countries can escape their domestic political agendas, [the relocation system], which is already wholly inadequate," would fail (Henley, 2016). Currently, the preference is for efforts at solidarity to be on a voluntary basis as opposed to binding quotas, despite the obvious weaknesses of such a system. At a December 2017 EU meeting, by which point AfD had already become the main opposition party in the *Bundestag* by vilifying her welcoming policies, Chancellor Merkel insisted that "there can't be selective solidarity" only to be successfully rebuked by the V4 (Nielsen et al., 2017). Redistributive solidarity thus remains elusive.

The EU–Turkey deal, by contrast, an exercise in avoiding responsibility, was struck with remarkable ease. In December 2013, Cecilia Malmström, then Home Affairs Commissioner of the European Commission, signed a readmission agreement with then Turkish Prime Minister Davutoğlu. This agreement obligated Turkey to readmit third-country nationals entering the EU illegally while in transit through Turkey. In return, the EU promised Turkey help in bolstering its borders and put visa-free travel for Turks on the table. At the time of the agreement, there were already a significant number of Syrian refugees in the country, roughly one million, but this would swell to three million in the next three years. In April 2015, when some of these displaced persons started to enter EU territory, a special European Council resolved to "step up cooperation with Turkey" and also reinforced political cooperation with Africa to tackle illegal migration, smuggling, and trafficking (European Council, 2015b). In May 2015, EU High Representative Mogherini, and Neighborhood and Enlargement Commissioner Hahn met their counterparts in Turkey. An EU press release read:

> In particular, we focused on the migration challenge, which has been brought so sharply into focus by the recent tragedies in the Mediterranean Sea. We agreed to ask our services to prepare a plan to enhance our cooperation…on preventing illegal migration flows. (European Commission, 2015)

After the summer of 2015, and the bruising domestic political developments in Germany, Chancellor Merkel finally brokered a deal with Turkey to stem the influx In September 2015, an informal meeting of EU heads of state resolved to reinforce dialogue with Turkey. In a follow-up meeting in October, the European Council adopted a Joint Action Plan to stem the flow of refugees ("European Union: EU–Turkey joint action," 2015). Soon thereafter, Chancellor Merkel visited Ankara, to shop this deal, dubbed the Merkel Plan (European Stability Initiative, 2015), and displayed a willingness to negotiate with Turkey despite its autocratic turn. She proposed a new agreement. Individuals who arrived in Greece without papers would be returned to Turkey. Turkey, in turn, would receive aid to help with the costs associated with the refugee influx. To sweeten the deal, visa-free travel for Turks was put on the table. In November 2015, when the Turkey Refugee Facility designated EUR 3 billion in assistance, European Council President Donald Tusk acknowledged Turkey's position as a transit country, stressing the expected role of Turkey in stemming these flows (Seufert, 2016). The 2015 negotiations yielded the 2016 EU–Turkey deal. The EU, and Germany in particular, were increasingly vulnerable to a second record-breaking summer of arrivals in 2016 and needed this agreement, despite the illiberal domestic behavior of their partner. It looked like "the 28 EU heads of state forged the March 18 deal with Turkey with their backs seemingly against the wall, and in an atmosphere of palpable panic" (Collett, 2016). This deal was highly effective in stemming the flows and externalizing responsibility. In the

month after its conclusion, arrivals decreased by 90% ("Number of migrants," 2016). In early 2017, the EU predicted a 98% reduction over the previous year (European Council, 2017).

These two episodes, both led by a Germany reeling from the effects of the 2015 arrivals and its domestic politics, underscore the limits of solidarity in the EU and the shortfalls of EU's asylum governance embodied in CEAS. The difficulty of securing internal solidarity through the relocation system, temporary or permanent, stands in sharp contrast with the ease of engineering the EU–Turkey deal, allowing the EU to eschew external solidarity. Interestingly, while the refugee influx subsided thanks to the EU–Turkey deal, the populist politics surrounding it would persist and even consolidate at the European level.

7.1. Populism at the European Level: Alternative für Deutschland and the European Parliament Elections

Germany's AfD is strongly Eurosceptic. This is reflected in its party program, which calls for power to be restored to nation-states: It maintains that, with the Lisbon treaty, "political elites have taken steps to permanently transform the EU into a centralised state" despite popular opposition. Here, we encounter the popular will vs. elite imposition argument once again (AfD, 2017, p. 16). AfD also opposes the 2016 Global Compact for Migration, an instrument that has elements of global solidarity, arguing that, just like Germany's, the EU's migration policies are misguided:

> We also want to prevent the looming risk of social and religious turmoil and the creeping extinction of

European cultures…we advocate the complete closure of external EU borders….The AfD firmly opposes the introduction of a *solidarity tax* for the benefit of refugees. (AfD, 2017, pp. 58, 63)

It also maintains that "Africa cannot be saved in Europe" (AfD, 2017). Here, AfD is rejecting solidarity internally with fellow EU members, and externally with third countries. The solidarity that AfD champions is exclusive and boundedly national.

AfD campaigned for European Parliament elections in 2019 along these lines and captured 11% of the vote (up from 7.3% in 2014), still making hay of the by-then subsided refugee crisis. The AfD European Parliament elections manifesto in 2019 calls for a return to a "Europe of nations," upholding of national sovereignty in asylum and immigration policies, a complete rethinking of the EU's humanitarian programs, an end to regional burdens for Germany, return migration instead of immigration, securing borders, rollbacks on freedom of movement privileges, "Dexit" if the EU did not undertake sufficient reforms, and the ironic call for the abolishing of the European Parliament. AfD maintained that the EU's current course on immigration and asylum, pushed by the EU elite, would "put European civilization in existential danger….All migration to Europe should be limited and guided in such a way that the identity and culture of European nations would be preserved under all circumstances" (AfD, 2019a, p. 37, author's translation). Its election posters reflected this position (see Figure 1). There are clear elements of material exclusion in these calls, but also the potential of political exclusion (excluding Germany from the EU and also excluding migrants from decision making).

Figure 1. AfD European Parliament election posters, May 2019. Text on the left reads: "Can you manage Brussels? Secure the borders!" (photo by the author). Text on the right reads: "One thing is certain [*sicher*, "safe"]: It's not the border! Out of love for Germany. Freedom, not Brussels" (AfD, 2019b).

In this, AfD counted on support from—and actively campaigned with—its European partners in Italy (Salvini's Lega Nord) and Austria (Strache's beleaguered Austrian Freedom Party [FPÖ]) and beyond ("AfD demands," 2019). In fact, in April 2019, AfD's *Spitzenkandidat* Meuthen, sitting next to Salvini, the Danish People's Party and a representative of the populist Finns, endorsed the campaign slogan "Towards a Common Sense Europe! Peoples Rise Up" ("Matteo Salvini tries to unite Europe's nationalists," 2019). Just five days ahead of the European Parliament elections, additional leaders of the main Euroskeptic populist parties (Wilders of the Dutch Party for Freedom and Marine Le Pen of France's National Rally) attended a rally in Milan where organizer Salvini proclaimed: "Here you won't find the far-right, but the politics of good sense. The extremists are those who have governed Europe for the past 20 years" (Kirby, 2019). Populist parties did well in the 2019 European Parliament elections, but perhaps not as well as they would have hoped. Nonetheless, the contagion hypothesis tells us that PRR parties do not need to be in power to have weight.

Pushback at the EU level can partially be traced to domestic developments in Germany. After the 2015 Cologne attacks attributed to men of non-European origin, the Slovakian Prime Minister Fico, supported by the Czech prime minister, called the EU to an emergency summit, chiding his colleagues for trivializing "the security risks associated with unregulated and uncontrolled migration within the EU....We don't want something like what happened in Germany taking place in Slovakia" ("After Cologne," 2016). These developments have buoyed AfD and xenophobic tendencies in the populace, also allowing populist elements in other countries to point to Germany as an example of what to avoid. AfD's rise thus had domestic and EU consequences, especially when considered in the broader context of PRR developments in other EU member states.

8. Conclusion

What are the prospects for the future of the CEAS and what role can rising populism play in the governance of immigration and asylum in the EU? Reviewing the so-called refugee crisis from the vantage point of Germany starts to give us some clues. As an EU member state receiving a disproportionate number of asylum seekers and embodying a series of rather serious logistical and political challenges, Germany, and in particular Chancellor Merkel, had a moral, political, and legal base and incentive for evoking EU-wide solidarity (Zaun, 2018). A long-time driver of the European integration project, it also had, at least in theory, the requisite power with which to wield leadership and influence. There were significant constraints for this, however.

At the domestic level, anti-immigrant sentiment mobilized by the AfD precipitated strains within Chancellor Merkel's Christian Democrats, and created

incentives for centrist parties to track to the right to stop bleeding votes to AfD. Meanwhile, AfD pivoted its party platform towards a nativist stance, used migration as a wedge issue, and reframed solidarity in narrow and exclusionary terms, both domestically and during the EP elections. The politicization of the issue forced Merkel away from Germany's initial liberal position and left her vulnerable to attack from AfD and others. At the European level, Germany's pleas for EU-wide solidarity within the EU remained unfulfilled as several member states, most loudly in Central and Eastern Europe, balked at the internal solidarity targeted by redistribution within the EU. Squeezed at home from both her own party and facing AfD contagion, Chancellor Merkel was unable to move the solidarity needle at the European level. It is hard to disagree with Bulmer (2018, p. 21), who observes that the domestic struggles in Germany "displayed how electoral concerns about the AfD...can have ramifications all the way up to the European Council, weakening Merkel's negotiating position." The 2015 episode thus demonstrates a failure of both inclusive internal solidarity and, to an even larger extent, external and global solidarity. In Germany, AfD was able to redefine solidarity in narrower nativist and nationalist terms and cause political shifts to the right through contagion effects.

At the EU level, the internal redistributive solidarity logic of the relocation plan was rejected in favor of an approach that would instead externalize responsibility to third parties. Meanwhile, populist politics and exclusionary approaches in material and political terms are now embedded in national politics and the EU through the Council and the Parliament. The CEAS thus carries forward the restrictionist tendencies of European integration in asylum matters. Its various reforms are stalled and have not bucked this trend. The 2015 episode clearly points to current developments as defensive integration. The Commission's September 2020 New Pact for Migration and Asylum attempts to break the stalemate but fundamentally retains approaches that rely on externalization, deterrence, containment, and return, pointing to continuity rather than change. Meanwhile, EU's response to the 2022 influx occasioned by the war in Ukraine is markedly different from the 2015 episode. Since the onset of the Russian invasion on 24 February 2022, over 6.5 million have fled to neighboring countries as of June 2022, with more than 7 million displaced internally. The vast majority of these individuals are in Poland (1,143.000), Germany (780,000), Czech Republic (360,000), Italy (125,000), Spain (109,500), Romania (85,000), Slovakia (80,000), and a number of other EU members in smaller numbers (UNHCR, 2022).These are numbers that exceed the 2015 influx. Unlike the 2015 episode, over 90% of these are women and children. And, unlike in 2015, the EU triggered, for the first time ever, the TPD unanimously on 4 March 2022, a mere ten days after the Russian invasion. TPD provides residence permits and access to the labor market in the EU for Ukrainians and third country citizens residing in Ukraine,

conditions more generous than was available in 2015. The activation of the TPD moves the needle towards internal and external material solidarity if not also providing a potential for redistributive solidarity. Interestingly, populist politics are alive and well in a number of countries most affected by arrivals and yet there is no comparable populist resistance. It appears that Ukrainians are not othered in Central and Eastern European countries and elsewhere as the 2015 arrivals were. This puzzle calls for further research and attention.

Conflict of Interests

The author declares no conflict of interest.

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About the Author

Emek M. Uçarer is a professor of international relations at Bucknell University. Her research interests include governance of immigration and asylum in the European Union, the role of EU institutions in cooperation on these issues, and the interaction between nonstate actors and intergovernmental organizations in the realm of human rights.