Assessment of the EU Migration and Asylum Policy with a New Intergovernmental Approach

Yeni Hükümetlerarası Yaklaşımla AB Göç ve İltica Politikasının Değerlendirilmesi

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ABSTRACT

This study aims to explain the formation process of the European Union's migration and asylum policies, particularly after Maastricht Treaty, within the framework of the New Intergovernmentalism. In line with the theory's basic claim, the EU's policy-making in this area is carried out through "de novo" institutions with limited powers, which prioritize consensus among member states rather than the transfer of powers. The study specifically analyzes the role and influence of the European Parliament and the European Commission in migration policies, thereby assessing the scope and limits of institutional effects within the framework of new intergovernmentalism. The study reveals that the Commission has implicitly accommodated the sovereignty claims of member states and the rising right-wing and EU-skeptical sentiment in the European Parliament, thereby relegating its traditional supranational leadership role to the background. The high political sensitivity of migration and asylum policies leads to their framing within a security paradigm, which in turn creates institutional resistance to supranational transfer of powers. Conducting using qualitative document analysis, the study systematically examines the position of EU institutions in migration policy and demonstrates that this policy area is structured in a manner consistent with new intergovernmentalism. The findings reveal that European integration in the field of migration and asylum has progressed in a manner that supports differentiated integration and argue that integration can be understood within the framework of new intergovernmentalism.

Keywords: European Union, Migration and Asylum Policy, European Commission, European Parliament, New Intergovernmentalism.

ÖZET

Bu çalışma, Yeni Hükümetlerarasıcılık çerçevesinde, özellikle Maastricht Anlaşması sonrası Avrupa Birliği'nin göç ve iltica politikalarının oluşum sürecini açıklamayı amaçlamaktadır. Yaklaşımın temel iddiasına uygun olarak, AB'nin bu alandaki politika yapımı, yetki devri yerine üye devletler arasında uzlaşmayı önceliklendiren sınırlı yetkilere sahip yeni kurumlar aracılığıyla gerçekleştirilmektedir. Bu çalışma, göç politikalarının şekillenmesinde Avrupa Parlamentosu ve Avrupa Komisyonu'nun rol ve etkilerini de inceleyerek, kurumsal etkilerin kapsamını ve sınırlarını yeni hükümetlerarasıcılık çerçevesinde değerlendirmektedir. Çalışma, Komisyon'un üye devletlerin egemenlik taleplerini ve Avrupa Parlamentosu'nda yükselen sağcı ve AB karşıtı duyguları örtük bir şekilde kabul ettiğini ve böylece geleneksel uluslarüstü liderlik rolünü arka plana ittiğini ortaya koymaktadır. Göç ve iltica politikalarının yüksek siyasi duyarlılığı, bu politikaların bir güvenlik paradigması içinde çerçevelenmesine yol açmakta ve bu da uluslarüstü yetki devrine karşı kurumsal direnç yaratmaktadır. Niteliksel belge analizi kullanılarak yürütülen çalışma, AB kurumlarının göç politikasındaki konumunu sistematik olarak incelemekte ve bu politika alanının yeni hükümetlerarasıcılık ile tutarlı bir şekilde yapılandırıldığını ortaya koymaktadır. Bulgular, göç ve iltica alanında AB entegrasyonunun farklılaşmış entegrasyonu destekleyecek şekilde ilerlediğini ortaya koymakta ve entegrasyonun yeni hükümetlerarasıcılık çerçevesinde anlaşılabileceğini savunmaktadır.

Anahtar kelimeler: Avrupa Birliği, Göç ve İltica Politikası, Avrupa Komisyonu, Avrupa Parlamentosu, Yeni Hükümetlerarasıcılık.

Introduction

The role of European Union's (EU) institutions in shaping migration and asylum policies has generated a rich body of literature, particularly in the post-Maastricht (TEU) period, combining both theoretical and institutional analyses. Classical integration approaches such as neofunctionalism emphasize integration as a gradual and self-reinforcing process, in which developments in one sector create a "spillover" effect into others. By contrast, liberal intergovernmentalism explains integration as the outcome of interstate bargaining driven primarily by national economic interests.[1] However, Hooghe and Marks argue that these "grand theories" have proven insufficient in explaining more recent developments such as the migration crisis, Brexit, and illiberalism, and that the rise of radical nationalism underscores the need for new approaches capable of capturing identity-based opposition to the EU.[2] Building on these debates, the New Intergovernmentalism (NI) has been introduced as a response to the post-TEU dynamics, emphasizing voluntary cooperation among states and the creation of new institutions outside traditional supranational channels. Yet, scholars remain divided on whether NI should be seen as a fully-fledged theory or rather as an open-ended analytical approach, which reflects its flexible but also contested status within integration theory.[3] This debate is particularly relevant in Justice and Home Affairs, where migration and asylum have developed into highly sensitive policy domains shaped by both intergovernmental bargaining and supranational coordination.[4]

Institution-focused research has shown shifting roles of EU actors in migration policymaking. The European Parliament (EP) initially pursued a refugee-friendly stance but gradually aligned with the Council. Venue-shopping dynamics illustrate how policymakers strategically choose institutional arenas. Regarding the European Commission, it holds political roles beyond technical expertise, yet in migration it has adopted a cautious stance. Ripoll Servent and Trauner, as well as Trauner and Ripoll Servent, demonstrate that institutional reforms did not yield substantive change, as interior ministers' coalitions co-opted key actors in both the Commission and the EP.[5] Recent analyses emphasize the decisive role of the European Council and the Council of Ministers. Smeets and Beach highlight how recent reforms strengthened the Council's leadership, particularly in crises.[6] Ripoll Servent shows that although the EP reached a unified stance during the 2015–2016 asylum crisis, it failed to overcome deadlock among member states, underlining structural limits of parliamentary influence.[7]

Historically, EU migration governance developed from Schengen and Dublin cooperation to the Common European Asylum System (CEAS). The 1999 Tampere European Council set the CEAS objective, minimum standards, and the completion of Eurodac. Subsequent reforms culminated in Dublin III, refining responsibility allocation and protections while maintaining the first-entry principle.[8] The Lisbon Treaty (2009) expanded competences, yet the 2015 migration crisis exposed the limits of solidarity and reinforced intergovernmental dominance. The Commission's 2020 New Pact on Migration and Asylum further reflected this trend, embedding flexibility and differentiated responsibilities. This trajectory demonstrates that despite formal increases in supranational competences, migration and asylum remain largely intergovernmental. Cov-

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1   Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Cornell University Press, 1998).

2   Liesbet Hooghe and Gary Marks, *Community, Scale, and Regional Governance: A Postfunctionalist Theory of Governance, Volume II*, 2 (Oxford University Press, 2016).

3   Antje Wiener vd., ed., *European Integration Theory*, Second Edition (Oxford University Press, 2009).

4   Dirk Leuffen vd., *Integration and Differentiation in the European Union: Theory and Policies* (Springer International Publishing, 2022), https://doi.org/10.1007/978-3-030-76677-1.

5   Ariadna Ripoll Serandnt and Florian Trauner, "Do supranational EU institutions make a difference? EU asylum law before and after 'communitarization'", *Journal of European Public Policy* 21, s. 8 (2014): 1142-62; Florian Trauner and Ariadna Ripoll Servent, "The Communitarization of the Area of Freedom, Security and Justice: Why Institutional Change does not Translate into Policy Change", *JCMS: Journal of Common Market Studies* 54, sy 6 (2016): 1417-32..

6   Sandrino Smeets and Derek Beach, "'It is like déjà vu all over again' an inside analysis of the management of EU migration reform", *Journal of European Integration* 45, sy 6 (2023): 889-909.

7   Ariadna Ripoll Servent, "Failing under the 'shadow of hierarchy': explaining the role of the European Parliament in the EU's 'asylum crisis'", *Journal of European Integration* 41, s. 3 (2019): 293-310.

8   Dublin-III Regulations, Legislation Doc(2013R0604-20130629), (2013).

ering Schengen, Dublin reforms, Lisbon, the 2015 crisis, and the 2020 Pact, the 1993–2024 period shows how institutional evolution reinforced both differentiation and the centrality of the European Council.[9] The primary focus was on documents published between the post-TEU period and 2024, with particular emphasis on the Lisbon Treaty (2009), the 2015 migration crisis, and the New Pact on Migration and Asylum (2020). This timeframe was selected to capture the institutional evolution of migration and asylum policy up to the most recent developments.

Overall, the literature demonstrates that despite formal increases in institutional competences, EU migration policymaking has largely retained its intergovernmental character. In this respect, existing research has been limited in systematically testing the explanatory capacity of the NI approach in the field of migration and asylum.[10] This study seeks to fill that gap and asks the following research question: how have the increasing influence of intergovernmental bargaining and the rise of populist politics shaped the role of supranational institutions, particularly the European Commission and the European Parliament, in EU migration and asylum policy within the framework of the NI approach?

This study makes an original contribution by operationalizing the hypotheses of the NI approach in the specific field of migration and asylum. Rather than providing a purely theoretical discussion, it tests NI's explanatory power through a triangulation of primary sources, including legislative texts such as the Dublin III and Eurodac recasts, the Commission's Communication on the 2020 New Pact on Migration and Asylum, Court of Justice of the European Union (CJEU) judgments on relocation non-compliance, and European Parliament roll-call votes. By combining these institutional materials with existing scholarship, the article identifies the scope conditions under which supranational resilience, illustrated by litigation strategies and the empowerment of agencies such as Frontex and the European Union Agency for Asylum (EUAA), coexists with intergovernmental dominance in migration governance.[11]

I. The New Intergovernmentalism

The NI approach, proposed by Bickerton, Hodson, and Puetter on the basis of earlier theoretical and empirical work, emerged as an open approach, not a full theory, to explain European integration in the post-TEU period.[12] Two structural shifts underpin its rise. First, limited authority transfers to EU institutions, especially

9   European Council, "50 years of the European Council in figures", Number and frequency of meetings, 30 Nisan 2025, https://www.consilium.europa.eu/en/infographics/50-years-of-the-european-council-in-figures/#0; Benjamin Leruth vd., ed., *The Routledge handbook of differentiation in the European Union*, First Edition, Routledge International Handbooks (Routledge, Taylor & Francis Group, 2022); Leuffen vd., *Integration and Differentiation in the European Union*.3,15]]},"issued":{"date-parts":[["2025",4,30]]}},{"id":1006,"uris":["http://zotero.org/users/12211960/items/95WSNC3E"],"itemData":{"id":1006,"type":"book","abstract":"\"The Routledge Handbook of Differentiation in the European Union offers an essential collection of ground-breaking chapters reflecting on the causes and consequences of this complex phenomenon. With contributions from key experts in this sub-field of European Studies, it will become a key volume used for those interested in learning the nuts and bolts of differentiation as a mechanism of (dis

10   Christopher J. Bickerton, Dermot Hodson, and Uwe Puetter, *The New Intergoandrnmentalism: States and Supranational Actors in the Post-Maastricht Era* (Oxford Uniandrsity Press, 2015); Simon Bulmer, "Understanding the New Intergoandrnmentalism", in the *The New Intergoandrnmentalism*, ed. Christopher J. Bickerton vd. (Oxford Uniandrsity Press, 2015)."plainCitation":"Christopher J. Bickerton, Dermot Hodson, ve Uwe Puetter, The New Intergovernmentalism: States and Supranational Actors in the Post-Maastricht Era (Oxford University Press, 2015

11   Servent and Trauner, "Do supranational EU institutions make a difference? EU asylum law before and after 'communitarization'"; Neill Nugent and Mark Rhinard, "The 'Political' Roles of the European Commission", *Journal of European Integration* 41, sy 2 (2019): 203-20, https://doi.org/10.1080/07036337.2019.1572135.

12   Christopher J. Bickerton, Hodson, and Puetter, *The New Intergovernmentalism* (Oxford University Press, 2015); Frank Schimmelfennig, "What's the News in 'New Intergovernmentalism'? A Critique of Bickerton, Hodson and Puetter", *JCMS: Journal of Common Market Studies* 53, sy 4 (2015): 723-30.this increase has largely taken place in the absence of significant new transfers of power to supranational institutions along traditional lines. Conventional theories of European integration struggle to explain this paradox because they equate integration with the empowerment of specific supranational institutions under the traditional Community method. New governance scholars, meanwhile, have not filled this intellectual void, preferring instead to focus on specific deviations from the Community method rather than theorizing about the evolving nature of the European project. The New Intergovernmentalism challenges established assumptions about how member states behave, what supranational institutions want, and where the dividing line between high and low politics is located, and develops a new theoretical framework known as the new intergovernmentalism. The fifteen chapters in this volume by leading political scientists, political economists, and legal scholars explore the scope and limits of the new intergovernmentalism as a theory of post-Maastricht integration and draw conclusions about the profound state of political disequilibrium in which the EU operates. This book is of relevance to EU specialists seeking new ways of thinking about European integration and policy-making, and general readers who wish to understand what has happened to the EU in the two troubled decades since 1992.","ISBN":"978-0-19-870361-7","language":"en","note":"Google-Books-ID: QBPsCQAAQBAJ","number-of-pages":"398","publisher":"Oxford University Press","source":"Google Books","title":"The New Intergovernmentalism: States and Supranational Actors in the

after the 2004 constitutional crisis, meant that, even though the Treaty of Lisbon (2007) abolished the pillar structure and granted the Union a single legal personality, decision-making in sensitive fields such as migration and asylum continued to reflect intergovernmental dominance. Second, the 2000s enlargement diversified member-state interests and complicated unanimity-based bargaining (27 members since 2020), reinforcing the European Council's role, formally recognized by Lisbon but influential long before, as the center of gravity during both Eurozone and migration crises. In this context, the Commission often adapted to intergovernmental dynamics rather than challenging them, a pattern visible in migration negotiations.[13]NI is organized around six hypotheses that account for post-TEU institutional dynamics. While not entirely "new" in content, they explain the increasing intergovernmentalism after TEU and Lisbon. Their starting point is growing heterogeneity among national governments across economic policy, foreign, security and defence, and justice and home affairs, instabilities that complicated EU-level consensus.[14]

NI's first hypothesis holds that negotiation and compromise have become guiding norms of EU decision-making. Long embedded in the Council of Ministers, consensus politics expanded as the European Council moved from strategic guidance to elements of day-to-day governance across policy areas. In Justice and Home Affairs (JHA), the European Council set legislative and operational priorities at Tampere (1999); once the field consolidated, it largely returned to ad-hoc crisis steering and guidance, illustrating leader-level bargaining and reliance on consensus during the refugee crisis.[15] The body's growing influence is reflected in more frequent meetings (Figure 1), in the creation of the Eurogroup and the Foreign Affairs Council, and in adoption of the Fiscal Compact, further anchoring intergovernmental control.[16] This dynamic is particularly visible in migration and asylum. Deep preference divides made negotiation and compromise indispensable, while enlargement reinforced differentiated policy coalitions. The Dublin system, which allocates responsibility to the first-entry state, became a focal point of intergovernmental bargaining, especially during the 2015 refugee crisis. Successive Council negotiations repeatedly failed to reform Dublin, demonstrating how unanimity entrenched national vetoes and confirming NI's emphasis on leader-level negotiation over supranational authority.[17] Overall, NI's open-ended framework captures how post-TEU integration has proceeded

Post-Maastricht Era","title-short":"The New Intergovernmentalism","author":[{"family":"Bickerton","given":"Christopher J."},{"family":"Hodson","given":"Dermot"},{"family":"Puetter","given":"Uwe"}],"issued":{"date-parts":[["2015"]]}}},{"id":1306,"uris":["http://zotero.org/users/12211960/items/86EQXDJA"],"item-Data":{"id":1306,"type":"article-journal","container-title":"JCMS: Journal of Common Market Studies","DOI":"10.1111/jcms.12234","ISSN":"0021-9886, 1468-5965","issue":"4","journalAbbreviation":"J of Common Market Studies","language":"en","page":"723-730","source":"DOI.org (Crossref

13   Uwe Puetter, *The European Council and the Council: New Intergovernmentalism and Institutional Change*, 1st edition (OUP Oxford, 2014); Bulmer, "Understanding the New Intergovernmentalism".

14   Christopher J. Bickerton, Hodson, and Puetter, *The New Intergovernmentalism* (Oxford University Press, 2015).this increase has largely taken place in the absence of significant new transfers of power to supranational institutions along traditional lines. Conventional theories of European integration struggle to explain this paradox because they equate integration with the empowerment of specific supranational institutions under the traditional Community method. New governance scholars, meanwhile, have not filled this intellectual void, preferring instead to focus on specific deviations from the Community method rather than theorizing about the evolving nature of the European project. The New Intergovernmentalism challenges established assumptions about how member states behave, what supranational institutions want, and where the dividing line between high and low politics is located, and develops a new theoretical framework known as the new intergovernmentalism. The fifteen chapters in this volume by leading political scientists, political economists, and legal scholars explore the scope and limits of the new intergovernmentalism as a theory of post-Maastricht integration and draw conclusions about the profound state of political disequilibrium in which the EU operates. This book is of relevance to EU specialists seeking new ways of thinking about European integration and policy-making, and general readers who wish to understand what has happened to the EU in the two troubled decades since 1992.","ISBN":"978-0-19-870361-7","language":"en","note":"Google-Books-ID: QBPsCQAAQBAJ","number-of-pages":"398","publisher":"Oxford University Press","source":"Google Books","title":"The New Intergovernmentalism: States and Supranational Actors in the Post-Maastricht Era","title-short":"The New Intergovernmentalism","author":[{"family":"Bickerton","given":"Christopher J."},{"family":"Hodson","given":"Dermot"},{"family":"Puetter","given":"Uwe"}],"issued":{"date-parts":[["2015"]]}}],"schema":"https://github.com/citation-style-language/schema/raw/master/csl-citation.json"}

15   Sergio Fabbrini and Uwe Puetter, "Integration without Supranationalisation: Studying the Lead Roles of the European Council and the Council in Post-Lisbon EU Politics", *Journal of European Integration* 38, sy 5 (2016): 481-95, https://doi.org/10.1080/07036337.2016.1178254; Paul James Cardwell and Tamara Hervey, "The Roles of Law in a New Intergovernmentalist European Union", In *The New Intergovernmentalism*, ed. Christopher J. Bickerton vd. (Oxford University Press, 2015), https://doi.org/10.1093/acprof:oso/9780198703617.003.0003.

16   Puetter, *The European Council and the Council*; Simon Bulmer, "Germany and the Eurozone Crisis: Between Hegemony and Domestic Politics", *West European Politics* 37, sy 6 (2014): 1244-63.

17   Sandrino Smeets and Natascha Zaun, "What Is Intergovernmental about the EU's '(New) Intergovernmentalist' Turn? Evidence from the Eurozone and Asylum Crises", *West European Politics* 44, sy 4 (2021): 852-72, https://doi.org/10.1080/01402382.2020.1792203; Natascha Zaun, *EU Asylum Policies* (Springer International Publishing, 2017), https://doi.org/10.1007/978-3-319-39829-7.

through consensus among national leaders, with the Commission adjusting to this environment rather than driving deeper supranationalization.[18]
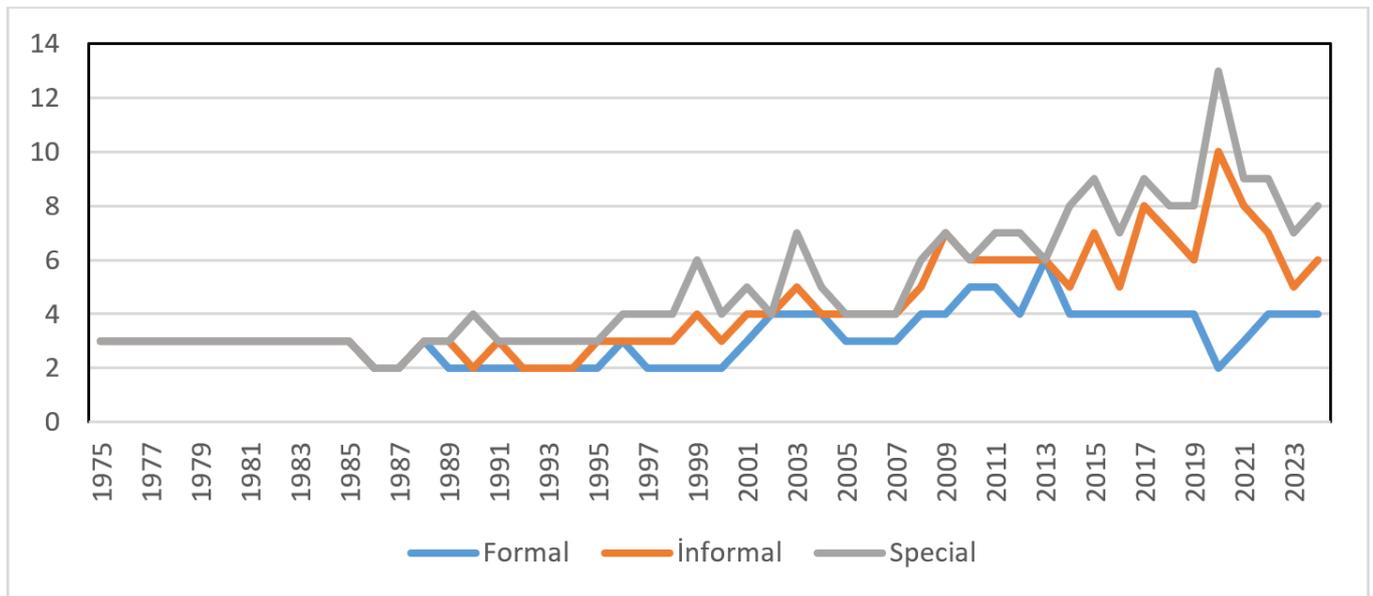

Figure: 1. The number and frequency of meetings of the European Council

Source: European Council, "50 years of the European Council in figures", Number and frequency of meetings, 30 April 2025

NI's second hypothesis suggests that supranational institutions do not actively pursue deeper integration but instead adapt to intergovernmental dominance. The Commission and the European Central Bank (ECB) illustrate this tendency. Hodson highlights the Commission's limited entrepreneurship during the Euro Crisis[19], while Peterson emphasizes its reluctance to seek further integration after the TEU.[20] Kassim shows that many Commissioners reflect national preferences due to their nomination process, although the Lisbon Treaty introduced a supranational check through European Parliament (EP) approval.[21] Similar dynamics apply within the EP, where nationalist and Eurosceptic parties often reject further integration.[22] These tendencies are evident in migration and asylum, where both the Commission and the EP have preferred compromise with member states over supranationalization. The Eurodac recasts[23] illustrate this adaptation

18   Christopher J. Bickerton, Hodson, and Puetter, *The New Intergovernmentalism* (Oxford University Press, 2015).this increase has largely taken place in the absence of significant new transfers of power to supranational institutions along traditional lines. Conventional theories of European integration struggle to explain this paradox because they equate integration with the empowerment of specific supranational institutions under the traditional Community method. New governance scholars, meanwhile, have not filled this intellectual void, preferring instead to focus on specific deviations from the Community method rather than theorizing about the evolving nature of the European project. The New Intergovernmentalism challenges established assumptions about how member states behave, what supranational institutions want, and where the dividing line between high and low politics is located, and develops a new theoretical framework known as the new intergovernmentalism. The fifteen chapters in this volume by leading political scientists, political economists, and legal scholars explore the scope and limits of the new intergovernmentalism as a theory of post-Maastricht integration and draw conclusions about the profound state of political disequilibrium in which the EU operates. This book is of relevance to EU specialists seeking new ways of thinking about European integration and policy-making, and general readers who wish to understand what has happened to the EU in the two troubled decades since 1992.","ISBN":"978-0-19-870361-7","language":"en","note":"Google-Books-ID: QBPsCQAAQBAJ","number-of-pages":"398","publisher":"Oxford University Press","source":"Google Books","title":"The New Intergovernmentalism: States and Supranational Actors in the Post-Maastricht Era","title-short":"The New Intergovernmentalism","author":[{"family":"Bickerton","given":"Christopher J."},{"family":"Hodson","given":"Dermot"},{"family":"Puetter","given":"Uwe"}],"issued":{"date-parts":[["2015"]]}}]},"schema":"https://github.com/citation-style-language/schema/raw/master/csl-citation.json"}

19   Dermot Hodson, "The Little Engine That Wouldn't: Supranational Entrepreneurship and the Barroso Commission", *Journal of European Integration* 35, sy 3 (2013): 301-14.

20   John Peterson, "The Commission and the New Intergovernmentalism", in the *The New Intergovernmentalism*, ed. Christopher J. Bickerton vd. (Oxford University Press, 2015).

21   Hussein Kassim, "The Enlarged Commission", in the *The European Commission of the Twenty-First Century*, ed. Hussein Kassim vd. (Oxford University Press, 2013).

22   Simon Hix vd., "Dimensions of Politics in the European Parliament", *American Journal of Political Science* 50, s. 2 (2006): 494-511.

23   Eurodac Regulation, Legislation Document 32013R0603, L 180/1 (2013), https://eur-lex.europa.eu/eli/reg/2013/603/oj/eng.

since the Commission avoided stronger enforcement despite repeated infringements, leaving responsibility to member states through procedural adjustments.[24]

NI's third hypothesis stresses that member states increasingly establish *"de novo"* institutions under intergovernmental oversight instead of transferring powers. Such bodies derive legal authority from secondary legislation and are closely monitored by governments. Examples include the European External Action Service (EEAS), the European Agency for Fundamental Rights, the ECB, Frontex, Eurojust, and the European Banking Authority. In migration governance, "de novo" agencies are crucial. Frontex became the European Border and Coast Guard in 2016, while the European Asylum Support Office (EASO) evolved into the EU Agency for Asylum, strengthening monitoring and implementation functions.[25] The Commission's acceptance of mechanisms such as the European Stability Mechanism (ESM) demonstrates this trend. Since 2013, 35 such bodies have been created, which Dehousse[26] and Howarth and Quaglia[27] interpret as evidence of member states' reluctance toward supranational integration.

The fourth hypothesis highlights how domestic political dynamics drive integration independently of supranational actors. Public opinion and populism increasingly constrain EU-level decisions. France's rejection of the Constitutional Treaty in 2005 exemplified how national dissatisfaction can derail integration. The growing strength of Eurosceptic parties in the 2014 and 2024 EP elections, including the Five Star Movement, the French National Front, and the UK Independence Party, shows how challenger parties reshape institutional dynamics.[28] This trend is particularly visible in Central and Eastern Europe, where populist pressures affect sensitive issues such as migration and asylum, reinforcing intergovernmentalism.

NI's fifth hypothesis argues that distinctions between high politics (sovereignty, security, foreign policy) and low politics (economic, social, technical issues) have collapsed. Areas once considered secondary now intersect with core state powers. Justice and Home Affairs exemplify this shift, since migration, initially seen as low politics, is now connected to border management, national security, and free movement. This undermines traditional divisions and confirms NI's emphasis on hybrid policymaking.[29]

The sixth hypothesis emphasizes instability after Maastricht, rooted in the EU's democratic deficit. Repeated treaty rejections, persistently low EP turnout, and declining public trust highlight this legitimacy gap. Denmark's rejection of Maastricht, Ireland's initial rejection of Nice and Lisbon, and the French and Dutch rejection of the Constitutional Treaty are notable examples. Hodson and Puetter argue that reforms such as the Amsterdam, Nice, and Lisbon Treaties and the "White Paper on European Governance" aimed to address legitimacy but failed.[30] Growing Euroscepticism further constrained supranational institutions, especially in politically sensitive areas like migration and asylum.[31]

Together these hypotheses show how NI interprets the EU's post-TEU trajectory. Supranational actors adapt rather than lead, member states prefer de novo institutions, domestic politics and populism reshape bargaining, and blurred boundaries between high and low politics highlight the hybrid nature of policymaking. At the same time, legitimacy deficits strengthen intergovernmental dominance, making NI a powerful

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24 Adina Maricut, "With and without Supranationalisation: The Post-Lisbon Roles of the European Council and the Council in Justice and Home Affairs Governance", *Journal of European Integration* 38, sy 5 (2016): 541-55, https://doi.org/10.1080/07036337.2016.1178253.

25 Regulation on the European Border and Coast Guard, Legislation Document 32016R1624, L 251/1 Regulation (EU) 2016/1624, https://eur-lex.europa.eu/eli/reg/2016/1624/oj/eng.

26 Renaud Dehousse, *The Politics of Delegation in the European Union*, hal-02405022 (HAL, 2013), https://sciencespo.hal.science/hal-02405022/document.

27 David Howarth and Lucia Quaglia, "The New Intergovernmentalism in Financial Regulation and European Banking Union", in the *The New Intergovernmentalism*, ed. Christopher J. Bickerton vd. (Oxford University Press, 2015).

28 Sara B. Hobolt vd., "Political Entrepreneurs: The Rise of Challenger Parties in Europe", *Journal of European Public Policy*, 08 Ağustos 2025, 1-16, https://doi.org/10.1080/13501763.2025.2542254.

29 Sarah Wolff, "Integrating in Justice and Home Affairs", in *The New Intergovernmentalism*, ed. Christopher J. Bickerton vd. (Oxford University Press, 2015).

30 Dermot Hodson and Uwe Puetter, "The European Union in disequilibrium: new intergovernmentalism, postfunctionalism and integration theory in the post-Maastricht period", *Journal of European Public Policy* 26, sy 8 (2019): 1153-71.

31 Zaun, *EU Asylum Policies*; Arne Niemann and Demosthenes Ioannou, "European economic integration in times of crisis: a case of neofunctionalism?", in the *European Integration in Times of Crisis* (Routledge, 2016).

lens to explain governance in core areas such as migration and asylum.[32] Critics, however, highlight NI's limits. They argue it underestimates supranational resilience, since the Commission has used litigation strategies in asylum law and agencies such as Frontex and the EUAA show supranational dynamics persist.[33] Others note that NI explains routine policymaking but is less convincing in crises when institutional entrepreneurship and public pressure alter outcomes.[34] Schimmelfennig contends that many features identified as "new," such as consensus-based decision-making, existed before TEU and that de novo bodies often enjoy autonomy, complicating a purely intergovernmental interpretation.[35] Moreover, NI lacks the systematic theoretical grounding of liberal intergovernmentalism. Nonetheless, its core contribution remains: showing why member states rely on bargaining and delegation in sensitive domains, particularly migration.

II. The Role of the European Parliament in NI

Populist parties in Europe increasingly employ Eurosceptic discourses, portraying the EU as the source of cultural and economic problems linked to neoliberalism, multiculturalism, and social equality goals. The resonance of these narratives in public opinion has become a critical factor in shaping EU policymaking. Studies demonstrate that public attitudes affect institutional behavior: : Bølstad[36], Franklin and Wlezien[37], and Toshkov[38] highlight the role of opinion in integration dynamics, while Williams finds that rising Euroscepticism has slowed transposition of EU directives and heightened objections to the Commission. Although unelected, the Commission must account for these pressures to maintain legitimacy, a constraint comparable to judicial institutions such as the U.S. Supreme Court. [39]

Institutional reforms further shaped parliamentary influence. Since Lisbon, the Committee on Civil Liberties, Justice and Home Affairs has co-legislated across most Justice and Home Affairs (JHA) subfields, while the Court of Justice obtained full jurisdiction in the Area of Freedom, Security and Justice in 2014, conditioning the European Parliament's leverage during asylum reforms. [40] Rauh (2016) demonstrates that the Commission adjusts policy preferences in line with public interest, echoing Bevan's findings on bureaucratic responsiveness.Thus, the Commission's authority rests not only on formal prerogatives but also on legitimacy concerns and member state acceptance. In sensitive fields such as migration and asylum, it often acted

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32   Christopher J. Bickerton, Hodson, and Puetter, *The New Intergovernmentalism* (Oxford University Press, 2015).this increase has largely taken place in the absence of significant new transfers of power to supranational institutions along traditional lines. Conventional theories of European integration struggle to explain this paradox because they equate integration with the empowerment of specific supranational institutions under the traditional Community method. New governance scholars, meanwhile, have not filled this intellectual void, preferring instead to focus on specific deviations from the Community method rather than theorizing about the evolving nature of the European project. The New Intergovernmentalism challenges established assumptions about how member states behave, what supranational institutions want, and where the dividing line between high and low politics is located, and develops a new theoretical framework known as the new intergovernmentalism. The fifteen chapters in this volume by leading political scientists, political economists, and legal scholars explore the scope and limits of the new intergovernmentalism as a theory of post-Maastricht integration and draw conclusions about the profound state of political disequilibrium in which the EU operates. This book is of relevance to EU specialists seeking new ways of thinking about European integration and policy-making, and general readers who wish to understand what has happened to the EU in the two troubled decades since 1992.","ISBN":"978-0-19-870361-7","language":"en","note":"Google-Books-ID: QBPsCQAAQBAJ","number-of-pages":"398","publisher":"Oxford University Press","source":"Google Books","title":"The New Intergovernmentalism: States and Supranational Actors in the Post-Maastricht Era","title-short":"The New Intergovernmentalism","author":[{"family":"Bickerton","given":"Christopher J."},{"family":"Hodson","given":"Dermot"},{"family":"Puetter","given":"Uwe"}],"issued":{"date-parts":[["2015"]]}}]},"schema":"https://github.com/citation-style-language/schema/raw/master/csl-citation.json"}

33   Servent and Trauner, "Do supranational EU institutions make a difference? EU asylum law before and after 'communitarization'"; Zaun, *EU Asylum Policies*.

34   Niemann and Ioannou, "European economic integration in times of crisis".

35   Schimmelfennig, "What's the News in 'New Intergovernmentalism'?"; Frank Schimmelfennig, "European integration (theory) in times of crisis. A comparison of the euro and Schengen crises", *Journal of European Public Policy* 25, sy 7 (2018): 969-89.

36   Jørgen Bølstad, "Dynamics of European Integration: Public Opinion in the Core and Periphery", *European Union Politics* 16, sy 1 (2015): 23-44.

37   Mark N. Franklin and Christopher Wlezien, "The Responsiand Public: Issue Salience, Policy Change, and Preferences for European Unification", *Journal of Theoretical Politics* 9, sy 3 (1997): 347-63.

38   Dimiter Toshkov, "Public Opinion and Policy Output in the European Union: A Lost Relationship", *European Union Politics* 12, sy 2 (2011): 169-91.

39   Christopher J. Casillas vd., "How Public Opinion Constrains the U.S. Supreme Court", *American Journal of Political Science* 55, sy 1 (2011): 74-88; Kevin T. McGuire and James A. Stimson, "The Least Dangerous Branch Revisited: New Evidence on Supreme Court Responsiandness to Public Preferences", *The Journal of Politics* 66, sy 4 (2004): 1018-35.

40   Steand Peers, *The second phase of the Common European Asylum System: A braand new world – or lipstick on a pig?*, Analysis (Statewatch, 2013); Maricut, "With and without Supranationalisation".

in a recommendatory capacity rather than asserting supranational authority, becoming more proactive only when public support increased.

These dynamics align with the second, third, and fourth hypotheses of NI, underscoring institutional flexibility under political pressure. The Commission's cautious stance in migration is consistent with this perspective. At the same time, the European Parliament, though maintaining a pro-European majority between 2014 and 2019, became increasingly polarized under the influence of populist parties.[41] The 2024 elections marked a turning point: Identity and Democracy (ID) secured 7 percent of seats, and together with the European Conservatives and Reformists (ECR) accounted for 16 percent. When the broader category of radical-right parties is included, their share reached over 25 percent, reshaping parliamentary balances.[42]

Right-wing populist parties frame migrants as security threats, advocate strict national policies, and promote anti-integration discourse. A pre-2019 study revealed that 27 of 37 populist parties explicitly adopted anti-immigration platforms.[43] Scholars argue that these parties gained strength in times of crisis[44] and increasingly influence EP dynamics.[45] Analysts caution, however, that their real power depends on their capacity to cooperate across ideological divides.[46] Still, their electoral growth has deepened institutional resistance to integration in asylum and migration policymaking, demonstrating the expanding impact of populist politics on EU governance.

From the perspective of the NI approach, the role of the EP in migration and asylum policy illustrates both adaptation and constraint. Although the EP has formally gained co-decision powers in JHA since Lisbon, in practice it has often aligned itself with intergovernmental preferences, especially during crisis situations. Scholars such as Pollak and Slominski show that the EP has pragmatically accepted informal modes of cooperation, leveraging its powers to secure access and oversight rather than insisting on stronger supranationalization. In the case of migration, this pragmatism has meant moderating its initially more liberal positions and moving closer to the restrictive stance of the Council, particularly under the pressure of rising populist parties. Thus, within the NI framework, the EP does not act purely as a driver of integration but as an institution that negotiates its influence in an environment dominated by intergovernmental bargaining.[47]

Political pressure on the Commission, reinforced by shifting parliamentary balances, has fostered a cautious approach to governance. The Hungarian party Fidesz frequently criticized the migration policies of leaders such as Angela Merkel and Emmanuel Macron, reflecting the broader dynamic identified by Spoon and Klüver that anti-migration rhetoric boosts electoral success. Within the EP, however, populist support for supranationalizing migration and asylum has remained rare. The 2024 elections reshaped the balance of power: the dissolution of the Identity and Democracy (ID) group led to the creation of Patriots for Europe (PfE) and Europe of Sovereign Nations (ESN). Together with the European Conservatives and Reformists (ECR), these radical-right forces control 187 seats, or 26 percent of the chamber, the highest level of hard-right representation in EP history (Hobolt et al. 2025; Hwang 2025).

Public opinion further fuels this trend. In the 2018 Eurobarometer survey, 40 percent of EU citizens identified migration as their main concern, legitimizing populist discourse and reinforcing anti-integration positions. Studies show that in states such as Sweden, Germany, Estonia, and Spain, populist parties have consistently increased their electoral support in EP contests.[48] This growth enhances their bargaining power, though their institutional influence depends not only on seat share but also on cross-group cooperation.

41   Hix vd., "Dimensions of Politics in the European Parliament"; Luca Manucci, "Forty years of populism in the European Parliament", *População e Sociedade* 35 (2021): 25-42.
42   Hix vd., "Dimensions of Politics in the European Parliament"; Hobolt vd., "European Democracy in Action?"
43   Nesti and Graziano, "United in diandrsity?"
44   Manuela Caiani and Paolo Graziano, "Understanding Varieties of Populism in Times of Crises", *West European Politics* 42, sy 6 (2019): 1141-58.
45   Duncan McDonnell and Annika Werner, *International Populism: The Radical Right in the European Parliament* (Oxford Uniandrsity Press, 2020).
46   Rosa Balfour and Laura Gelhaus, "How Influential Will Europe's Populist Parties Really Be in the Next European Parliament?", www.gmfus.org, GMF, 2019, https://www.gmfus.org/download/article/15230.
47   Johannes Pollak and Peter Slominski, "The European Parliament", in *The New Intergoandrnmentalism*, ed. Christopher J. Bickerton vd. (Oxford Uniandrsity Press, 2015).
48   Manucci, "Forty years of populism in the European Parliament".

[49]Following the 2024 elections, Eurosceptic forces became more fragmented, yet their overall weight grew, underlining both the difficulties and opportunities of coalition-building. Despite ideological divides, these groups often converge on criticism of the EU's democratic deficit, providing minimal common ground for coordination.[50]
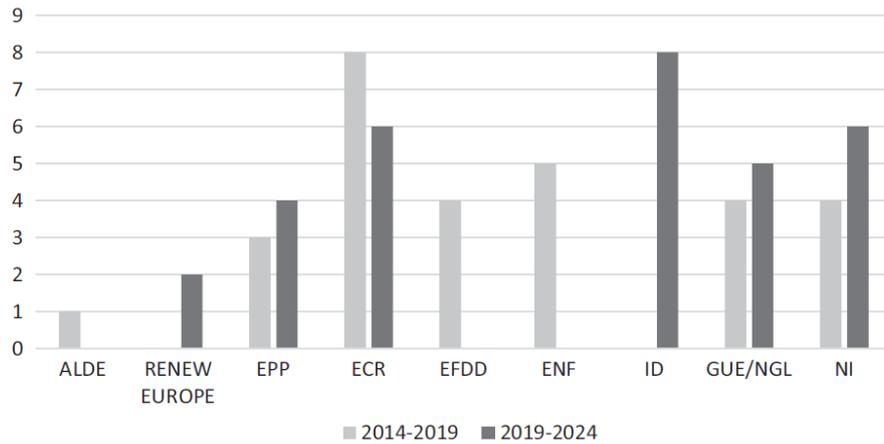

Figure 2. Number of Populist Parties in European Political Groups in Two Periods (VIII and IX) Between 2014 and 2024

Source: Giorgia Nesti and Paolo Graziano, "United in diversity?: The preferences of populist parties in the European Parliament", in The Right-Wing Critique of Europe, ed. Joanna Sondel-Cedarmas and Francesco Berti (Routledge, 2022).

The Asylum and Migration Agreement proposed in 2020 was adopted by the European Parliament in 2023 with 432 votes in favor, 132 against, and 57 abstentions. Nesti and Graziano show that the 132 opposing MEPs, and some abstainers, came largely from populist parties, which tend to converge in their voting on migration.[51] This pattern was already visible in the roll-call of 9 September 2015 on the Joint Motion for a Resolution on Migration and Refugees, which passed by the same margin. Exclusionary populist parties across the Europe of Nations and Freedom (ENF), the European Conservatives and Reformists (ECR), and the Europe of Freedom and Direct Democracy (EFDD) overwhelmingly opposed the resolution, while inclusionary populist parties supported it. Group instructions generally aligned with these positions, although a few parties, such as the Independent Greeks (ANEL), Forza Italia's Solidarity and Freedom Movement (FSM), and the Lithuanian Order and Justice Party (TT), broke ranks. Out-of-family defections also occurred, including Fidesz voting against within the European People's Party (EPP) and the Polish EPP delegation abstaining, confirming how populist dynamics cut across party lines in migration debates.[52]

However, unlike previous votes, this vote shows that populist parties are more willing to cooperate and reach consensus on migration issues. Given the increase in the number of seats held by populist parties within the EP, this compromise holds significant meaning and suggests that populist parties within the EP could influence EP decisions and even the EU decision-making process in the coming periods.[53] Given the increase in the number of seats held by populist parties within the EP, this compromise holds significant meaning and suggests that populist parties within the EP could influence EP decisions and even the EU decision-making process in the coming periods. Thus, while the majority of MEPs endorsed the Commission's recommendation, reinforcing the Parliament's role as a legitimizing actor in migration governance, the concentration of 'no' votes among populist parties highlights the growing tension between supranational initiatives and nationalist resistance.

49   McDonnell and Werner, *International Populism*.
50   Parties and Elections in Europe, "Groups and Seats", parties-and-elections.eu, 2024, http://www.parties-and-elections.eu/eu.html.
51   Amendments to Parliament's Rules of Procedure implementing the parliamentary reform "Parliament 2024", Legislation (2024/2000(REG)), P9_TA(2024)0176 (2024).
52   Amendments to Parliament's Rules of Procedure implementing the parliamentary reform "Parliament 2024", P9_TA(2024)0176.
53   Nesti and Graziano, "United in diandrsity?"

III. The Commission's Implicit Reluctance in the Process of Supra-nationalization

This section examines the European Commission's implicit reluctance in the process of supranationalization. While the Commission has traditionally been regarded as the driving force of European integration, its role has significantly transformed in the post-TEU era. To provide clarity, the discussion is divided into two parts: first, the Commission's general position and role within the framework of NI, and second, its specific approach to migration and asylum policies.

A. The Role of the Commission within the Framework of NI

Although the Commission has been unable to resume its role as the "engine of integration" in the classical sense in the post-TEU period, it has largely maintained its institutional weight, particularly in areas of exclusive competence. This characterization reflects the contrast between classical neofunctionalist accounts, which depicted the Commission as the primary 'engine of integration,' and the NI approach, which emphasizes the Commission's adaptation to intergovernmental dynamics rather than autonomous leadership.[54] While earlier accounts of European integration, particularly neofunctionalism, consistently portrayed the Commission as the "engine of integration," the NI approach challenges this assumption. According to NI, the Commission has adapted to the post-TEU environment by prioritizing pragmatic engagement with member states rather than advancing supranational deepening.[55] Similarly, Peterson emphasizes that the Commission's role has become more about maintaining institutional balance than leading integration, reflecting a cautious stance especially in sensitive areas such as migration and asylum.[56] Schimmelfennig further notes that labeling the Commission as the engine of integration overlooks the growing reliance on intergovernmental bargaining and *"de novo"* institutions, which often constrain the Commission's autonomy. In this sense, within the NI framework, the Commission's influence is better understood as conditional and strategic, rather than as the continuous driver of integration.[57]

Scholars widely agree that the Commission's political influence declined after the Jacques Delors era (1985–1995). The Santer (1995–1999) and Prodi (1999–2004) Commissions are cited as weak, while Barroso (2004–2014) pursued a cautious, status quo-oriented line.[58] This shift reflected both internal weaknesses and the growing role of the European Council, which increasingly set the political agenda in line with national preferences. The NI approach explains that contemporary authority transfers are largely technical, delegated to *"de novo"* institutions where Commission influence is limited.[59] This "integration paradox" was visible in crises such as the euro crisis, migration, Covid-19, and Ukraine, where pressures for collective action rose but member states resisted transferring powers to the Commission, relying instead on European Council consensus.[60] Though policy interdependence has made the EU executive more prominent in areas like the Green Deal, digitalization, and rule of law, ultimate authority remains with national leaders.[61]

Enlargement reinforced these dynamics. Delors warned that widening could hinder deepening, a concern realized with successive Central and Eastern applications. The election of Santer signaled a reduced role for the Commission, while Barroso centralized authority but emphasized legitimacy derived from mem-

54   Nugent and Rhinard, "The 'Political' Roles of the European Commission".
55   Peterson, "The Commission and the New Intergoandrnmentalism"; Christopher J. Bickerton, Hodson, and Puetter, *The New Intergoandrnmentalism* (Oxford Uniandrsity Press, 2015)."page":"185–207","publisher":"Oxford University Press","source":"DOI.org (Crossref
56   Peterson, "The Commission and the New Intergoandrnmentalism".
57   Schimmelfennig, "What's the News in 'New Intergoandrnmentalism'?"
58   Peterson, "The Commission and the New Intergoandrnmentalism"; Hodson, "The Little Engine That Wouldn't".
59   Dermot Hodson and Uwe Puetter, "The New Intergoandrnmentalism 10 Years On", *JCMS: Journal of Common Market Studies*, 2025.
60   Fabbrini and Puetter, "Integration without Supranationalisation".
61   Pierre Haroche, "A 'Geopolitical Commission': Supranationalism Meets Global Power Competition", *JCMS: Journal of Common Market Studies* 61, sy 4 (2023): 970-87.

ber states.[62] His sensitivity to national capitals reflected adaptation to intergovernmental preferences.[63] During the euro crisis, the Commission's low profile was evident in the creation of the European Systemic Risk Board, where member states and the ECB sidelined its role.[64] Repeated exclusion fostered caution and adaptation, consistent with NI.[65]

Migration and asylum provide further evidence. Dublin II/III left discretion to states, and even systematic non-compliance was met with procedural fixes rather than sanctions. Infringements against Greece, Italy, and Hungary were resolved without penalties. The 2020 New Pact allowed reluctant states to contribute financially instead of relocating migrants, reinforcing intergovernmental bargaining.[66] The European Council now guides legislative priorities, with initiatives like the six-pack and two-pack reforms shaped by its impetus, while the Commission executes rather than leads.[67] Article 68 TEU further consolidated Council authority in Justice and Home Affairs. Juncker's Spitzenkandidaten-based presidency sought to politicize the Commission, but initiatives such as the 2015 relocation scheme faced resistance, underlining limits of supranational leadership.[68]

Rittberger and Wonka argue that the Commission's preference for preserving the status quo fostered the creation of *"de novo"* institutions.[69] Intergovernmental debates over the size and composition of the Commission reflected state interests, with larger states pushing for efficiency and smaller states insisting on one Commissioner per country. Survey evidence shows officials themselves remain cautious: Hooghe found only 36.6% supported a federal "EU government,"[70] while officials from new member states were more state-centric.[71] Peterson attributes the Commission's reluctance to propose new transfers of power to its expanding agenda, monitoring burdens, and desire to avoid failure.[72] Recent initiatives, such as Stability Bonds and the Global Gateway, show a focus on economic and technical tools with limited political impact.[73] In many areas, from energy to migration, the Commission works closely with the European Council, reflecting strategic coordination rather than supranational leadership.[74] Overall, the Commission has not disappeared but transformed into a more strategic, flexible, and situational actor. NI explains this evolution: authority remains with member states, intergovernmental bargaining dominates, and the Commission adapts, preserving its relevance but within a constrained institutional balance.[75]

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62   José Manuel Durão Barroso, *Preparation European Council: speech to the European Parliament*, SPEECH SPEECH/08/509 (European Commission, 2008), https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_08_509.

63   Daand Keating, *'I increased the power of the Commission', says Barroso*, (Politico), 2014, https://www.politico.eu/article/i-increased-the-power-of-the-commission-says-barroso/.

64   Dermot Hodson, *Goandrning the Euro Area in Good Times and Bad* (Oxford Uniandrsity Press, 2011).

65   Maricut, "With and without Supranationalisation".

66   European Commission, "Relocation and Resettlement: EU Member States urgently need to deliandr", Press Release, 16 Mart 2016, https://ec.europa.eu/commission/presscorner/detail/en/ip_16_829; New Pact on Migration and Asylum, COM(2020) 609 final (2020), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0609.

67   Maria Sacadura Valle-Flor, "The Six-Pack as a Test for the New Intergoandrnmentalism and Supranationalism Theories", *Revista Brasileira de Política Internacional* 61, sy 1 (2018).

68   European Commission, "Relocation and Resettlement: EU Member States urgently need to deliandr"; Jean-Claude Piris, *The Lisbon Treaty: A Legal and Political Analysis*, Illustrated edition (Cambridge Uniandrsity Press, 2010).

69   Berthold Rittberger and Arndt Wonka, "Introduction: agency goandrnance in the European Union", *Journal of European Public Policy* 18, sy 6 (2011): 780-89.focusing not only on EU agencies but also on alternatives to the agency format, such as regulatory networks. Second, once agencies are established the consequences and trajectories of governance with and by EU agencies will be explored. Third, the design of EU agencies as independent, non-majoritarian institutions poses pressing questions with a view to their legitimacy and accountability.","container-title":"Journal of European Public Policy","DOI":"10.1080/13501763.2011.593356","ISSN":"1350-1763","issue":"6","note":"publisher: Routledge\n_eprint: https://doi.org/10.1080/13501763.2011.593356","page":"780-789","source":"Taylor and Francis+NEJM","title":"Introduction: agency governance in the European Union","title-short":"Introduction","volume":"18","author":[{"family":"Rittberger","given":"Berthold"},{"family":"Wonka","given":"Arndt"}],"issued":{"date-parts":[["2011",9,1]]}}],"schema":"https://github.com/citation-style-language/schema/raw/master/csl-citation.json"}

70   Liesbet Hooghe, "Images of Europe: How Commission Officials Conceiand Their Institution's Role", *JCMS: Journal of Common Market Studies* 50, sy 1 (2012): 87-111.

71   Kassim, "The Enlarged Commission".

72   Peterson, "The Commission and the New Intergoandrnmentalism".

73   European Commission, "Relocation and Resettlement: EU Member States urgently need to deliandr"; Philipp Thaler, "The European Commission and the European Council: Coordinated Agenda Setting in European Energy Policy", *Journal of European Integration* 38, sy 5 (2016): 571-85.

74   Smeets and Zaun, "What Is Intergoandrnmental about the EU's '(New) Intergoandrnmentalist' Turn?"

75   Hodson and Puetter, "The New Intergoandrnmentalism 10 Years On"; Peterson, "The Commission and the New Intergoandrnmentalism".

B. The Commission's Approach in Migration and Asylum Policy

Migration represents a hybrid policy field, shaped by supranational actors such as the Commission and intergovernmental bodies including the European Council, the Council of Ministers, and partly the EP. With growing Euroscepticism in the Council and European Council, the Commission has shown reluctance to advance supranationalization in this domain.[76]

The Dublin II Regulation[77] exemplifies this cautious approach. Article 3 allows member states to examine asylum applications even if not formally responsible, embedding discretion into EU law. Despite frequent non-compliance, the Commission refrained from applying stringent sanctions. Moreover, the first proceedings regarding non-compliance with EU asylum law against Greece, Italy, Malta, Hungary, and Croatia, which are located at the EU's external borders, began in late 2015, and the proceedings were closed when procedural improvements in reception and registration were identified in the aforementioned countries. However, the cases brought against Croatia[78], Greece[79], and Italy[80] concerned the inadequate implementation of the EURODAC Regulation, and separate cases were brought against Greece[81] and Italy[82] under the Asylum Procedures Directive and the Reception Conditions Directive (2013/32).[83]

By contrast, in Joined Cases C-715/17, C-718/17, and C-719/17, the CJEU in April 2020 ruled that Poland, Hungary, and the Czech Republic had failed to comply with relocation obligations under Decisions (EU) 2015/1523 and 2015/1601. Advocate General Sharpston's opinion emphasized member state obligations under Article 5(2-11) of these Decisions. The Court declared non-compliance but imposed no material sanctions.[84] Similar violations of the CEAS by Hungary, including breaches of the Asylum Procedures Directive, the Return Directive, and the Reception Conditions Directive, were referred to the Court and linked to rule of law concerns such as judicial independence and freedom of expression. While declaratory rulings confirmed violations, enforcement remained limited.[85]

This reliance on procedural solutions highlights the Commission's reluctance and the CJEU's cautious enforcement in migration law. These patterns suggest that integration in migration remains constrained, with broader constitutional issues such as rule of law and populism shaping compliance.[86] Member states have also pursued bilateral and multilateral readmission and resettlement agreements, shifting migration governance from the acquis into international relations. Examples include the 2013 EU–Turkey Readmission Agreement and bilateral arrangements with Jordan, Morocco, and Tunisia.[87] EASO, created *"de novo"* to support CEAS, and agencies like Frontex and EUAA illustrate capacity-building without supranationalization. These bodies expand technical implementation but preserve political authority for member states.[88]

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76   Alezini Loxa and Vladislava Stoyanova, "Migration as a Constitutional Crisis for the European Union", in the *Migrants' Rights, Populism and Legal Resilience in Europe*, ed. Stijn Smet and Vladislava Stoyanova (Cambridge University Press, 2022).

77   Dublin II Regulation, 343/2003 (2003), https://eur-lex.europa.eu/EN/legal-content/summary/dublin-ii-regulation.html.

78   Case No. INFR(2015)2197.

79   Case No. INFR(2015)2202.

80   Case No. INFR(2015)2203.

81   Case No. INFR(2015)0402 and INFR(2015)0403.

82   Case No. INFR(2015)0459 and INFR(2015)0460.

83   Eurodac Regulation, L 180/1.

84   Joined Cases C-715/17, C-718/17 and C-719/17. (ECJ 2017), https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62017CC0715.and at least every three months, the number of applicants for international protection who can be relocated swiftly to their territory \\uc0\\u8212{} Consequent obligations leading to actual relocation \\uc0\\u8212{} Interests of the Member States linked to national security and public order \\uc0\\u8212{} Possibility for a Member State to rely on Article 72 TFEU in order not to apply EU legal acts of a binding nature. Joined Cases C-715/17, C-718/17 and C-719/17. ___ (ECJ 2017

85   Loxa and Stoyanova, "Migration as a Constitutional Crisis for the European Union".

86   Loxa and Stoyanova, "Migration as a Constitutional Crisis for the European Union".

87   Daniela Vitiello, "Legal Narratives of the EU External Action in the Field of Migration and Asylum: From the EU-Turkey Statement to the Migration Partnership Framework and Beyond", in the *Securitising Asylum Flows: Deflection, Criminalisation and Challenges for Human Rights*, ed. Valsamis Mitsilegas vd., Immigration and Asylum Law and Policy in Europe, volume 46 (Brill Nijhoff, 2020).

88   Philipp Genschel and Markus Jachtenfuchs, "Capacity-Building and the New Intergovernmentalism", *JCMS: Journal of Common Market Studies*, 12 Mayıs 2025, jcms.13755.

The New Pact on Migration and Asylum codified this dynamic.[89] It allowed states unwilling to accept asylum seekers to provide financial contributions instead, institutionalizing intergovernmental bargaining. Its emphasis on bilateral relations with third countries reinforced a preference for flexible consensus over supranational enforcement. Reports confirm that while the Commission is proactive in technical areas such as environment, internal market, transport, and finance, it remains cautious on migration.[90] Infringement monitoring reports (2015–2024) show few migration-related complaints, as rule of law, judicial independence, and freedom of expression, despite systematic CEAS violations, underscoring the role of political pressure in shaping enforcement.[91] In this sense, migration demonstrates NI's core claim: member states prefer intergovernmental bargaining and delegation to technical agencies over supranationalization. The Commission's reluctance, limited sanctions, and reliance on declaratory judgments illustrate how migration policy remains deeply intertwined with broader constitutional questions, populist contestation, and the intergovernmental dominance of the European Council.

As discussed in the previous section, the combination of rising Euro-sceptic populist movement within the European Parliament and the Euro-sceptic populist leaders within the European Council is a factor that could block further Europeanisation of asylum and migration policies within the Union, which is also a reason for the Commission's reluctance. Although the European Parliament acquired significant co-legislative powers under the Lisbon Treaty, its influence remains limited in policy areas subject to Council unanimity. In addition, the presence of Eurosceptic and populist representatives from Visegrád Group countries (V4) such as Poland, Hungary, the Czech Republic, and Slovakia has further constrained the prospects for deeper integration in the field of governance.

Additionally, according to Lindseth[92], the failure of Eurosceptic populist parties and leaders to comply with rules, particularly regarding the CEAS, has paradoxically strengthened their political position and legitimacy within the EU. This is especially evident in the 2016 Dublin III Regulation[93] and the 2020 European Pact on Migration[94], where no clear agreement was reached on the fair distribution of migrants or asylum seekers. As a result, a paradox has emerged in which countries unwilling to accept migrants or refugees are nonetheless obliged to keep them in the country where they first seek refuge and are prevented from returning them. In such a situation, it would not be wrong to say that EU border countries are under more pressure as the first countries to receive migrants and that they are putting pressure on northern and western European countries. In addition, populist policies that show a positive correlation with anti-migrant sentiment are also producing similar results, and the refusal to accept migrants is affecting all EU member states. At this point, it seems likely that Europeanization or integration on the issue of migration and asylum will continue through institutions such as Frontex, EASO, and CEAS[95], which aligns with Bickerton et al.'s third hypothesis of the NI, the *"de novo"* institutions.[96]

The rising support for populist movements in European public opinion and its reflection in the EP, combined with populist leaders or policies in the European Council, explains the Commission's reluctance. In the Council, intergovernmental cooperation can challenge European integration not only in specific policy areas (hypothesis 5) but across all areas, as they are interconnected (e.g., migration may be linked to em-

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89   New Pact on Migration and Asylum, COM(2020) 609 finali.

90   Alessia Vatta, "The EU Migration Policy between Europeanization and Re-Nationalization", in the *Europe of Migrations: Policies, Legal Issues and Experiences*, ed. Serena Baldin and Moreno Zago (EUT Edizioni Università di Trieste, 2017).

91   European Commission, "Infringement Decisions", 2024, https://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/?langCode=EN.

92   "The Democratic Disconnect, the Power-Legitimacy Nexus, and the Future of EU Goandrnance", in the *EU Law in Populist Times*, 1. bs, ed. Francesca Bignami (Cambridge Uniandrsity Press, 2020), 526-27.

93   European Commission, "Dublin-III Regulations", Pub. L. No. Doc(2013R0604-20130629)

94   New Pact on Migration and Asylum, COM(2020) 609 finali.

95   Loxa and Stoyanova, "Migration as a Constitutional Crisis for the European Union", 163.

96   "The New Intergoandrnmentalism", 2015; "Conclusions"; *The New Intergoandrnmentalism: States and Supranational Actors in the Post-Maastricht Era* (Oxford Uniandrsity Press, 2015).

ployment, unemployment, and welfare). Poland and Hungary's attempts in late 2020 to block the adoption of the EU budget and the Covid Recovery Fund by opposing the introduction of the rule of law condition for EU funds is an example of targeted cooperation among illiberal regimes seeking to defend themselves at the EU level.[97] On migration, the V4 countries, led by Poland, opposed the Commission's relocation proposal and the ECJ's ruling in April 2020 that Poland, Hungary, and the Czech Republic failed to fulfill their obligations under EU law.[98]

Conclusion

This study aims to analyze the scope and limits of institutional effects by examining the role of EU institutions in the decision-making processes of the EU's migration policies within the framework of NI approach. The assessments made show that, despite the expansion of the European Parliament's and the Commission's formal powers in the field of migration under the Lisbon Treaty, decision-making processes in practice still largely retain an intergovernmental character, with the European Council and the Council of Ministers playing the decisive roles. This situation clearly confirms one of the approach's central claims: the tendency to avoid the transfer of authority and the development of institutional processes toward new, but limited, structures defined as *"de novo"*.

In particular, despite the Commission's role as a key actor representing the supranational character of the EU, its preference for relying on technical expertise-based *"de novo"* institutions such as Frontex and EUAA rather than establishing a stronger, directly empowered supranational governance structure for migration and asylum policies is a clear indication of this trend. This trend is driven not only by member states' resistance to transferring authority but also by the growing influence of right-wing and EU skeptical political groups in the EP. The growing influence of such groups in the Parliament has narrowed the institutional support base for supranational expansion, prompting the Commission to implicitly accept the new political balance and adopt a more limited approach to integration. NI also argues that the traditional distinction between high and low politics has lost its validity in EU decision-making mechanisms. In this context, areas such as migration and asylum, which were previously classified as technical and social policies, have become security and sovereignty-based issues. This transformation is described as one of the fundamental factors limiting the effectiveness of EU institutions in this area. This is because any policy area that acquires a security dimension becomes a matter that must be directly controlled by member states, which in turn generates strong resistance to demands for the transfer of powers. The Commission's preference, in this context, for pursuing policy through new, specialized but politically limited institutions rather than deeper institutional integration can be interpreted as an implicit endorsement of this securitization process.

The article also advances the NI debate by refining its hypotheses in light of migration policy. It shows that while the European Council has consolidated its central role, the European Parliament and Commission have strategically adapted to intergovernmental bargaining rather than consistently pushing for deeper integration, especially on politically sensitive dossiers. This analysis demonstrates that NI's explanatory power is strongest in routine decision-making, but moments of crisis reveal both the persistence of intergovernmental dominance and the conditional resilience of supranational institutions.[99] In this way, the article

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97 Mihail Chiru and Natasha Wunsch, "Democratic Backsliding as a Catalyst for Polity-Based Contestation? Populist Radical Right Cooperation in the European Parliament", *Journal of European Public Policy* 30, s. 1 (2023): 80.

98 ECJ, Joined Cases C-715/17, C-718/17 and C-719/17.and at least every three months, the number of applicants for international protection who can be relocated swiftly to their territory \\uc0\\u8212{} Consequent obligations leading to actual relocation \\uc0\\u8212{} Interests of the Member States linked to national security and public order \\uc0\\u8212{} Possibility for a Member State to rely on Article 72 TFEU in order not to apply EU legal acts of a binding nature

99 Schimmelfennig, "What's the News in 'New Intergoandrnmentalism'?"; Hodson and Puetter, "The New Intergoandrnmentalism 10 Years On"; Genschel and Jachtenfuchs, "Capacity-Building and the New Intergoandrnmentalism".

moves beyond summary to provide a migration-specific, hypothesis-driven appraisal of NI, highlighting the institutional dynamics that shape EU asylum and migration governance.

In conclusion, this study shows that the institutional development of EU migration policy has shifted toward a controlled and technically based governance model rather than supranational expansion. Within this framework, NI provides a functional lens for explaining inter-institutional power dynamics, the Commission's strategic choices, and the influence of populism on parliamentary balances. The article contributes to the literature by linking integration theory with migration policy, an area often examined separately. Nonetheless, certain limitations must be noted: the reliance on qualitative document analysis and a restricted timeframe narrows the scope of the findings. The 2020 New Pact on Migration and Asylum further illustrates these dynamics, as it replaced mandatory relocation with flexible solidarity, reflecting intergovernmental compromise rather than supranational enforcement.[100] Future research could address these gaps by incorporating quantitative methods, expanding the period under review, and comparing migration with other policy areas such as economic governance, climate, or digital transformation, thereby clarifying whether the observed trends are unique or part of a broader pattern of EU integration.

Author Contribution Statements

In the study entitled "Assessment of the EU Migration and Asylum Policy as an Example of Differentiated Integration with a New Intergovernmental Approach/ Yeni Hükümetlerarası Yaklaşımla Farklılaştırılmış Entegrasyon Örneği Olarak AB Göç ve İltica Politikasının Değerlendirilmesi" all authors declare that they have contributed equally.

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There is no conflict of interest among the authors of the aforementioned study.

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100 New Pact on Migration and Asylum, COM(2020) 609 finali; Arne Niemann and Natascha Zaun, "Introduction: EU external migration policy and EU migration goandrnance: introduction", *Journal of Ethnic and Migration Studies* 49, sy 12 (2023): 2965-85, https://doi.org/10.1080/1369183X.2023.2193710.

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