European Governments' Responses to the 'Refugee Crisis'

The Interdependence of EU Internal and External Controls

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Abstract

In the face of the 'refugee crisis', many European governments, even in traditionally liberal states, unilaterally introduced a number of restrictive and, often, controversial migration, asylum, and border control policies. The author argues that past legal-bureaucratic choices on migration and asylum policies, ongoing developments in international relations at that time, the structural and perceived capacity of receiving states to cope with the refugee influx, and long-standing migration-related security concerns influenced the responses of many European governments amid the mass population movement. However, the author also suggests that the surfacing of particular policies across Europe was related to the newly elected Greek government's attempted U-turn from similar repressive and controversial policies during that time. In this regard, the author maintains that repressive and controversial migration, asylum, and border control policies cannot simply be abolished within the context of the EU common market and interdependence of EU internal and external controls.

Introduction

In 2015, Europe experienced an unexpected mass population movement through the Eastern Mediterranean route. Only in August, more than 100,000

people arrived on the Greek islands, a significant increase compared to the 54,000 that had entered the country the previous month. In October, that figure doubled again to more than 200,000 people. By the end of 2015, it is estimated that more than 850,000 people had crossed the Greek-Turkish sea border.[1] Within this context, Greece began overtly ignoring the provisions of the Dublin Regulation, and allowed newcomers to move on unregistered and unimpeded to their preferred destination countries in mainland Europe, mainly Germany and Sweden (Trauner 2016: 319).

At the EU level the response was slow and hesitant, and didn't go deep enough to address and treat the actual dilemma behind the 'refugee crisis' (see Carrera et al 2015).[2] This contributed to the creation of a humanitarian emergency in Greece, particularly on the islands (see Skleparis and Armakolas 2016). In this regard, the establishment of the EU relocation mechanism and the opening of the 'Balkan route' to destination countries in mainland Europe were emergency measures that attempted to relieve some of the tensions created by the refugee influx in Greece. Yet, at the same time, the very opening of the 'Balkan route' was a manifestation of the EU's inability to reach a collective and sustainable response to the mass population movement. Eventually, a 'containment strategy' prevailed, marked by the 'EU-Turkey joint statement' and the closure of the 'Balkan route' in March 2016, which aimed to put an end to the uncontrolled mass population movement through the Eastern Mediterranean route (see Trauner 2016).

At the national level, however, the responses were much bolder. In the face of the refugee influx many European governments on the mainland quickly introduced a number of restrictive and, often, controversial migration, asylum, and border control policies. All in all, the tightening of migration and asylum policies, the reintroduction of temporary internal border controls, the militarisation of internal border controls, the erection of barbed-wire fences, and the establishment of daily caps on asylum applications and border-crossings comprised the responses of many European governments to the refugee influx. In April 2016, the UN Secretary-General, Ban Ki-moon hit out at the 'increasingly restrictive' European asylum policies in his speech to the Austrian parliament,

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1   See UNHCR Mediterranean Refugees/Migrants Data Portal. Available from: http://data2 .unhcr.org/en/s ituations/mediterranean/location/5179.

2   I prefer the use of the term 'refugee crisis' to 'migration crisis', as the vast majority of new-comers along the Eastern Mediterranean route in 2015–2016 came from the top 10 source countries of refugees. I use the term in inverted commas to denote that this was a crisis which was largely caused by the implementation of specific policies, or lack thereof, and not refugees themselves.

which had voted in favour of some of the continent's most stringent laws (The Guardian 2016). He expressed his concern that 'European countries are now adopting increasingly restrictive immigration and refugee policies', and added that 'such policies negatively affect the obligation of member states under international humanitarian law and European law' (ibid). The aim of this paper is to identify and analyse the factors that shaped these repressive and, often, controversial responses from many European governments.

By drawing on migration studies literature and policy analysis, I argue that past legal-bureaucratic choices on migration and asylum policies made by European governments, ongoing developments in international relations at that time, the structural and perceived capacity of receiving countries to cope with the refugee influx, and migration-related security concerns shaped the responses of many European governments in the face of the mass population movement. Moreover, I maintain that within the context of the European single market and the interdependence of internal and external controls, certain migration, asylum, and border control policy choices made by the Greek government in 2015–2016, up until the 'EU-Turkey joint statement', also shaped the respective policies of many mainland European governments. In fact, I suggest that the Greek government's response to the 'refugee crisis' rendered the spread of repressive and controversial policies across Europe unavoidable, since migration to the EU is rendered governable, manageable, and controllable at the expense of those who seek international protection, insofar as some European states rely on controversial and restrictive policies and tactics more than others.

The paper is structured as follows: the next section puts forward a typology of factors that shape government responses to mass population movements. This is followed by an overview of the repressive and controversial responses of many European governments in the face of the 'refugee crisis', and an analysis of the factors that shaped them. The rest of the paper traces the Greek government's response to the mass population movement and analyses the factors that influenced it, in an attempt to add an extra layer of analysis to the policy choices made across Europe.

Government Responses to Mass Population Movements

It has been commonly argued that states' power to control migration has been curtailed by national, international, and supranational norms which push governments towards more liberal migration policies (see Cornelius, Martin, and Hollifield 1994; Soysal 1994; Sassen 1999; Joppke 2001). More specifically,

Cornelius, Martin, and Hollifield (1994) and Joppke (2001) have suggested that policy makers have lost their power to opt for their preferred restrictive migration policies to the judiciary, which limits the leverage of the executive and legislative to ban or expel unwanted migrants. In other words, states' capacity to pursue restrictive migration policies has been curtailed by 'rights-based liberalism' (Cornelius, Martin, and Hollifield 1994). Similarly, Soysal (1994) and Sassen (1999) have emphasised the emergence of international and European human rights regimes and their role in limiting states' power to control migration. For instance, the establishment of the free movement of people within the EU has inevitably transposed state authority over entry and stay of third country nationals to the EU institutions (Sassen 1999).

In the face of mass population movements host governments must make quick decisions across a number of issues. In such circumstances, states' commitment to international justice is fragile, which creates obvious implications for migrants and refugees (Boswell 2007: 87). Where rights provisions coincide with pragmatically grounded commitment to liberal regimes migrants and refugees may benefit from generous provisions (ibid). Where there is lack or absence of pragmatic arguments, 'rights-based liberalism' is not expected to provide very reliable coverage of individual rights (ibid).

Host government responses refer to the actions (or inactions) of governments and other state institutions that include specific asylum policies, unofficial actions, and migration policy implementation (Jacobsen 1996: 657). In the face of a mass population movement host governments are presented with three choices: they can do nothing; they can respond positively; or they can respond negatively to the movement (ibid: 658). Inaction suggests that the host government either is incapable of action, is reluctant to take action, or that it regards the mass population movement as an insignificant issue for its agenda (Gordenker 1987). Any kind of host government action suggests that the numbers of newcomers pose a challenge, and/or are perceived to pose a challenge, to the state's infrastructure and security (Jacobsen 1996: 657). Positive actions are compliant with international rules and recommendations, while negative actions, such as restrictive and/or controversial migration, asylum, and border control policies, are often in stark contrast to the international rule of law.

Since the early 1990s several migration scholars have attempted to explore the effects of international migration and refugee flows on security and stability across different national and regional contexts (see Adamson 2006; Lohrmann 2000; Loescher 1992; Weiner 1992). Their purpose was to facilitate the decision-making process of receiving governments in response to mass population movements by providing a comprehensive and descriptive categorisation of the circumstances under which such movements come to be

perceived as security threats. Influenced by this strand of research, Jacobsen (1996) developed a typology of four broad categories of factors that affect receiving governments' responses to mass population movements: past bureaucratic choices made by governments; international relations developments; the absorption capacity of the host country; and security considerations.

Jacobsen assumes that prior legal-bureaucratic decisions on migration and asylum policies affect subsequent policy decisions, or else, that past policy outputs become future policy inputs. She also suggests that ongoing international relations developments guide receiving governments' interaction with the international migration and refugee regimes and shape their policy responses. Absorption capacity refers to various social, economic, and cultural factors that affect host governments' policy responses in the face of mass population movements. It is understood as both the ability and willingness of a country to absorb an influx of refugees. Structural ability is determined by such factors as economic capacity. Willingness, on the other hand, is affected by the host country's perception of its ability to absorb refugees, beliefs about the motivations of newcomers, the ethnic and/or religious affinity between host and refugee populations, historical experiences of forced displacement among the host population, and the cultural meaning that the host society ascribes to refugees. These factors, according to Jacobsen, influence social receptiveness, or, to put it in another way, the willingness of receiving countries to absorb an influx of refugees. Finally, she identifies security concerns as the fourth factor that can potentially shape a receiving government's response to a mass population movement. These concerns mainly derive from the 'migration-security continuum' rationale – prevalent in policy circles – according to which terrorism, international crime and migration are connected (see Bigo and Tsoukala 2008).

The next section draws on the aforementioned factors in an attempt to explain why many European governments, even in traditionally liberal states, resorted to restrictive and controversial policies in the face of the 'refugee crisis'.

European Governments' Responses to the 'Refugee Crisis'

Past legal-bureaucratic decisions on migration, asylum, and border control policies significantly affected the policy decisions made by a number of European governments in the face of the 'refugee crisis'. European governments had already started to implement tighter migration policies following the 1973 oil price hikes (Cross 2009: 172). In the 1980s and 1990s, asylum-seeking became the main gateway to Western Europe amidst growing fears that the

influx of asylum seekers would undermine the refugee regime and dismantle the welfare state (Hollifield 2004: 897). Subsequently, the ties between migration, asylum, and security were strengthened across EU member-states in the late 1990s and early 2000s (Karyotis 2007). This reinforcement of the 'migration-asylum-security nexus' was accompanied by tighter asylum policies, and increasing reliance of Western governments on practices of policing and social control of migrants and asylum seekers.

After the 9/11 terrorist attacks a shift in the relationship between migration law and security concerns resulted in the 'normalisation' of security issues within migration law (Dauvergne 2007). It is not the case that the 9/11 events marked the beginning of the securitisation of migration. They rather served as a tidal wave clearing away political opposition to the advance of increasingly tight migration control policies, or at least served to silence this opposition (Brouwer 2003: 402). Since the 9/11 attacks, accelerated initiatives to combat terrorism in the EU have resulted in the transgression of human rights norms, particularly in the area of migration (Mitsilegas 2015). In other words, after the 9/11 attacks liberal states have started to rely more explicitly on repressive and controversial migration, asylum, and border control policies. Hence, it can be argued that past policies and decisions after the 9/11 terrorist attacks largely shaped the negative responses of many European states to the 'refugee crisis', particularly as regards the tightening of migration and asylum policies.

It can be also argued that international relations developments influenced European governments' responses. The collective weakness of the EU in its failure to come up with a timely and sustainable solution to the soaring numbers of newcomers, in combination with the anxiety regarding whether and when such a solution would be forthcoming, led a number of European governments to increasingly resort to unilateral repressive and, often, controversial policies. Germany's decision to coordinate the opening of the 'Balkan route' was also perceived by many states as a violation of their sovereignty, which fed into the reinstatement of temporary internal border controls. The November 2015 Paris attacks and the fact that some of the terrorists had used Greece as a transit country to mainland Europe acted as a catalyst to the adoption of these policies.

Constraints in the structural capacity of many European states to process a plethora of asylum applications and provide for hundreds of thousands of asylum seekers arguably also shaped negative policy responses to the mass population movement. More than 1,250,000 people applied for international protection in the EU member-states in 2015, a number more than double that of the previous year (Eurostat 2016). Germany registered the highest number of first-time applicants in the EU (441,800 first-time applicants, or 35% of all

first-time applicants in the EU), followed by Hungary (174,400, or 14%), and Sweden (156,100, or 12%). Within this context, the curtailment of social assistance and access to other social rights for migrants and refugees can be justified as a way of limiting the number of asylum applications (Huysmans 2000: 767). According to this line of thought, welfare provisions act as a magnet pulling migrants and refugees into the EU, increasing in this way the competition over the distribution of social goods, such as housing, healthcare, unemployment benefits, jobs, and other social services (ibid). Scarcity transforms migrants and refugees into competitors with citizens in the labour market and the distribution of social services and goods (ibid), which subsequently affects the willingness of the host society to absorb the newcomers.

In this regard, it can be suggested that limited willingness to absorb the influx of refugees also influenced the negative policy responses of many European governments. According to the spring 2016 Eurobarometer survey, immigration was seen as the major challenge facing the EU (European Commission 2016). Six out of ten Europeans had negative feelings about the immigration of people from outside the EU (ibid). Indeed, the labels of 'migrant', 'refugee', and 'asylum seeker' are politically powerful signifiers in contemporary Europe and have the 'capacity to connect the internal security logic to the big political questions of cultural and racial identity, challenges to the welfare state, and the legitimacy of the post-war political order' (Huysmans 2000: 761). The representation of migration as a cultural challenge to social and political integration has become an important source of justification for employing restrictive migration and asylum policies across Europe (ibid: 762). This was apparent in the 'refugee crisis' as well. Far-right parties and conservative political elites across a number of EU member-states successfully manipulated significant migration-related public fears and anxieties with respect to the protection of national security and the myth of cultural homogeneity, eventually pushing their respective governments to increasingly resort to unilateral repressive policies, which many times were quite controversial.

Finally, common market security concerns arguably largely shaped many European governments' decision to reintroduce temporary internal border controls. The central element of these concerns is the assumption that the establishment of a common market and the subsequent abolition of internal border controls have not only improved transnational flows of goods, capital, services, and people, but that they have also facilitated illegal and criminal activities by terrorists, international criminal networks, asylum seekers, and immigrants (Huysmans 2000). The abolition of internal border controls was based on the premise that the external border controls of the EU were strong enough to guarantee a sufficient level of command over who and what could

legitimately enter the space of free movement (Anderson 1996: 186–187). In this regard, terrorism, drugs, and crime on the one hand, and the rights of migrants, refugees, and asylum seekers on the other, have to be treated together as they constitute a security continuum connecting border controls, terrorism, international crime, and migration (Bigo and Tsoukala 2008).

Tightening Migration and Asylum Policies

Restricting access to work and residence permits, welfare provisions, and social assistance, and hindering access to international protection and related provisions have sometimes proven to be more important tools for curbing the free movement of people than border controls (Huysmans 2000), at the expense of the most vulnerable and those in need of international protection.

In response to the refugee influx, a number of European governments proceeded with the tightening of their national migration and asylum laws, which oftentimes were in sharp contrast to their obligations under European and international law. In September 2015, the Hungarian government changed its migration and criminal law in a way that effectively denied asylum seekers access to protection. Under the new laws, entering Hungary except at official crossing points was made a crime punishable by up to eight years in prison. Serbia was declared a safe third country, and those who were arrested entering through it were made liable to summary return there. Criminal convictions were accompanied by a 1-3-year re-entry ban to Hungary. All asylum claims were determined through an accelerated procedure, while most of them were rejected as inadmissible since they were filed by persons who had entered Hungary through a safe third country. Rejected asylum seekers were held indefinitely in detention pending removal, mainly to Serbia. Under the new laws detention was applied systematically and indiscriminately to all asylum seekers. The new laws resulted in prolonged periods of detention, poor detention conditions, and the further exacerbation of the living conditions and rights of vulnerable groups of people (HRW 2015a).

The German government restricted family reunification for persons granted subsidiary protection. Moreover, in October 2015, it extended the list of safe countries of origin to include Albania, Kosovo, and Montenegro. This entailed that asylum applications from these countries were summarily considered as manifestly unfounded, since German asylum authorities were bound by law to assume that conditions of persecution, inhuman or degrading treatment, or punishment did not exist in these countries. Even before the official extension of the list of safe countries of origin, in September 2015, the Federal State of Bavaria had paved the way for this move by introducing two combined reception and return centres for those asylum seekers with no prospect of remaining

in the country, forcing them to stay in these facilities for the whole duration of their procedures. Human rights NGOs criticised Germany's decision to accelerate procedures for asylum seekers from these countries on the basis that it put too much emphasis on deterrence and exclusion (Euronews 2015).

In November 2015, the Swedish government announced changes in its asylum legislation that aimed to reduce the number of asylum seekers arriving in the country. The law reform restricted the right to family reunification to refugees and their immediate family members only; reduced the duration of residence permits to 3 years for refugees and 1 year for subsidiary protection beneficiaries; rendered permanent residence permits dependent on self-sufficiency in the country; and removed the right to protection under the 'otherwise in need of protection' status, a domestic provision intended for people who did not qualify either for refugee status or subsidiary protection, but still had protection needs. The UNHCR (2016a) criticised Sweden's law reform on the basis that it would undermine the rights of unaccompanied migrant children in the country, and that it would have a 'detrimental effect' on separated families.

Similarly, in November 2015, the Danish government presented a legislative package on asylum with 34 tightening measures intended to stem the influx of asylum seekers to the country by making it a less appealing destination. Measures included shorter residence permits, stricter necessary conditions for the obtainment of permanent residence permits in the country, longer detention periods, and more restrictive family reunification policies. One controversial measure foresaw the confiscation of valuables from asylum seekers by the Danish authorities to help fund the cost of services provided to refugees.[3] The measure meant that the police would be able to seize valuables worth DKK 10,000 or more from asylum seekers. The legislative package attracted heavy criticism by NGOs. The government was accused of violating human rights with its new laws, which encouraged an increased number of arrests of third country nationals, as well as weaker judicial control (The Local 2015). The UNHCR warned that the new bill could violate a number of international conventions, including the global convention on the rights of the child (UNHCR 2016b).

In January 2016, the Austrian government put forward a proposal that included, among other measures, an upper limit of 127,500 refugees that would be allowed to apply for asylum in the country over the course of four years. Other measures included stricter enforcement of entry checks at the borders and tougher return policies for rejected asylum seekers. However, the Austrian

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3   The same policy was later followed by Switzerland and some German Federal States, such as Bavaria and Baden-Württemberg.

government had to backtrack on its proposal for an upper limit of refugees, as it was found incompatible with international and European law. The government eventually returned with a new law, which enabled it to declare a state of emergency in case migrant flows threatened the country's 'national security' and take a series of 'special measures'. Once a state of emergency is activated, a fast-track admissibility procedure for asylum seekers can be implemented at Austrian borders, according to which asylum claims can be deemed inadmissible and asylum seekers can be returned to the countries they transited from, on the assumption that Austria's neighbours are safe for refugees. Only minors and pregnant women, and individuals who face real risk of torture or inhuman or degrading treatment in a neighbouring transit country or who have nuclear family members already in the country would be admitted into Austria. In addition, the detention period of rejected asylum seekers was extended and the duration of the refugee status was limited. The Austrian government moved forward with the new law despite the fact that it attracted strong criticism from the UNHCR and the Commissioner for Human Rights, Nils Muižnieks, who called the measures 'highly problematic' (ORF 2016). HRW (2016) stated that the new law will block access to a fair and efficient asylum procedure, and will violate the right to an effective remedy for the majority of asylum seekers in Austria, while it also 'risks instituting blanket, automatic detention without due attention to particularly vulnerable asylum seekers'.

Tightening Internal Border Controls

As soon as the number of asylum applications started to increase sharply, a number of European governments, such as those in Germany, Austria, Slovenia, Hungary, Sweden, Norway, Denmark, and Belgium, started to reinstate temporary internal border controls in an attempt to hinder large numbers of asylum seekers from seeking refuge in their territories.[4] Governments whose countries were in the middle of the 'Balkan route', such as Austria, Hungary, FYROM, and Slovenia, started building fences along their borders in an attempt to curb and geographically displace the flow of people. These policies were accompanied in some cases by a drastic militarisation of internal border controls, and introduction of daily caps on border crossings and asylum claims, which clearly broke the rules of international protection. These unilateral actions of initially a few European governments were guided by the rationale of

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4   Malta and France also reinstated internal border controls after the November Paris attacks to counter the 'threat of terrorism' under the procedure of Article 27 (former Article 24) of the Schengen Borders Code.

'passing the buck' (see Lavenex 1998) and caused a domino effect of repressive and controversial responses across Europe.

On 20 August 2015, FYROM deployed army forces and riot police, and called for a state of emergency to stop the uncontrolled movement of migrants and refugees crossing from Greece. On 14 September 2015, Germany introduced temporary border controls with Austria to cope with the influx of people. Following Germany, Austria also reinstated temporary border controls with Hungary, and deployed army forces to support border police at the Austrian-Hungarian border. In fear of being inevitably turned into a de facto destination country due to the unilateral actions of its neighbour, Hungary completed on 15 September 2015 a border fence at its border with Serbia. The aim of the 175-km-long fence at the Hungarian-Serbian border was to deter migrants and refugees, and channel the flow to legal border crossing points. Sealing off the Hungarian-Serbian border made Croatia anxious that the flow would be eventually redirected towards the Croatian-Serbian border. Because of this, Croatia temporarily closed its border for a few days to slow down the movement of people, and introduced a daily cap on border crossings, according to which only a certain number of asylum seekers per day was allowed to enter the country.

On 16 October 2015, Hungary completed the construction of a fence at the Hungarian-Croatian border as well, which had already become the main gateway after the closure of the Hungarian-Serbian border. In tandem with the sealing of the Hungarian-Croatian border, Slovenia introduced a daily cap on border crossings, which permitted a maximum of 2,500 arrivals a day. Furthermore, Slovenia deployed the army to help patrol the Slovenian-Croatian border, which had become the main entrance to destination countries after the sealing of Hungary's borders with its Balkan neighbours. On 11 November 2015, Slovenia began erecting a razor-wire fence along parts of the Slovenian-Croatian border to control the flows and redirect them to certain monitored crossing points. Two days later, on 13 November 2015, Austria started constructing a wire fence along the Spielfeld border crossing between Austria and Slovenia. Again, the aim was to hinder the flow of people, and reroute it to specific border crossing points.

Common market security concerns became particularly acute after the November 2015 Paris attacks. Five days after the terrorist attacks, on 18 November 2015, FYROM, Serbia, Croatia, and Slovenia announced in a coordinated manner that they would only allow Syrians, Iraqis, and Afghanis to pass through their borders, considering nationals of all other countries unlikely to be refugees. This clearly constituted a discriminatory border policy in breach of rules of international protection, as under international law it is illegal to reject

asylum seekers based on their nationality and without any possibility of having their individual circumstances taken into consideration (Amnesty International 2015). In turn, this policy resulted in illegal pushbacks of asylum seekers to Greece, and the use of violence by FYROM authorities. On top of that, on 28 November 2015 FYROM started constructing a fence along its southern border with Greece, which signalled the beginning of the end of the 'Balkan route'.

Increased common market security concerns led countries with a long-standing tradition of liberal values, such as Sweden and Denmark, to resort to repressive and controversial border control practices that bent the rules of international protection. On 4 January 2016, Sweden introduced internal border ID controls on all means of transport entering from Denmark. The aim of this policy was to reduce the number of asylum applications in the country by making Sweden a safe place for only a select few, as only a limited number of asylum seekers actually had any form of identification. Sweden's move prompted Denmark, which was concerned about the potential for a bottleneck of asylum seekers transiting through the country, to impose a temporary border control along its German border. Moreover, since January 2016, Austria periodically introduced internal border controls, citing concerns about the influx of asylum seekers. In addition, in mid-February 2016, Austria introduced a daily cap of 80 asylum applications at its borders, a policy which was described by European Migration Commissioner Dimitris Avramopoulos as 'plainly incompatible with Austria's obligations under European and international law' (EurActiv 2016).

The tightening of migration and asylum policies, the reintroduction of temporary internal border controls, the militarisation of internal border controls, the construction of barbed-wire fences, and the introduction of daily caps on asylum applications and border-crossings comprised many European governments' responses to the 'refugee crisis'. These responses were often found to be in stark contrast to the rules of international protection. So far, I have argued that these responses were influenced by previous policy choices made by European governments, international relations developments, the structural and perceived absorption capacity of receiving countries, and security considerations. However, I also argue that these factors alone cannot adequately justify the emergence of such repressive and controversial policies across Europe, particularly in countries with long-held liberal traditions.

The next sections look at the Greek government's response to the mass population movement. I maintain that certain migration, asylum, and border control policy choices made by Greece in 2015–2016, up until the 'EU-Turkey joint statement' in March 2016, significantly shaped the repressive and controversial policies employed by other European governments in response to

the refugee influx. As stated earlier, the establishment of the European single market entails that internal and external controls are interdependent.

The Greek Government's Response to the 'Refugee Crisis'

The issue of migration was securitised in Greece in the early 1990s, that is when the country first became host to mass population movements from the Balkans and Eastern Europe (Karyotis and Patrikios 2010; Karyotis 2012; Karyotis and Skleparis 2013; Skleparis 2016). 'Illegal migration' again became the top issue in the Greek political agenda in 2012, after the far-right extremist party Golden Dawn increased its popularity in opinion polls prior to the 2012 double legislative elections (Lazaridis and Skleparis 2016). The conservative party New Democracy, in fear of losing votes in the upcoming elections, adopted the anti-immigrant and xenophobic rhetoric of its far-right opponent, and made a number of pledges in this direction (ibid). Following Golden Dawn's electoral success in both the May and the June elections of that year, the new unity government[5] led by New Democracy, adhering to its pledges, introduced several repressive policies that aimed to stem 'illegal migration flows', and combat 'illegal stay' of third-country nationals in the country (ibid).

In August 2012, Operations *Aspida* (Shield) and *Xenios Zeus* were introduced simultaneously at the Greek-Turkish land border and in mainland Greece respectively in a coordinated attempt to provide a holistic solution to both 'illegal entry and stay' of third-country nationals. Two months later, in October 2012, the detention period of asylum seekers was extended from six to eighteen months in total. These repressive measures were topped up with the construction of a 12.5-km-long barbed-wire fence along the Greek-Turkish land border in December 2012. Finally, a conservative citizenship law was introduced, which excluded second-generation migrants born and raised in Greece from Greek citizenship. Arguably, Greece had a rich record of repressive, and often controversial legal-bureaucratic decisions on migration, asylum, and border control policies before the 2015–2016 'refugee crisis'.

In 2015, the newly-elected left-wing SYRIZA-led coalition government performed a 180-degree turn from the repressive policies and practices of the previous government (Skleparis 2017). Prior to the elections, SYRIZA had

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5 A unity government is usually formed during a time of national emergency. In June 2012, in the face of an imminent 'GREXIT', the first (New Democracy), third (PASOK), and sixth (DIMAR) parties that emerged from the election agreed to form a unity government in order to prevent Greece from exiting the Eurozone.

pledged to expedite the asylum application process, close down the detention centres and replace them with open hospitality centres, stop the use of systematic and indiscriminate detention, end push-backs at the borders, remove the 12.5-km-long barbed-wire fence from the Greek-Turkish land border, encourage family reunification, remove intra-EU restrictions on the travel of migrants, grant citizenship to second-generation migrants, and reinforce the protection of human rights in general (Katsiaficas 2015). After winning the January 2015 elections, and amid rapidly increasing refugee flows, the SYRIZA-led coalition government attempted to stick to its promises to liberalise the country's migration, asylum, and border control policies. The pledges and policies of the new government were welcomed by human rights agencies (see HRW 2015b; 2015c; CPT 2016). Yet, at the same time, the SYRIZA-led coalition government was heavily criticised for failing to address the needs of newcomers (see Amnesty International 2016; CPT 2016).

Contra the general trend in the rest of Europe, Greece's policies became less restrictive during the same period of time. Presumably the Greek government underestimated the volume of the population movement, and, at the same time, perhaps overestimated the country's structural capacity to cope with the refugee influx. What is more, the new government's decision to liberalise the country's migration, asylum, and border control policies clearly defied past governments' legal-bureaucratic decisions in this realm. This might be related to the government's fear that employment of repressive and controversial policies in response to a mass population movement would attract negative international publicity, which didn't fit its left-wing, progressive profile. Liberal policies in the realm of migration, asylum, and border control policies are particularly appealing to left-wing audiences, and the SYRIZA-led coalition government wanted to leave its left-wing mark there as soon as possible. Within the context of tough bailout negotiations and limited room for manoeuvre regarding the potential implementation of socialist fiscal policies, the government quickly understood that its only opportunity to clearly demarcate itself from the previous governments that followed the path of austerity was in the realm of migration, asylum, and border control policies, where it (falsely) perceived that it possessed more leverage. Finally, one can also argue that the SYRIZA-led coalition government perhaps operationalised the liberalisation of migration, asylum, and border control policies amid the refugee influx in an attempt to gain leverage in the bailout negotiations.

Liberalising Migration and Asylum Policies

The previous conservative government had extended the administrative detention period of asylum seekers in Greece to eighteen months. In addition, it

had reduced from thirty to seven days the period that irregular migrants and rejected asylum seekers could remain in Greece if not held in detention. It had topped up these measures with the introduction of the policy of systematic detention of all irregular migrants, including women, unaccompanied minors, and other vulnerable groups. Commenting on these policies and practices on 16 April 2013 the Commissioner for Human Rights of the Council of Europe (2013), Nils Muižnieks, had expressed serious concerns that the violations of human rights of migrants, asylum seekers, and refugees in Greece rendered them even more vulnerable to racist crimes. The Commissioner had urged the Greek authorities to review certain policies, such as systematic and prolonged detention in substandard conditions (ibid). Despite all criticisms, these policies were never reviewed by the Greek government in the 2012–2014 timeframe.

A few months after its election in 2015, the new government drastically reviewed the country's detention and return policies. In March 2015, the Alternate Minister for Migration Policy made it clear that detention would be used by the new government only as 'an exceptional measure' (Aljazeera 2015). Subsequently, the Alternate Minister reactivated Law 3709/11, which foresaw that refugees would be accommodated in open hospitality centres, while irregular migrants and rejected asylum seekers would be provided with a 30-day period without being detained in order to voluntarily return to their home countries. Only after the expiry of the 30-day period would the authorities have the right to return irregular migrants and rejected asylum seekers to their countries of origin. In those cases where returns were not possible (i.e. the vast majority of cases), the government would provide those individuals with a 6-month temporary residence permit, under the condition that they visit the local police station twice a month.

Along the same lines, the Alternate Minister for Public Order and Civil Protection proclaimed the closure of migrant detention centres, and their gradual transformation into open hospitality centres with improved living conditions. The implementation of this policy started with the Amygdaleza' detention centre in early February 2015, when the Alternate Minister visited the infamous facility after the suicide of a Pakistani detainee and proclaimed its closure (Kathimerini 2015). In the four weeks that followed, thousands of asylum seekers, particularly vulnerable groups who had been detained longer than six months, were gradually released. The authorities transported them by coaches from the detention centres to downtown Athens, and provided them with the addresses of various NGOs and volunteer groups in order for them to be able to fend for themselves, exposing them in this way to increased vulnerability to human trafficking and smuggling networks. Those who were released were also provided with a six-month residence permit. A few months later, in

August 2015, the first open hospitality centre in Elaionas, Athens, welcomed its first guests. In all, these policies practically abolished the strategy of systematic and indiscriminate detention of the previous government, and limited the number of returns.[6]

Finally, the SYRIZA-led coalition government introduced a new Citizenship Bill in summer 2015, which enabled second-generation migrants born and raised in Greece to apply for Greek citizenship. Law 4332/2015 was ratified by the Greek parliament on 9 July 2015 and amended the previous conservative Greek Citizenship Code (Law 4521/2014).

In sum, repressive and controversial migration and asylum policies did not appear for the first time across Europe in response to the 'refugee crisis'. Similar repressive and controversial migration and asylum policies had been extensively utilised by the Greek unity government in the 2012–2014 period in an attempt to deter irregular entry and stay of third-country nationals. The newly-elected Greek government, however, U-turned from these policies in 2015. This liberal turn contributed to the surfacing of similar repressive and controversial migration and asylum policies across Europe in response to the mass population movement. I further elaborate on this argument in the next section, where I document the new government's liberal turn with regard to Greece's border control policies. After all, the establishment of the EU's common market introduced a condition of interdependence in the relationship between internal and external controls, whereby the former can remain lax insofar as the latter hold firm.

Liberalising Border Controls

In August 2012, the unity government simultaneously introduced operations *Aspida* (Shield) and *Xenios Zeus* at the Greek-Turkish land border and in mainland Greece respectively in an orchestrated attempt to provide a holistic solution to both 'illegal entry and stay' of third-country nationals. These policies were complemented with the erection of a barbed-wire fence along the land border between Greece and Turkey. These repressive and controversial policies constituted an attempt by the Greek authorities to 'recuperate' city centres, which had been 'occupied' by 'illegal migrants' and were subjected to 'illegal activities'.[7]

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6   According to the Hellenic Police data, 20,868 third-country nationals were returned in 2015, compared to 27,789 in 2014. Out of a total of 20,868 removal operations, 17,097 were forced returns, and only 3,771 were voluntary. In 2014, the respective numbers were 20,293 and 7,496.

7   Prime Minister's speech to the parliamentary group of New Democracy, 4 November 2012.

Operation *Aspida* aimed at beefing up border controls, surveillance, and patrols at the Greek-Turkish land border, which was one of the main gateways to Europe at that point. Approximately 1,800 additional Hellenic Police officers and advanced technical equipment were deployed in the region. Patrol boats reinforced border controls across the river Evros (Strik 2013: 9). Border guards were equipped with night vision goggles and cameras, and electronic surveillance devices (ibid). Aiming at the further externalisation of border controls, the operation also attempted to improve cooperation between the Greek and Turkish local border authorities through the introduction of modern tactics of border surveillance (Frontex 2013: 23). During the same period, Operation *Xenios Zeus* was initially introduced in Athens, and later in other major cities across the country, in an attempt to crack down on 'illegal stay' of third-country nationals. The detection of migrants 'staying illegally' in urban centres across Greece was followed by their – up to eighteen-month-long – detention until their eventual deportation. The magnitude of the operation was manifested by the fact that only in its first week about 4,500 police officers conducted raids on streets and in run-down buildings, rendering *Xenios Zeus* one of the largest ever 'sweep operations' in the country (The New York Times 2012).

These policies had a devastating impact on the lives and rights of migrants, refugees, and asylum seekers in Greece (Karyotis and Skleparis 2013), while human rights violations in immigration enforcement thrived at both the Greek-Turkish border and in mainland Greece (Skleparis 2016). However, despite all criticisms, these repressive policies were never reviewed by the Greek government within the 2012–2014 timeframe, mainly because they proved to be quite successful in controlling migration flows at the expense of human rights. As Figure 1 indicates, since these policies and practices were first introduced in 2012, the number of apprehended irregular migrants dropped by more than 20,000 compared to the previous year. One year on, in 2013, irregular migration flows were reduced by more than 55,000 compared to 2011. However, in 2014, the number of apprehended irregular migrants returned to its 2012 levels, as irregular migration flows were rerouted from land to sea borders, where Operation *Aspida* had not been introduced. The geographical displacement of the flows, however, was neither a failure nor an unintended consequence of the employed border control policies and practices. Rather, geographical displacement was an underlying goal and desired outcome of the border control operation (see Burridge 2012).

In 2015, the newly-elected coalition government embarked on an orchestrated 180-degree turn from the repressive and controversial border control policies and practices of the previous government. In February 2015, the Alternate Minister for Migration Policy proclaimed the end of Operation
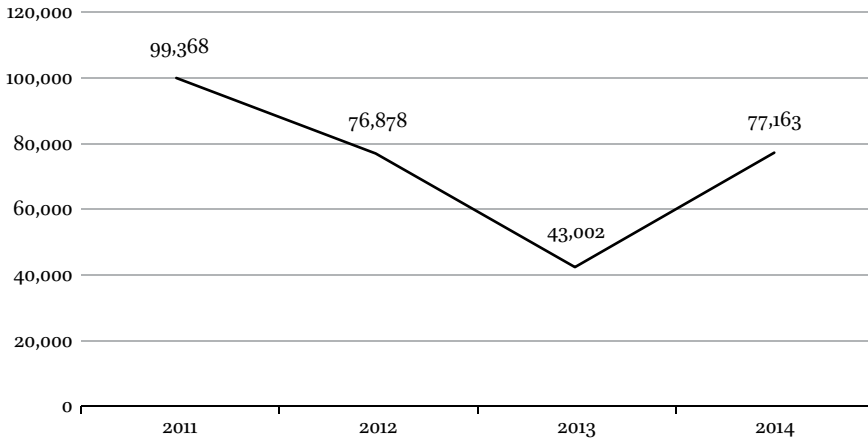
FIGURE 1   *Number of apprehended irregular migrants per year, 2011–2014.*
HELLENIC POLICE.

Xenios Zeus (To Vima 2015). Similarly, Operation *Aspida* was also discontinued on the basis of lack of funds and the significantly reduced migration flows at the Greek-Turkish land border (Bolani, Gemi, and Skleparis 2016: 84). Moreover, it was decided that the 12.5-km-long barbed-wire fence in the same area, which had suffered major damage due to floods during the winter, would be left unrepaired due to lack of funds (ibid). In March 2015, an official document (allegedly a ministerial circular) was leaked, which specified that asylum seekers who entered the country irregularly would not be detained at the borders. Instead, they would be provided with a document that gave them thirty days to leave the country. This was widely perceived as an unofficial 'travel document' enabling people to transit through Greece (Crawley et al 2016: 14). In July 2015, the Alternate Minister of Migration Policy added a last-minute modification to the proposed Citizenship Bill, which foresaw the abolition of anti-smuggling penalties in cases of transportation of undocumented third-country nationals in need of international protection. This small modification virtually abolished internal controls and enabled the free movement of all newcomers within Greece, legalising, in effect, smuggling, under the cover of transportation for humanitarian purposes (Skleparis 2017).

   In all, the reintroduction of temporary internal border controls, the militarisation of internal border controls, and the construction of barbed-wire fences across mainland Europe in response to the 'refugee crisis' were directly related developments to the Greek government's decision to give up similar repressive and controversial policies at the external borders of the EU amid the mass population movement. The Greek government's liberal turn with

regard to the country's border control policies had no impact at all, other than accelerating the inevitable: it largely contributed to the surfacing of repressive and controversial border control policies across mainland Europe, as in order for internal border controls to be lax, external border controls must remain strong.

Discussion

The paper attempted to provide an explanation as to why many governments across Europe, even in traditionally liberal states, resorted to repressive and controversial migration, asylum, and border control policies in the face of the 'refugee crisis'. I argued that past legal-bureaucratic choices on migration and asylum policies in Europe, ongoing developments in international relations at that time, the structural and perceived capacity of receiving states to cope with the refugee influx, and migration-related security concerns shaped the negative responses of many European governments in the face of the mass population movement.

However, I also argued that the tightening of migration and asylum policies, the reintroduction of temporary internal border controls, the militarisation of internal border controls, the construction of barbed-wire fences, and the establishment of daily caps on asylum applications and border-crossings, which comprised many European governments' responses to the 'refugee crisis', cannot be adequately justified by the aforementioned factors alone. I suggested that within the context of the single market, the type of migration, asylum, and border control policies that are implemented at the external borders of the EU greatly influences policy responses in mainland Europe, particularly in the face of mass population movements. Henceforth, certain policy choices made by the Greek government in 2015–2016, up until the 'EU-Turkey joint statement', shaped the repressive and controversial actions of many mainland European governments in response to the refugee influx. I maintained that the surfacing of particular repressive and controversial policies across Europe was related to the newly-elected Greek government's attempted U-turn from similar repressive and controversial policies amid the mass population movement. In simple terms, many of the policies that emerged across mainland Europe in 2015–2016 had been systematically and effectively implemented, in one form or another, for years at the external borders of the EU at the expense of asylum seekers' hopes, aspirations, and rights prior to their abolition by the newly-elected Greek government. This suggests that repressive and controversial policies of migration government, management, and control

cannot simply be abolished within the context of the single market and the interdependence of internal and external controls. In a time of mass displacement of populations it is doubtful whether Greece's liberal policy shift had any impact at all, other than accelerating the inevitable spillover of repressive and controversial policies of migration government, management, and control to mainland Europe.

Repressive and controversial policies and practices constitute fundamental elements of migration government, management, and control in the EU. Repressive and controversial migration, asylum, and border control policies did not make their first appearance across Europe in response to the 'refugee crisis'. Rather, liberal regimes have long utilised repressive and controversial practices of migration government, policing, and control (Bigo et al 2008), even more after the apparent post-9/11 securitisation of migration in the EU (see Neal 2009). In the words of Bigo and Guittet (2011: 493), '[w]e are indeed still in liberal regimes, dealing with, reproducing and hiding illiberal practices'. According to Balzacq and his colleagues (2010: 9) '[l]iberal forms of governing are based not only on liberal, but also on illiberal practices that are engrained within it'. In this respect, repressive and controversial policies and practices are well embedded in the liberal state, as law can safeguard fundamental rights, while at the same time it can limit the very same (Ewald 1991). By extension, this indicates that unequal access to fundamental rights is a defining characteristic of liberal states, since repressive and controversial policies and practices are incorporated into the technicalities of law and legal government (Lippert and Williams 2012: 55).

The non-exhaustive list of such policies and practices includes systematic, indiscriminate, and/or prolonged detention of third-country nationals; extraordinary rendition and return policies; the use of new practices and technologies of border management and control; extended powers of law enforcement agencies; lack or absence of transparency and accountability mechanisms in border management and control; disproportionate empowerment of executive powers; the denial of due process and access to courts; acceleration of asylum procedures; limitation of access to international protection; restrictions on refugees' and asylum seekers' movement; interception of private communications; conditions of quasi-isolation; inhuman or degrading treatment; and torture (see Ceyhan and Tsoukala 2002; Jabri 2006; Tsoukala 2006; Aradau 2008; Basaran 2008; Bigo and Tsoukala 2008; Ceyhan 2008; Huysmans and Buonfino 2008; Guild, Groenendijk, and Carrera 2009; Bigo, Bonditti, and Olsson 2010; Topak 2014; Skleparis 2016). Hence, repressive and controversial policies and practices that bend or break the rules of international protection did not appear across Europe in the face of the 'refugee crisis'; rather, they are routin-

ised, banal, everyday practices of law and the normal mode of government of liberal regimes (see Bigo et al 2008). Bending or breaking the rules of international protection is what makes migration, asylum, and border control policies effective in keeping migrants out of a country at the expense of the lives and rights of people on the move. Bending or breaking the rules of international protection constitutes an integral element of migration government, management, and control in the EU.

To conclude, the interdependence of the EU internal and external controls, in combination with the fact that bending or breaking the rules of international protection is an integral element of migration government, management, and control in the EU suggests that repressive and controversial policies cannot simply be abolished within the context of the single market. With specific regard to the Eastern Mediterranean route, bending or breaking the rules of international protection has kept (and continues to keep, after the 'EU-Turkey joint statement') migration flows under control for years by curbing and geographically displacing them, and by rendering Greece an unappealing destination for asylum seekers at the expense of those who are in need of international protection. In the absence of effective – and by extension repressive and controversial – external border controls in 2015–2016, states in the mainland were forced to play the role of frontline states by increasingly relying on repressive and controversial migration control tactics and policies, similar to those which had been abolished in Greece, in order to curb the influx of people in their territories.

To be clear: I do not argue that states in mainland Europe had never resorted to practices of bending or breaking the rules of international protection up until the 'refugee crisis' and the subsequent policy shift in Greece. I rather suggest that migration to the EU is rendered governable, manageable, and controllable at the expense of those in need of international protection insofar as some European states rely on controversial and restrictive policies and tactics more than others. Inevitably, this leads to a fundamental question: under what conditions can member-states at the external borders of the EU liberalise their migration, asylum, and border control policies?

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