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Beyond Policy Design: Explaining Stable Divergence in EU Migration Governance

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Abstract

This article explains the stable and predictable divergence in the implementation of European Union migration and asylum policies across member states. Whilst existing explanations emphasise policy design failures, insufficient solidarity or administrative capacity constraints, they do not account for the persistence of differentiated outcomes over time. The article addresses this gap by introducing the concept of institutional loyalty deficit, defined as a structural condition in which actors formally recognise supranational authority whilst systematically adapting implementation to domestic constraints. The mechanism is specified in four stages, with political salience treated as an accelerating condition and administrative capacity as a determinant of the form divergence takes. Drawing on four analytical illustrations, from Dublin transfers to return policy, the analysis shows that selective implementation constitutes a normalised equilibrium rather than a series of episodic failures. Divergence is an emergent property of shared-competence governance under uneven enforcement.

Keywords: EU migration governance; institutional loyalty deficit; institutional learning; multilevel governance; policy implementation; selective implementation

Introduction

European Union (EU) migration governance presents a persistent puzzle. Despite increasingly detailed common rules, repeated legislative reforms and the formal acceptance of supranational authority, implementation continues to diverge systematically across member states. These differences are neither random nor episodic. They recur across successive reform cycles and have proven remarkably stable over time. Understanding the sources of this stability is therefore essential for explaining how European multilevel governance operates in practice. This raises a straightforward question: why does implementation divergence remain so stable despite repeated institutional reforms?

Existing explanations attribute this divergence to administrative capacity constraints, legal ambiguity, insufficient solidarity or political contestation. Whilst these perspectives explain why implementation may fail, they do not explain why differentiated implementation becomes stable, predictable and institutionally reproduced over time.

The central claim of this article is straightforward: stable implementation divergence is not a pathology of European governance but one of its normal institutional outputs. Even in the absence of formal legal challenges or explicit rejection of EU competences, implementation gaps tend to recur in patterned and anticipable ways (Börzel, 2001; Falkner et al., 2005; Geddes and Scholten, 2016). In systems of this kind, full and uniform implementation is better understood as the exception than as the baseline against which deviation must be explained.

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The argument builds on a neo-institutionalist understanding of institutions as structures that shape expectations, distribute incentives and stabilise behavioural regularities over time. From this perspective, persistent implementation divergence should not be understood primarily as a series of deviations from an otherwise coherent system but as a structural outcome of specific configurations of governance (Pierson, 2004; Scharpf, 1999). In policy domains characterised by shared competences and decentralised execution, the separation between supranational norm-setting and national-level implementation creates conditions under which selective, delayed or differentiated application becomes not only possible but institutionally stabilised (Hooghe and Marks, 2001).

The article is positioned as a theory-building contribution. Rather than testing hypotheses, it develops an analytical concept, specifies the conditions under which it operates and traces its operative logic through illustrative empirical evidence.

Institutional loyalty deficit designates a stable decoupling between formal compliance and effective application, sustained by asymmetric distributions of costs, responsibilities and enforcement capacities within multilevel governance arrangements. Crucially, the behaviour it describes entails neither legal contestation nor normative rejection of the supranational framework (Börzel, 2021).

What distinguishes institutional loyalty deficit from existing accounts of non-compliance is its emphasis on predictability and learning. Selective implementation is not treated as an episodic response to crisis or exceptional pressure but as a learned and normalised institutional practice. Over time, repeated interactions within governance systems characterised by uneven enforcement and asymmetric political costs generate stable expectations regarding the limits of compliance. Divergence becomes anticipated by implementing actors, accommodated by supranational institutions and internalised as a routine feature of governance rather than as a deviation requiring correction (Mahoney and Thelen, 2010; Tallberg, 2002).

Migration governance at the EU level constitutes a particularly revealing domain for observing this mechanism. The field combines high political salience, strong national exposure and limited supranational executive capacity. In this context, the costs of implementation are often immediate and politically visible, whereas the costs of non-implementation or selective application tend to be delayed, indirect or unevenly enforced (Carrera and Geddes, 2021; Thym, 2016). As Thym (2022, p. 11) observes, core aspects of asylum policy resemble a stuttering – if not outright dysfunctional – engine. These conditions make migration governance a most likely case for the emergence and stabilisation of institutional loyalty deficits.

The contribution of the article is threefold. First, it conceptualises implementation divergence as an emergent property of multilevel governance structures rather than as a temporary malfunction. Second, it introduces institutional loyalty deficit as an analytical tool for explaining the stabilisation of selective application in shared-competence policy domains and specifies the conditions – political salience, administrative capacity and enforcement credibility – that govern its operation. Third, whilst grounded in the case of EU migration governance, the argument is formulated in a way that allows for extension to other areas of European integration characterised by decentralised implementation and limited supranational enforcement.

The remainder of the article proceeds as follows. Section I situates EU migration governance within its institutional context, emphasising the implications of shared

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competences and decentralised execution. Section II reviews the literature on compliance and implementation and sets out the three limitations of existing explanations that motivate the argument. Section III develops the concept and its four-stage mechanism, delimits it from adjacent explanations and specifies the conditions governing its operation (Tables 1–3). Section IV applies the mechanism to EU migration governance through four analytical illustrations. The final section concludes.

I. EU Migration Governance as an Institutional Context

EU migration and asylum governance is organised as a domain of shared competences in which supranational norm-setting coexists with predominantly national-level implementation. This institutional configuration reflects a long-standing compromise between regulatory harmonisation and the preservation of national control over politically sensitive policy areas, a compromise that has shaped the trajectory of European integration well

Table 1: Institutional Loyalty Deficit: The Four-Stage Mechanism.

Stage	*Institutional condition*	*Behaviour of implementing actors*	*Cumulative effect*	*Observable indicator*
1. Institutional configuration	Shared competences; decentralised execution; limited, discretionary and largely ex post enforcement	Formal acceptance of binding obligations; participation in European decision-making	Separation of rule-making authority from implementation responsibility	Absence of centralised executive capacity in the policy domain
2. Incentive asymmetry	Implementation costs immediate, concentrated and domestic; costs of divergence delayed and diffuse	Assessment of the expected costs of full application against the expected costs of divergence	Selective or delayed implementation becomes a rational response	Low expected probability and high temporal distance of sanctions
3. Adaptive implementation	Discretionary margins within increasingly detailed rules	Administrative discretion, procedural delay, restrictive interpretation and underuse of instruments	Application calibrated to domestic constraints without legal contestation	Formal transposition combined with divergent administrative practice
4. Institutional learning and stabilisation	Repeated interaction under a stable incentive configuration	Mutual anticipation of the limits of compliance by national and supranational actors	Divergence reproduced across successive policy cycles	Persistence of the same implementation gaps after successive reforms
Feedback (4 → 2)	Absence of uniform or timely corrective response	Downward revision of the perceived cost of future selective application	Self-reinforcing equilibrium of differentiated application	Reform-intensive governance combined with stable operational outcomes

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Table 2: Institutional Loyalty Deficit and Adjacent Explanations of Implementation Divergence.

Explanation	*What produces divergence*	*Actor intent*	*Temporality*	*Relation to supranational authority*
Administrative capacity deficit (Börzel et al., 2010; Hille and Knill, 2006)	Insufficient resources, expertise or co-ordination	None required; compliance intended	Persistent but in principle remediable	Authority accepted; shortfall involuntary
Legal ambiguity	Indeterminacy of the obligation	Interpretive	Declines as rules are codified	Authority accepted
Political contestation and Euroscepticism (Börzel, 2021)	Rejection of the obligation or of the competence	Explicit and public	Episodic, crisis-linked	Authority openly challenged
Rhetorical action (Schimmelfennig, 2001)	Strategic invocation of shared norms	Deliberate and instrumental	Situational	Authority instrumentalised
Organisational decoupling (Meyer and Rowan, 1977)	Loose coupling of formal structure and operational practice	Not specified	General organisational feature	Not specified for multilevel legal orders
Organised hypocrisy (Krasner, 1999)	Absence of centralised authority over sovereign units	Strategic	Systemic	Authority weak or absent
Worlds of compliance (Falkner and Treib, 2008)	National administrative and political cultures	Varies by national type	Typological and largely static	Authority accepted
Institutional loyalty deficit (this article)	Incentive asymmetry combined with uneven enforcement, stabilised through learning	Not required; structurally induced	Cumulative and self-reinforcing	Authority formally recognised, unevenly effective in practice

Table 3: Administrative Capacity and the Form of Implementation Divergence.

Dimension	*Low administrative capacity*	*High administrative capacity*
Source of divergence	Constraints on resources, expertise and co-ordination	Discretionary margins exploited through legal and organisational competence
Character of divergence	Unintentional and disorderly	Deliberate calibration within formally correct application
Visibility to monitoring bodies	High: gaps readily documented	Low: compliance record formally satisfactory
Distribution across obligations	Concentrated in resource-intensive obligations	Concentrated in politically sensitive obligations
Domestic signalling	Demands for external support, derogations and transitional arrangements	Affirmation of full compliance
Explained by institutional loyalty deficit	No: divergence as incapacity	Yes: capacity as an instrument of calibrated divergence

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beyond the field of migration. Whilst common rules, standards and procedures are increasingly elaborated at the EU level, their practical application remains firmly embedded in national administrative systems, legal traditions and political contexts (Hooghe and Marks, 2001; Scharpf, 1999).

The Common European Asylum System exemplifies this architecture. Legislative instruments adopted at the supranational level establish formal obligations regarding asylum procedures, reception conditions and responsibility allocation, yet they do not create a centralised executive authority capable of ensuring uniform application. Implementation relies on national administrations operating under heterogeneous institutional capacities and political constraints, whilst supranational intervention is largely indirect and ex post, operating through monitoring, infringement procedures and judicial review (Carrera and Geddes, 2021; Thym, 2016; Tsourdi, 2020). This separation between rule-making and execution generates a structural asymmetry within the governance system: decisions carry European legal authority, but the material, administrative and political costs of implementation are borne primarily at the national level.

This asymmetry has important consequences for how implementation is approached in practice. Administrative adaptation, resource allocation and political accountability remain national responsibilities even when policy objectives are collectively defined. As a result, the incentives facing implementing actors differ systematically from those shaping supranational decision-making. Whilst European-level negotiations tend to prioritise consensus and norm production, national administrations must confront the immediate operational and political implications of applying these norms. The gap between normative ambition and operational feasibility is therefore not accidental but institutionally produced (Hartlapp, 2007; Tallberg, 2002).

Migration governance amplifies these dynamics due to its high political salience. Policies related to asylum and migration are closely intertwined with public debates on sovereignty, security and national identity, making implementation choices particularly sensitive to domestic political pressures. Even where governments formally endorse common European solutions, the translation of these commitments into administrative practice often becomes a site of strategic adjustment shaped by electoral competition, public opinion and inter-institutional tensions at the national level (Geddes and Scholten, 2016). Implementation is therefore rarely a mechanical exercise in rule application; rather, it becomes a calibrated process in which timing, intensity and scope are continuously adjusted.

Crucially, political salience does not operate as a primary explanation for implementation divergence, but as an accelerator of dynamics already embedded in the institutional architecture. Migration does not create the separation between supranational authority and national execution; it exposes and intensifies it. The same governance logic can be observed in other shared-competence domains, but migration renders its effects more visible due to the immediacy of political costs and public scrutiny. The channels through which salience produces these effects are specified in Section III.

The effectiveness of supranational enforcement mechanisms further conditions these dynamics. Whilst the European Commission possesses formal tools to address non-compliance, their activation is constrained by procedural complexity, political considerations and temporal horizons that rarely align with the immediacy of implementation challenges (European Commission, 2020; Kelemen and Pavone, 2023). Judicial interventions tend to

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focus on formal transposition or discrete legal breaches rather than on systematic patterns of selective application. As a result, discrepancies between formal obligations and administrative practice can persist over extended periods without triggering uniform or timely corrective responses (EUAA, 2022; FRA, 2023).

Over time, these conditions contribute to the stabilisation of differentiated implementation. National administrations and political actors learn, through repeated interactions, that selective application, procedural delays or restrictive interpretations of common rules are often tolerated within certain boundaries. This learning process does not require explicit co-ordination or collective defection. It emerges gradually from routine engagement with monitoring procedures, infringement processes and political oversight that operate unevenly across cases and contexts (Börzel, 2021). Enforcement mechanisms shape expectations less through their severity than through their temporal distance from day-to-day implementation.

II. Literature and Analytical Gap

The persistence of implementation divergence in EU migration governance has been extensively documented across several strands of literature. At a foundational level, research on European integration and multilevel governance has long emphasised the structural separation between supranational rule-making and national-level implementation. These analyses have shown that the production of common legal frameworks has not been accompanied by the development of equivalent supranational executive capacities, leaving policy effectiveness structurally dependent on national administrations operating under heterogeneous political and institutional conditions (Bauer and Trondal, 2015; Hooghe and Marks, 2001; Mastenbroek and Martinsen, 2018; Scharpf, 1999).

The discussion below is deliberately confined to the two bodies of work to which this article contributes: research on compliance and implementation in the EU and scholarship on the governance of EU migration and asylum policy. Adjacent literatures – on the externalisation of migration control, on the social and legal construction of migration categories and on the security dimensions of mobility – address questions that are distinct from the implementation puzzle examined here and are therefore not reviewed.

What Existing Research Explains

A substantial body of compliance literature has examined why member states diverge in their application of EU law. This research has identified administrative capacity constraints, domestic political resistance, legal ambiguity and the availability of monitoring and sanctioning mechanisms as key explanatory factors. Seminal contributions have demonstrated that non-compliance is neither rare nor random but patterned and influenced by the distribution of enforcement resources and political costs (Börzel, 2001; Falkner et al., 2005; Tallberg, 2002). More recent work has refined these arguments by distinguishing between different ‘worlds of compliance’ and by emphasising variation in national responses to European legal obligations (Börzel and Sedelmeier, 2017; Falkner and Treib, 2008).

Whilst this typological approach has significantly advanced the comparative study of compliance, it remains primarily descriptive in orientation: it maps variation across

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national contexts without explaining the mechanism through which selective application becomes learned, stabilised and reproduced within multilevel governance arrangements over time.

Alongside compliance-oriented research, implementation scholarship has shifted attention to the administrative level at which European rules are applied. Studies of transposition and of street-level administrative practice show how legal categories and discretionary margins are interpreted, calibrated and operationalised in routine bureaucratic encounters (Eule et al., 2019; Thomann, 2015). Rather than treating divergence as exceptional, this literature demonstrates how discretion and institutional routines generate patterned differentiation in the application of common rules.

Studies focusing specifically on EU migration and asylum governance have documented persistent variation in the application of common rules. Legal and political analyses of the Common European Asylum System and its successive reform attempts have highlighted how ambitious norm-setting coexists with fragmented implementation, particularly in periods of heightened political salience. Research has shown how crisis-driven law-making, intergovernmental bargaining and weak enforcement capacities have contributed to uneven outcomes in areas such as asylum procedures, reception conditions and responsibility-sharing mechanisms (Carrera and Geddes, 2021; Costello, 2020; den Heijer et al., 2016; Hruschka and Rohmann, 2023; Thym, 2016). The successive reform cycles of the Common European Asylum System have expanded normative obligations without fundamentally altering the underlying implementation architecture (Thym, 2022).

Over the last decade, a growing number of empirical studies have further detailed how implementation divergence manifests in practice, documenting systematic differences in administrative practices, procedural timelines and access to rights across member states, especially in the aftermath of the 2015–2016 crisis and in the context of the New Pact on Migration and Asylum (Karageorgiou, 2019; Mouzourakis, 2025; Sundberg Diez et al., 2021).

What Existing Research Cannot Explain

Despite their explanatory power, these approaches share an important limitation: they explain why implementation diverges across member states but not why this divergence becomes stable, predictable and institutionally reproduced over time. The literature continues to revolve around the gap between declared policy objectives and policy outcomes (Boswell, 2007). In the European context, this gap is compounded by the multilevel structure of decision-making: rules are adopted at supranational level but implemented largely by national administrations, generating substantial variation in enforcement and outcomes across member states.

A parallel limitation concerns the measurement of compliance itself. Research distinguishing notified from substantive compliance has shown that formal transposition records and practical application diverge systematically and that states with strong transposition performance may nonetheless display considerable variation in administrative practice (Falkner and Treib, 2008; Thomann and Sager, 2017; Zhelyazkova et al., 2017). This finding is central to the argument developed here, yet it is generally treated as a measurement problem rather than as evidence of a distinct institutional mechanism.

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A related limitation applies to accounts drawing on organisational decoupling, which identify the separation between formal structures and operational practices without specifying the institutional conditions under which such separation becomes self-reinforcing and anticipated by the actors embedded within it (Dimitrova, 2010; Meyer and Rowan, 1977).

Why Stability Requires a Distinct Mechanism

Taken together, prevailing explanations locate persistent implementation divergence in flawed policy design, insufficient solidarity mechanisms, administrative capacity gaps or episodic political resistance by member states. Whilst each of these factors is well documented, they remain insufficient to explain the endurance and predictability of differentiated implementation outcomes across time and across member states (Börzel, 2021; Geddes and Scholten, 2016; Schimmelfennig et al., 2015; Thym, 2016). Three limitations are particularly consequential for the argument developed in this article.

First, the explanatory sufficiency of policy design-centred accounts is questionable. Repeated reforms of EU migration and asylum policy have expanded legal detail, procedural complexity and normative ambition, yet they have not eliminated differentiated outcomes across implementation contexts (Carrera and Geddes, 2021; Thym, 2016; Thym, 2022). This persistence cannot be explained primarily by design flaws. Design changes are absorbed into an unchanged implementation architecture in which execution remains decentralised and enforcement uneven, so that new rules are integrated into existing patterns of institutional adjustment rather than transforming them (Hruschka and Rohmann, 2023).

Second, the compliance literature implicitly treats compliance as the baseline condition of European governance and deviation as the phenomenon requiring explanation (Börzel, 2001; Börzel, 2021; Falkner et al., 2005; Fjelstul and Carrubba, 2018; Tallberg, 2002). Where competences are shared and supranational executive capacity is limited, however, selective application is better understood as a rational, learned and reproducible strategy and full uniform implementation as the exception rather than the norm. Evidence that notified and substantive compliance diverge systematically points in the same direction (Zhelyazkova et al., 2017). Analysis of more than 13,000 infringement cases likewise indicates that intentional violations outnumber accidental ones and that observed enforcement patterns reflect the Commission's selection calculus as much as underlying rates of violation (Fjelstul and Carrubba, 2018). Persistent divergence would then reflect stable institutional learning rather than repeated failure – a reversal of the explanatory burden that existing accounts do not undertake.

Third, crisis-centred interpretations of EU migration governance obscure longer term institutional dynamics. Migration is frequently portrayed as an exceptional policy domain in which extraordinary pressures overwhelm otherwise functional governance mechanisms (Geddes and Scholten, 2016). By attributing divergence primarily to exceptional pressures or political conflict, such accounts risk treating migration as an anomalous domain rather than as a diagnostic case and underestimate the extent to which selective

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application persists in periods of relative institutional stability, when legal frameworks are consolidated and overt contestation is muted (Lavenex, 2016; Thym, 2016).

What these limitations share is an under-theorised account of institutional learning and expectation formation. Existing research convincingly explains why compliance is difficult to achieve but offers limited tools for understanding how differentiated outcomes become normalised over time within arrangements characterised by shared competences and decentralised execution. Historical institutionalist work on gradual change, feedback and path dependence suggests that repeated interaction under stable incentive configurations produces self-reinforcing behavioural regularities (Mahoney and Thelen, 2010; Pierson, 2004), whilst enforcement research indicates that the management and persuasion instruments available at European level operate unevenly and with substantial temporal lag (Hartlapp, 2007; Tallberg, 2002). Neither literature, however, specifies the mechanism through which formally compliant actors collectively reproduce stable patterns of differentiated implementation.

This article addresses that gap by shifting attention from episodic non-compliance and actor-centred explanations to the structural conditions that shape implementation behaviour over time. Instead of asking why specific actors fail to comply, it examines how governance architectures redistribute incentives in ways that make selective application rational, learned and reproducible. The analytical challenge is therefore not to explain why implementation diverges but why divergence becomes institutionally stabilised despite repeated legal reform, political commitments and administrative learning. The following section develops the mechanism through which this stabilisation occurs.

III. Institutional Loyalty Deficit: Concept and Mechanism

To account for the persistence and predictability of differentiated implementation in EU migration governance, this article introduces the concept of institutional loyalty deficit. The concept explains how formally compliant actors collectively reproduce stable implementation divergence over time without challenging the legitimacy of supranational authority.

A Four-Stage Mechanism

The proposed mechanism unfolds through four analytically distinct stages that connect institutional design, actor incentives and cumulative learning. Table 1 summarises the mechanism, its stages and the observable implications associated with each of them.

Stage 1

Institutional configuration (multilevel governance structure). Supranational institutions adopt binding rules in policy domains characterised by shared competences and high political salience. Implementation is decentralised to member states, whilst enforcement remains limited, discretionary and often ex post. This creates a structural separation between rule-making authority and implementation responsibility (Hooghe and Marks, 2001; Scharpf, 1999).

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Stage 2

Incentive asymmetry (costs and enforcement disjuncture). The material and political costs of full implementation are immediate, concentrated and borne domestically, whilst the costs of non-implementation are delayed, uncertain and diffused. Given the asymmetric distribution of costs and the low expected likelihood of sanctions, selective or delayed implementation becomes a rational response for national actors (Hartlapp, 2007; Kelemen and Pavone, 2023; Tallberg, 2002).

Stage 3

Adaptive implementation (selective calibration). Actors adapt the application of common rules to domestic constraints and priorities. This adaptation takes the form of administrative discretion, procedural delays, restrictive interpretations or the underuse of available instruments. Crucially, these practices occur without formal legal contestation or public rejection of EU authority (Eule et al., 2019; Thomann, 2015; Thomann and Zhelyazkova, 2017).

Stage 4

Institutional learning and stabilisation (reproduction of selective practices). Through repeated interaction, selective implementation patterns become predictable and mutually expected. Domestic actors learn what can be credibly done without triggering serious supranational consequences; supranational actors learn what can be enforced and what cannot. Over time, these patterns solidify into stable governance equilibria, in which divergence is reproduced across policy cycles (Mahoney and Thelen, 2010; Pierson, 2004).

Defining Institutional Loyalty Deficit

Institutional loyalty deficit is defined as a structural condition in which actors who formally recognise supranational authority systematically calibrate the application of common rules to domestic political and administrative constraints, with the result that differentiated implementation becomes stable and mutually anticipated. Three elements are constitutive: formal recognition of the obligation, systematic rather than episodic calibration of its application and reproduction over time through institutional learning.

The analytical value of the concept lies in its ability to distinguish between symbolic adherence and operational behaviour. Actors operating under conditions of institutional loyalty deficit continue to endorse the legitimacy of supranational norms, participate in European decision-making processes and avoid overt challenges to legal authority. At the same time, they calibrate implementation in ways that reflect domestic political exposure, administrative constraints and cost considerations. Loyalty is thus expressed procedurally and rhetorically, whilst implementation becomes selectively adapted in practice.

So defined, the concept is empirically identifiable rather than purely interpretive. Its observable signature is a formally satisfactory compliance record – timely transposition, procedural participation and absence of legal contestation – combined with systematic divergence in substantive application, concentrated in politically exposed and cost-intensive obligations. Research distinguishing notified from substantive compliance and studies treating transposition as bottom-up customisation provide the empirical vocabulary for this distinction (Thomann, 2015; Zhelyazkova et al., 2017), whilst implementation

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research has long documented the persistence of obligations that are formally transposed yet operationally inert (Falkner et al., 2005). Comparative work on rule-of-law disputes describes closely related conduct as symbolic or creative compliance – formal moves that generate the appearance of conformity – and notes that it succeeds partly because enforcement itself becomes symbolic (Batory, 2016).

Conceptual Boundaries

Institutional loyalty deficit must be analytically distinguished from several related explanations commonly employed in the literature. First, it is not reducible to administrative capacity deficits (Börzel et al., 2010; Hille and Knill, 2006; see also Section III). Whilst resource constraints and organisational weaknesses can affect implementation, the concept targets situations in which actors possess, in principle, the ability to apply common rules but choose to modulate their application in response to institutional incentives. Second, it is not primarily a function of legal ambiguity. Although indeterminacy can create room for discretion, the obligations at stake in EU migration governance are increasingly detailed, codified and repeatedly reaffirmed through legislative and judicial processes (Thym, 2016; Thym, 2022). Third, institutional loyalty deficit differs from overt political contestation or Euroscepticism (Börzel, 2021). Actors operating under this condition do not seek to challenge supranational authority; instead, they operate within it.

The concept also differs from adjacent theoretical frameworks that partially capture similar phenomena. Schimmelfennig's (2001) notion of rhetorical action describes actors who strategically invoke supranational norms to legitimate positions they would pursue regardless of normative commitments. Institutional loyalty deficit, by contrast, does not presuppose strategic intent or deliberate instrumentalisation of norms. It emerges from structural incentive configurations that shape behaviour independently of actor preferences or ideological orientations. Similarly, organisational theories of decoupling identify the separation between formal structures and operational practices as a general feature of institutionalised organisations (Bromley and Powell, 2012; Meyer and Rowan, 1977).

At the level of international relations, a related phenomenon has been described as organised hypocrisy – the coexistence of formally affirmed norms and practices that diverge from them (Krasner, 1999). Unlike the decentralised international system for which that concept was devised, EU migration governance, whilst not fully centralised, is structured by shared competences, binding legal obligations and supranational monitoring and judicial review. Institutional loyalty deficit should therefore be understood not as a rejection of the intuition behind organised hypocrisy but as its reformulation for a multilevel legal order. In this setting, actors do not primarily exploit the absence of authority; they adapt to the uneven reach and practical limits of authority whose validity they continue formally to recognise.

The concept advanced here extends these insights by specifying the governance conditions – shared competences, decentralised execution and asymmetric cost distributions – under which decoupling becomes self-reinforcing and institutionally anticipated rather than episodic or organisationally specific. Finally, whilst typological approaches such as the worlds of compliance framework map variation in national responses to European obligations (Falkner and Treib, 2008), they do not explain the mechanism through which selective application becomes normalised over time. Institutional loyalty deficit addresses

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precisely this explanatory gap by treating divergence not as a classificatory outcome but as a learned and reproducible institutional response to multilevel governance arrangements. Table 2 sets out these distinctions along four analytical dimensions.

Institutional Learning and Reproduction

Over time, repeated experiences reinforce this pattern. When selective application does not trigger uniform or timely corrective responses, implementing actors learn that formal conformity combined with pragmatic adjustment is sustainable within certain limits. This learning process is cumulative and does not require explicit co-ordination or shared intent. It emerges from routine interactions with supranational monitoring mechanisms, judicial procedures and political oversight that operate unevenly across cases and contexts (Hartlapp, 2007; Tallberg, 2002). Two channels are particularly salient in this regard. First, repeated exposure to monitoring cycles that generate reports without producing uniform or timely corrective responses teaches implementing actors that formal procedural engagement is sufficient to satisfy supranational expectations – the very divergence between notified and substantive compliance documented in comparative implementation research (Zhelyazkova et al., 2017). Second, each successive reform cycle that expands normative obligations without altering the underlying implementation architecture reinforces the expectation that divergence will be accommodated rather than corrected (Hruschka and Rohmann, 2023; Thym, 2022). Repeated interaction of this kind does not merely generate deviations from formal rules: the informal practices it produces acquire institutional standing of their own and subsequently shape formal bargaining (Farrell and Héritier, 2003). Together, these channels produce cumulative institutional learning of the kind emphasised by historical institutionalist accounts of feedback and path dependence, in which present choices are structured by the sedimented consequences of earlier ones (Mahoney and Thelen, 2010; Pierson, 2004). It corresponds to what organisational research describes as the encoding of inferences drawn from an organisation's own history into routines that subsequently guide behaviour independently of forward-looking calculation (Levitt and March, 1988). This dynamic is also consistent with discursive institutionalist accounts of how actors selectively mobilise and adapt ideational frameworks in response to shifting institutional constraints (Boswell and Hampshire, 2017). Institutional loyalty deficit thus becomes embedded in administrative routines and political expectations.

By formalising institutional loyalty deficit as both a concept and a mechanism, the article provides an analytical tool applicable beyond the case of migration. The mechanism can be observed in other policy domains characterised by shared competences, decentralised execution and limited supranational enforcement and in administrative systems in which European obligations are executed through multiple layers of national and subnational authority (Bauer and Trondal, 2015). In such contexts, loyalty is institutionally presumed rather than structurally supported, creating conditions under which conformity remains formal whilst implementation becomes selectively adapted over time.

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Political Salience as an Accelerating Condition

The claim that political salience operates as an accelerator rather than as a primary explanation of implementation divergence requires further specification. Salience is understood here as the degree to which migration and asylum issues are visible and contested in domestic political competition – a combination of public attention and party-political mobilisation (Grande and Hutter, 2016; Hutter and Kriesi, 2019). Conceptualised in this way, salience is not a property of the governance architecture itself but a condition that modulates the intensity with which the mechanism described above operates. Its effects enter the mechanism at two distinct points.

First, salience amplifies the incentive asymmetry identified in Stage 2. Where migration is highly politicised, the domestic political costs of visible compliance – accepting relocated applicants, expanding reception capacity and refraining from restrictive procedural practices – rise sharply, whilst the costs of selective application remain delayed and diffuse. Salience thus widens the gap between the immediate costs of implementation and the deferred costs of divergence, making selective adaptation correspondingly more attractive. This is consistent with research showing that issue salience conditions both the speed of transposition and the quality of practical application, often in diverging directions (Bondarouk et al., 2020; Spendzharova and Versluis, 2013; Versluis, 2007).

Second, salience shapes the direction of adaptive implementation in Stage 3 by redistributing influence amongst domestic actors. High salience strengthens the position of ministries of interior, coalition parties competing on migration control and administrative units whose organisational mandate privileges enforcement over protection (Slominski and Trauner, 2018; Winn, 2021; Zaun, 2018). Implementation choices – the pace of processing, the interpretation of vulnerability criteria and the use of discretionary clauses – are thereby calibrated towards restriction, not because rules require it but because the domestic configuration of actors empowered by salience favours it.

The relationship is not, however, monotonic. Salience also intensifies public and judicial scrutiny, which can, under specific conditions, reinforce compliance with the most visible procedural obligations. The mechanism therefore predicts not uniform non-compliance under high salience but a displacement of divergence towards less observable dimensions of implementation: formally correct transposition combined with calibrated administrative practice (Zhelyazkova et al., 2017). This expectation is consistent with the pattern noted in Section IV, whereby technical instruments with limited domestic visibility exhibit higher and more uniform conformity than politically exposed obligations.

Three observable implications follow. Across countries, divergence should be most pronounced where politicisation of migration is highest and should concentrate in cost-intensive obligations rather than in declaratory or technical provisions. Within countries, implementation quality should vary across issue areas according to their domestic visibility – a member state may transpose visa-related instruments promptly whilst calibrating asylum reception standards. Over time, spikes in politicisation, such as the period following 2015–2016, should intensify calibration without altering its underlying logic. Evidence on the implementation of EU migration measures points in this direction: the constraining effect of European obligations weakens where governments attach high

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importance to immigration and where the state participates in integration in a differentiated manner (Zhelyazkova, 2024). Whilst a systematic test lies beyond the scope of this theory-building article, established measures of politicisation – party manifesto data, media salience indices and public-issue-priority surveys – provide the instruments through which these expectations could be examined comparatively (Dennison and Geddes, 2019; Grande and Hutter, 2016).

Administrative Capacity and the Forms of Divergence

A parallel specification is required for administrative capacity. Capacity is conceptualised here as a multidimensional attribute of implementing administrations, comprising four analytically distinct components: material resources (funding, staffing and infrastructure), bureaucratic expertise (legal and procedural competence of implementing officials), organisational co-ordination (the ability to align actors across ministries and levels of government) and informational capacity (the ability to monitor, document and report on implementation) (Börzel et al., 2010; Hille and Knill, 2006). These dimensions do not covary perfectly: a member state may possess sophisticated legal expertise whilst lacking reception infrastructure or ample resources whilst suffering from fragmented inter-institutional co-ordination. Distinguishing them matters because, as argued below, they bear differently on implementation outcomes.

Within the mechanism developed in this article, capacity does not determine whether divergence occurs; it determines the form divergence takes. This claim requires unpacking, because it departs from the standard treatment of capacity in the compliance literature, where resource constraints figure as a direct cause of implementation failure (Börzel et al., 2010; Falkner et al., 2005). That pathway is real, but it describes only one of two distinct configurations, summarised in Table 3.

Where capacity is low, divergence tends to be unintentional, visible and disorderly. Resource-constrained administrations accumulate procedural backlogs, fail to meet reception standards and generate implementation gaps that are readily observable by monitoring bodies. This is divergence as incapacity: it does not require the mechanism proposed here, and the concept of institutional loyalty deficit does not claim to explain it. Persistent deficiencies in reception conditions documented in states under acute migratory pressure and fiscal constraint belong, at least in part, to this configuration (FRA, 2023).

Where capacity is high, however, divergence takes a different and analytically more revealing form. Well-resourced administrations possess precisely the legal expertise and organisational co-ordination needed to calibrate implementation with precision: to identify the discretionary margins within directives, to adopt formally correct transposition whilst adjusting administrative practice and to customise European obligations to domestic preferences in ways that remain difficult to challenge legally (Thomann, 2015; Zhelyazkova et al., 2017). In this configuration, capacity is not a constraint on divergence but its instrument. Sophisticated selective implementation – restrictive interpretation of vulnerability criteria, strategic use of procedural discretion and calibrated pacing of decisions – presupposes administrative competence rather than its absence (Eule et al., 2019; Schittenhelm, 2019).

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This dual pathway carries a direct implication for the scope of the concept. Institutional loyalty deficit refers specifically to the second configuration: situations in which actors possess, in principle, the ability to apply common rules fully but modulate their application in response to the incentive structure described in Stages 2 and 3. The concept thus presupposes a threshold of capacity below which divergence is better explained by incapacity alone. Empirically, the two configurations are distinguishable: incapacity produces disorderly gaps concentrated in resource-intensive obligations and accompanied by domestic demands for external support, whereas calibrated divergence produces formally compliant records combined with systematic variation in administrative practice, concentrated in politically sensitive obligations. The observation that implementation divergence persists amongst high-capacity member states operating under comparable legal obligations – and that such states diverge selectively rather than uniformly – is therefore not an anomaly for the framework but its most direct corroboration (Eule et al., 2019; Hatton, 2023; Zhelyazkova et al., 2017). Standard indicators of administrative quality, such as government effectiveness measures and domain-specific assessments of asylum administrations, provide the means through which the threshold condition could be assessed comparatively (EUAA, 2022).

Scope Conditions: When the Deficit Is Attenuated

The framework also specifies the conditions under which institutional loyalty deficits are attenuated or reversed. Where supranational enforcement is rapid, uniform and credible – as in domains subject to direct effect and strong judicial oversight – the asymmetry between implementation costs and enforcement responses diminishes, reducing the incentive for selective calibration (Hartlapp, 2007; Tallberg, 2002). Where implementation costs are low or politically uncontroversial, conformity tends to be higher and more uniform. And where administrative capacity falls below the threshold discussed in Administrative Capacity and the Forms of Divergence section, divergence is better explained by incapacity than by calibration. The framework therefore does not predict uniform noncompliance; it predicts selective divergence in those domains where asymmetric cost structures, uneven enforcement and sufficient administrative capacity combine to make calibration a rational and institutionally tolerated response. It also matters that uniform application is not the design goal everywhere in European governance: in experimentalist arrangements, framework objectives are deliberately pursued in locally divergent ways in exchange for reporting and peer review (Sabel and Zeitlin, 2008). Migration governance differs precisely in that divergence there is neither intended nor acknowledged, yet it is stabilised nonetheless.

These scope conditions also render the argument falsifiable. Stable and substantively uniform compliance in a policy domain that is politically salient, cost-intensive for national administrations and subject to weak supranational enforcement would constitute evidence against the mechanism; so too would the observation that divergence disappears once formal rules are further specified, without any change in the enforcement architecture. Conversely, the framework predicts that divergence should persist across reform cycles that leave the implementation architecture unchanged and should be concentrated amongst high-capacity states in politically exposed obligations.

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IV. Applying the Mechanism to Migration

The following cases are used as analytical illustrations to trace the operation of the proposed mechanism. The aim is not statistical generalisation but the identification of a structural pattern reproduced across contexts. Applying this mechanism to EU migration and asylum governance allows for a reinterpretation of persistent implementation divergence observed across member states. In this policy domain, the separation between supranational norm-setting and national-level execution is particularly pronounced, and the consequences of this separation are amplified by the political sensitivity of migration. Without contesting the legal authority of the EU or the validity of common rules, national authorities operate within a space of institutional adjustment in which implementation is systematically calibrated to domestic constraints.

A central element of this process is the asymmetry between the costs associated with implementation and those associated with selective adaptation. In the field of migration, rigorous application of common rules often generates immediate and visible costs at the national level. These include administrative overload, fiscal pressure, political contestation and heightened public scrutiny. By contrast, the costs of delayed or selective application are frequently externalised, postponed or redistributed across jurisdictions. Supranational corrective mechanisms, when activated, tend to operate with significant temporal lag and uneven intensity, reducing their capacity to discipline day-to-day implementation practices (Börzel, 2021; Hartlapp, 2007; Tallberg, 2002).

Dublin Transfers: Procedural Conformity without Execution

The asymmetry between implementation costs and enforcement responses is particularly visible in the operation of the Dublin III Regulation. Despite formal obligations requiring member states to execute transfer decisions within prescribed timeframes, effective transfer rates remained consistently low across the system. Data compiled by the EU Agency for Asylum indicate that during the period 2016–2019, the ratio of executed transfers to issued decisions fell below 20% across the system as a whole, with particularly low execution rates recorded in states such as Germany, France and the Netherlands – countries neither at the external border nor facing acute reception pressures at the time (EUAA, 2022). This pattern was not exceptional. It recurred across successive reporting cycles, suggesting that low execution rates had become an anticipated feature of the system rather than a temporary administrative shortfall. These figures draw on aggregated EUAA data and should be interpreted with caution, as transfer rates varied across member states and reporting periods. Analysis of 564,062 executed transfers across 31 states between 2008 and 2024 confirms that the distributive effects of the Dublin system follow from partial implementation rather than from the design of the responsibility criteria (Lutz et al., 2026). National authorities continued to issue transfer decisions and to participate formally in Dublin procedures, thereby maintaining procedural conformity, whilst systematically calibrating effective execution to domestic administrative and political constraints. The durability of this pattern in the absence of uniform corrective responses illustrates precisely the mechanism of institutional loyalty deficit: formal engagement with supranational obligations coexisting with predictable and tolerated divergence in operational outcomes.

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Relocation: Enforcement at a Temporal Distance

The infringement proceedings initiated by the European Commission in 2017 against Hungary, Poland and the Czech Republic for failure to comply with the emergency relocation mechanism provide a revealing boundary case for the present argument. Whilst the Court of Justice of the EU issued its ruling confirming the obligation to relocate in 2020, the effective enforcement of that decision remained largely symbolic. The temporal gap between the original non-compliance and the judicial response was substantial: the Commission initiated infringement proceedings in June 2017, whilst the Court of Justice issued its ruling in April 2020 – nearly 3 years later and well after the relocation scheme had formally expired in September 2017. By the time enforcement became legally actionable, the operational window for compliance had closed entirely (CJEU, 2020; European Commission, 2017). Of the 160,000 applicants the scheme was designed to relocate, 34,705 were in fact relocated (Nieswandt, 2025); the failure of burden-sharing instruments of this kind has been attributed to the free-riding incentives inherent in the decentralised provision of a collective good (Thielemann, 2018). Rather than functioning as a deterrent shaping day-to-day implementation behaviour, enforcement operated retrospectively and at a temporal distance that rendered it largely inconsequential for the actors concerned. This episode is best understood as a boundary case in which institutional loyalty deficit shades into overt political contestation. Its analytical value lies less in illustrating the mechanism in its pure form than in showing how delayed and weak supranational enforcement can allow selective implementation to harden into explicit defiance.

Reception Conditions: Reform Without Convergence

Institutional loyalty deficit also helps explain why successive reforms of EU migration policy have produced limited convergence in outcomes. Even major reform initiatives such as the New Pact on Migration and Asylum reproduce many of the structural tensions between common commitments and national implementation responsibilities (Maiani, 2022; Sundberg Diez et al., 2021). Changes in policy design alter formal obligations, but as long as the underlying architecture of implementation remains unchanged, new instruments are absorbed into existing patterns of adjustment. Migration governance thus appears reform intensive but operationally conservative. Normative ambition increases, procedural complexity expands, yet core implementation dynamics remain remarkably stable across reform cycles (Carrera and Geddes, 2021; Thym, 2016).

The persistence of divergent reception conditions across member states offers a concrete illustration of this reform–implementation gap. The recast Reception Conditions Directive established common minimum standards regarding housing, material support, access to employment and healthcare for applicants for international protection across the EU. Yet monitoring data compiled by the EU Agency for Fundamental Rights indicate persistent disparities in reception capacity, material conditions and access to legal assistance across member states operating under the same formal obligations, with recurrent deficiencies particularly visible in countries such as Bulgaria, Greece and Hungary (EU, 2013; FRA, 2023). These disparities are not confined to moments of exceptional migratory pressure, nor, as argued in Administrative Capacity and the Forms of Divergence section, are they reducible to straightforward differences in administrative capacity (Eule et al., 2019; Zhelyazkova et al., 2017). Rather, they reflect stable patterns of calibrated

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application that persist across successive legislative cycles. Each reform of the reception framework has expanded the normative detail of common obligations without altering the underlying incentive structure governing their implementation.

Return Policy: Capacity as an Instrument of Divergence

The return of irregular migrants offers a complementary illustration, this time involving member states with high administrative capacity. As Slominski and Trauner (2018) show, Germany and Austria pursued their return policies through a strategic combination of using and not using European instruments: relying on EU operational and financial resources – joint return operations, Frontex support and readmission frameworks – where these lowered the costs of a politically salient objective, whilst deliberately retaining national leeway where European procedures would have constrained domestic discretion. This selective mobilisation of the European framework is not attributable to capacity constraints; it presupposes precisely the legal expertise and organisational co-ordination described in Administrative Capacity and the Forms of Divergence section. Nor did it involve legal contestation: both states operated within the formal architecture of EU return policy whilst calibrating its use to domestic political priorities. The case thus exemplifies the second configuration identified in Table 3, in which administrative capacity functions as an instrument of calibrated divergence rather than as a guarantee of uniform application. The same logic is visible in the EU's post-2015 turn to soft law in return policy, where non-binding instruments promoted a restrictive reading of existing obligations without altering the binding framework (Slominski and Trauner, 2021).

Variation Within the Policy Domain

It should be noted that not all areas of EU migration governance display equally low compliance outcomes. In domains where implementation costs are low or politically uncontroversial – such as the formal transposition of technical directives or the adoption of administrative procedures with limited domestic political salience – conformity tends to be higher and more uniform. This variation is consistent with the institutional loyalty deficit framework: the mechanism predicts selective calibration, not uniform non-compliance.

The predictability of differentiated implementation also has consequences that extend beyond administrative practice. Legal practitioners, intermediary organisations and applicants themselves adapt their behaviour in anticipation of institutional variation, as studies of everyday encounters between migrants and implementing administrations document in detail (Eule et al., 2019). Decisions regarding engagement with asylum procedures and reliance on legal remedies are shaped not only by formal entitlements but also by learned expectations about how those entitlements are applied in specific national settings. Anticipated divergence, in other words, is itself a governance output.

Conclusion

This article set out to explain a persistent and widely acknowledged puzzle of EU migration governance: why common rules repeatedly generate divergent implementation outcomes across member states, even in the absence of formal contestation or legal breakdown. Rather than attributing this pattern to flawed policy design, insufficient solidarity

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or episodic political resistance, the analysis advanced a structural explanation grounded in the architecture of multilevel governance.

By introducing the concept of institutional loyalty deficit, the article demonstrated how formal recognition of supranational authority can coexist with systematically selective application under conditions of shared competences and decentralised execution. Loyalty, in this configuration, is expressed through procedural conformity and rhetorical commitment, whilst implementation is calibrated to domestic political exposure and administrative constraints. The mechanism was specified in four stages, delimited from adjacent explanations and bounded by explicit scope conditions: political salience accelerates its operation, administrative capacity determines the form divergence takes and credible, timely enforcement attenuates it.

Applied to EU migration governance, this framework shows that differentiated implementation should be understood as a normalised equilibrium rather than as a series of policy failures. Migration is not an exceptional policy domain in this respect. Its political salience and visibility merely render more apparent a mechanism characteristic of shared-competence arrangements more generally. What appears as crisis-driven dysfunction is better understood as the routine operation of a governance system that manages conflict and heterogeneity by tolerating predictable divergence (Lavenex, 2016).

The normalisation of selective implementation also has broader implications for how loyalty and authority are conceptualised in European integration. Formal recognition of supranational norms remains widespread, and legal frameworks continue to command symbolic allegiance. However, when differentiated implementation becomes stable and anticipated, loyalty shifts from substantive adherence to procedural acknowledgment. Authority persists, but its capacity to structure expectations is weakened, a dynamic long associated with governance systems in which effectiveness and democratic legitimacy are institutionally decoupled (Scharpf, 1999).

Importantly, this argument does not imply institutional collapse or breakdown. On the contrary, institutional loyalty deficits contribute to the resilience of European governance by preventing open confrontation and legal crisis. The system survives by accommodating divergence rather than by resolving it. However, this resilience is achieved at the cost of effectiveness and equality. Stability, in this configuration, should not be conflated with success.

The contribution of this article is analytical rather than prescriptive. It does not propose technical fixes or normative solutions. Instead, it reframes the problem to be explained by treating loyalty as an institutional variable rather than as a normative assumption. This shift directs attention away from policy intent and towards governance performance, offering a framework applicable beyond migration to other European policy domains characterised by decentralised implementation and limited supranational enforcement.

Ultimately, the findings suggest that European governance can produce stability without convergence and endurance without effectiveness. Institutional loyalty deficits allow the system to persist by accommodating divergence rather than resolving it. Recognising this dynamic is a necessary step for understanding not only why European policies fail to converge in practice, but why such divergence has become a stable and predictable feature of multilevel governance itself.

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This article is a theory-building contribution and draws exclusively on publicly available documentary and secondary sources, all of which are cited in the reference list. No new data were generated or analysed.

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References

Batory, A. (2016) 'Defying the Commission: Creative Compliance and Respect for the Rule of Law in the EU'. *Public Administration*, Vol. 94, No. 3, pp. 685–699. https://doi.org/10.1111/padm.12254

Bauer, M.W. and Trondal, J. (2015) 'The Administrative System of the European Union'. In Bauer, M.W. and Trondal, J. (eds) *The Palgrave Handbook of the European Administrative System* (London: Palgrave Macmillan), pp. 1–28. https://doi.org/10.1057/9781137339898_1

Bondarouk, E., Liefferink, D. and Mastenbroek, E. (2020) 'Politics or Management? Analysing Differences in Local Implementation Performance of the EU Ambient Air Quality Directive'. *Journal of Public Policy*, Vol. 40, No. 3, pp. 449–472. https://doi.org/10.1017/S0143814X19000035

Börzel, T.A. (2001) 'Non-Compliance in the European Union: Pathology or Statistical Artefact?' *Journal of European Public Policy*, Vol. 8, No. 5, pp. 803–824. https://doi.org/10.1080/13501760110083527

Börzel, T.A. (2021) *Why Noncompliance: The Politics of Law in the European Union* (Ithaca, NY: Cornell University Press). https://doi.org/10.1515/9781501753411

Börzel, T.A., Hofmann, T., Panke, D. and Sprungk, C. (2010) 'Obstinate and Inefficient: Why Member States Do Not Comply With European Law'. *Comparative Political Studies*, Vol. 43, No. 11, pp. 1363–1390. https://doi.org/10.1177/0010414010376910

Börzel, T.A. and Sedelmeier, U. (2017) 'Larger and More Law Abiding? The Impact of Enlargement on Compliance in the European Union'. *Journal of European Public Policy*, Vol. 24, No.2, pp. 197–215. https://doi.org/10.1080/13501763.2016.1265575

Boswell, C. (2007) 'Theorizing Migration Policy: Is There a Third Way?' *International Migration Review*, Vol. 41, No. 1, pp. 75–100. https://doi.org/10.1111/j.1747-7379.2007.00057.x

Boswell, C. and Hampshire, J. (2017) 'Ideas and Agency in Immigration Policy: A Discursive Institutionalist Approach'. *European Journal of Political Research*, Vol. 56, No. 1, pp. 133–150. https://doi.org/10.1111/1475-6765.12170

Bromley, P. and Powell, W.W. (2012) 'From Smoke and Mirrors to Walking the Talk: Decoupling in the Contemporary World'. *Academy of Management Annals*, Vol. 6, No. 1, pp. 483–530. https://doi.org/10.5465/19416520.2012.684462

Carrera, S. and Geddes, A. (eds) (2021) *The EU Pact on Migration and Asylum in Light of the United Nations Global Compact on Refugees* (Florence: European University Institute). https://doi.org/10.2870/541854

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Costello, C. (2020) 'Overcoming Refugee Containment and Crisis'. *German Law Journal*, Vol. 21, No. S1, pp. 17–22. https://doi.org/10.1017/glj.2019.89

Court of Justice of the European Union (CJEU). (2020) 'Joined Cases C-715/17, C-718/17 and C-719/17, European Commission v Republic of Poland and Others'. Judgment of the Court (Third Chamber) of 2 April 2020, ECLI:EU:C:2020:257. Available from: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=ecli:ECLI:EU:C:2020:257 [Accessed 6th August 2026]

den Heijer, M., Rijpma, J. and Spijkerboer, T. (2016) 'Coercion, Prohibition, and Great Expectations: The Continuing Failure of the Common European Asylum System'. *Common Market Law Review*, Vol. 53, No. 3, pp. 607–642. https://doi.org/10.54648/COLA2016059

Dennison, J. and Geddes, A. (2019) 'A Rising Tide? The Salience of Immigration and the Rise of Anti-Immigration Political Parties in Western Europe'. *Political Quarterly*, Vol. 90, No. 1, pp. 107–116. https://doi.org/10.1111/1467-923X.12620

Dimitrova, A.L. (2010) 'The New Member States of the EU in the Aftermath of Enlargement: Do New European Rules Remain Empty Shells?' *Journal of European Public Policy*, Vol. 17, No.1, pp. 137–148. https://doi.org/10.1080/13501760903464929

EUAA. (2022) *Asylum Report 2022: Annual Report on the Situation of Asylum in the European Union* (Luxembourg: Publications Office of the European Union). Available from: https://www.euaa.europa.eu/asylum-report-2022 [Accessed 6th August 2026].

Eule, T.G., Borrelli, L.M., Lindberg, A. and Wyss, A. (2019) *Migrants Before the Law: Contested Migration Control in Europe* (Cham: Palgrave Macmillan). https://doi.org/10.1007/978-3-319-98749-1

European Commission. (2017) 'Relocation: Commission Launches Infringement Procedures Against the Czech Republic, Hungary and Poland'. Press Release IP/17/1607, Brussels. Available 14 June 2017 from: https://ec.europa.eu/commission/presscorner/detail/en/IP_17_1607 [Accessed 6th August 2026].

European Commission. (2020) 'Communication From the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum'. COM(2020) 609 Final, Brussels. Available 23 September 2020 from: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0609 [Accessed 6th August 2026].

European Union. (2013) 'Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 Laying Down Standards for the Reception of Applicants for International Protection (Recast)'. Official Journal of the European Union, L 180, 29.6.2013. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32013L0033 [Accessed 6th August 2026].

Falkner, G. and Treib, O. (2008) 'Three Worlds of Compliance or Four? The EU-15 Compared to New Member States'. *JCMS: Journal of Common Market Studies*, Vol. 46, No. 2, pp. 293–313. https://doi.org/10.1111/j.1468-5965.2007.00777.x

Falkner, G., Treib, O., Hartlapp, M. and Leiber, S. (2005) *Complying With Europe: EU Harmonisation and Soft Law in the Member States* (Cambridge: Cambridge University Press). https://doi.org/10.1017/CBO9780511491931

Farrell, H. and Héritier, A. (2003) 'Formal and Informal Institutions Under Codecision: Continuous Constitution-Building in Europe'. *Governance*, Vol. 16, No. 4, pp. 577–600. https://doi.org/10.1111/1468-0491.00229

Fjelstul, J.C. and Carrubba, C.J. (2018) 'The Politics of International Oversight: Strategic Monitoring and Legal Compliance in the European Union'. *American Political Science Review*, Vol.112, No. 3, pp. 429–445. https://doi.org/10.1017/S0003055418000096

FRA. (2023) *Asylum and Migration: Progress Achieved and Remaining Challenges* (Vienna: European Union Agency for Fundamental Rights). Available 30 May 2023 from: https://fra.europa.eu/en/publication/2023/migration-progress-challenges [Accessed 6th August 2026].

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Geddes, A. and Scholten, P. (2016) *The Politics of Migration and Immigration in Europe* (2nd edition) (London: SAGE). https://doi.org/10.4135/9781473982703
Grande, E. and Hutter, S. (2016) 'Introduction: European Integration and the Challenge of Politicisation'. In Hutter, S., Grande, E. and Kriesi, H. (eds) *Politicising Europe: Integration and Mass Politics* (Cambridge: Cambridge University Press), pp. 3–31. https://doi.org/10.1017/CBO9781316422991
Hartlapp, M. (2007) 'On Enforcement, Management and Persuasion: Different Logics of Implementation Policy in the EU and the ILO'. *JCMS: Journal of Common Market Studies*, Vol. 45, No. 3, pp. 653–674. https://doi.org/10.1111/j.1468-5965.2007.00721.x
Hatton, T.J. (2023) 'Asylum Recognition Rates in Europe: Policies and Performance'. *European Journal of Political Economy*, Vol. 76, 102267. https://doi.org/10.1016/j.ejpoleco.2022.102267
Hille, P. and Knill, C. (2006) 'It's the Bureaucracy, Stupid': The Implementation of the Acquis Communautaire in EU Candidate Countries, 1999–2003'. *European Union Politics*, Vol. 7, No. 4, pp. 531–552. https://doi.org/10.1177/1465116506069442
Hooghe, L. and Marks, G. (2001) *Multi-Level Governance and European Integration* (Lanham, MD: Rowman & Littlefield).
Hruschka, C. and Rohmann, T. (2023) 'Excluded by Crisis Management? Legislative Hyperactivity in Post-2015 Germany'. *International Migration*, Vol. 61, No. 3, pp. 12–24. https://doi.org/10.1111/imig.12926
Hutter, S. and Kriesi, H. (2019) 'Politicizing Europe in Times of Crisis'. *Journal of European Public Policy*, Vol. 26, No. 7, pp. 996–1017. https://doi.org/10.1080/13501763.2019.1619801
Karageorgiou, E. (2019) 'The Distribution of Asylum Responsibilities in the EU: Dublin, Partnerships With Third Countries and the Question of Solidarity'. *Nordic Journal of International Law*, Vol. 88, No. 3, pp. 315–358. https://doi.org/10.1163/15718107-08803003
Kelemen, R.D. and Pavone, T. (2023) 'Where Have the Guardians Gone? Law Enforcement and the Politics of Supranational Forbearance in the European Union'. *World Politics*, Vol. 75, No. 4, pp. 779–825. https://doi.org/10.1353/wp.2023.a908775
Krasner, S.D. (1999) *Sovereignty: Organized Hypocrisy* (Princeton, NJ: Princeton University Press). https://doi.org/10.1515/9781400823260
Lavenex, S. (2016) 'Multilevelling EU External Governance: The Role of International Organizations in the Diffusion of EU Migration Policies'. *Journal of Ethnic and Migration Studies*, Vol. 42, No. 4, pp. 554–570. https://doi.org/10.1080/1369183X.2015.1102047
Levitt, B. and March, J.G. (1988) 'Organizational Learning'. *Annual Review of Sociology*, Vol. 14, pp. 319–340. https://doi.org/10.1146/annurev.so.14.080188.001535
Lutz, P., Trauner, F. and Stutz, P. (2026) 'Towards More Fairness Among States: How Dublin Transfers Redistribute Asylum Responsibility'. *European Union Politics*, Vol. 27, No. 3, pp. 533–556. https://doi.org/10.1177/14651165261446534
Mahoney, J. and Thelen, K. (eds) (2010) *Explaining Institutional Change: Ambiguity, Agency, and Power* (Cambridge: Cambridge University Press). https://doi.org/10.1017/CBO9780511806414
Maiani, F. (2022) 'Into the Loop: The Doomed Reform of Dublin and Solidarity in the New Pact'. In Thym, D. and Odysseus Academic Network (eds) *Reforming the Common European Asylum System: Opportunities, Pitfalls, and Downsides of the Commission Proposals for a New Pact on Migration and Asylum, Schriften zum Migrationsrecht* (Vol. 38) (Baden-Baden: Nomos), pp. 43–60. https://doi.org/10.5771/9783748931164-43
Mastenbroek, E. and Martinsen, D.S. (2018) 'Filling the Gap in the European Administrative Space: The Role of Administrative Networks in EU Implementation and Enforcement'. *Journal of European Public Policy*, Vol. 25, No. 3, pp. 422–435. https://doi.org/10.1080/13501763.2017.1298147

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14685965, 0, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/jcms.70192 by National School of Political Studies and Public Administration - SNSPA Bucharest, Wiley Online Library on [23/11/2026]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License

Meyer, J.W. and Rowan, B. (1977) 'Institutionalized Organizations: Formal Structure as Myth and Ceremony'. *American Journal of Sociology*, Vol. 83, No. 2, pp. 340–363. https://www.jstor.org/stable/2778293?origin=JSTOR-pdf

Mouzourakis, M. (2025) 'Neglect Needs, Manufacture Crisis, Rinse, Repeat: The New Greek Asylum Ban and a Textbook Breach of International Law'. ECRE Op-Ed, European Council on Refugees and Exiles. Available 17 July 2025 from: https://ecre.org/neglect-needs-manufacture-crisis-rinse-repeat-the-new-greek-asylum-ban-and-a-textbook-breach-of-international-law/ [Accessed 6th August 2026].

Nieswandt, C. (2025) 'The Intra-EU Relocation Scheme of 2015: A Test Run for a Dublin Reform'. *International Migration*, Vol. 63, No. 6, e70112. https://doi.org/10.1111/imig.70112

Pierson, P. (2004) *Politics in Time: History, Institutions, and Social Analysis* (Princeton, NJ: Princeton University Press). https://doi.org/10.1515/9781400841080

Sabel, C.F. and Zeitlin, J. (2008) 'Learning From Difference: The New Architecture of Experimentalist Governance in the EU'. *European Law Journal*, Vol. 14, No. 3, pp. 271–327. https://doi.org/10.1111/j.1468-0386.2008.00415.x

Scharpf, F.W. (1999) *Governing in Europe: Effective and Democratic?* (Oxford: Oxford University Press). https://doi.org/10.1093/acprof:oso/9780198295457.003.0001

Schimmelfennig, F. (2001) 'The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the European Union'. *International Organization*, Vol. 55, No. 1, pp. 47–80. https://doi.org/10.1162/002081801551414

Schimmelfennig, F., Leuffen, D. and Rittberger, B. (2015) 'The European Union as a System of Differentiated Integration: Interdependence, Politicization and Differentiation'. *Journal of European Public Policy*, Vol. 22, No. 6, pp. 764–782. https://doi.org/10.1080/13501763.2015.1020835

Schittenhelm, K. (2019) 'Implementing and Rethinking the European Union's Asylum Legislation: The Asylum Procedures Directive'. *International Migration*, Vol. 57, No. 1, pp. 229–244. https://doi.org/10.1111/imig.12533

Slominski, P. and Trauner, F. (2018) 'How Do Member States Return Unwanted Migrants? The Strategic (Non-)Use of 'Europe' During the Migration Crisis'. *JCMS: Journal of Common Market Studies*, Vol. 56, No. 1, pp. 101–118. https://doi.org/10.1111/jcms.12621

Slominski, P. and Trauner, F. (2021) 'Reforming Me Softly – How Soft Law Has Changed EU Return Policy Since the Migration Crisis'. *West European Politics*, Vol. 44, No. 1, pp. 93–113. https://doi.org/10.1080/01402382.2020.1745500

Spendzharova, A. and Versluis, E. (2013) 'Issue Salience in the European Policy Process: What Impact on Transposition?' *Journal of European Public Policy*, Vol. 20, No. 10, pp. 1499–1516. https://doi.org/10.1080/13501763.2013.781802

Sundberg Diez, O., Trauner, F. and De Somer, M. (2021) 'Return Sponsorships in the EU's New Pact on Migration and Asylum: High Stakes, Low Gains'. *European Journal of Migration and Law*, Vol. 23, No. 3, pp. 219–244. https://doi.org/10.1163/15718166-12340101

Tallberg, J. (2002) 'Paths to Compliance: Enforcement, Management, and the European Union'. *International Organization*, Vol. 56, No. 3, pp. 609–643. https://doi.org/10.1162/002081802760199908

Thielemann, E. (2018) 'Why Refugee Burden-Sharing Initiatives Fail: Public Goods, Free-Riding and Symbolic Solidarity in the EU'. *JCMS: Journal of Common Market Studies*, Vol. 56, No. 1, pp. 63–82. https://doi.org/10.1111/jcms.12662

Thomann, E. (2015) 'Customizing Europe: Transposition as Bottom-Up Implementation'. *Journal of European Public Policy*, Vol. 22, No. 10, pp. 1368–1387. https://doi.org/10.1080/13501763.2015.1008554

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Thomann, E. and Sager, F. (2017) 'Moving Beyond Legal Compliance: Innovative Approaches to EU Multilevel Implementation'. *Journal of European Public Policy*, Vol. 24, No. 9, pp. 1253–1268. https://doi.org/10.1080/13501763.2017.1314541

Thomann, E. and Zhelyazkova, A. (2017) 'Moving Beyond (Non-)Compliance: The Customization of European Union Policies in 27 Countries'. *Journal of European Public Policy*, Vol. 24, No. 9, pp. 1269–1288. https://doi.org/10.1080/13501763.2017.1314536

Thym, D. (2016) 'The "Refugee Crisis" as a Challenge of Legal Design and Institutional Legitimacy'. *Common Market Law Review*, Vol. 53, No. 6, pp. 1545–1574. https://doi.org/10.54648/COLA2016142

Thym, D. (2022) 'Never-Ending Story? Political Dynamics, Legislative Uncertainties, and Practical Drawbacks of the "New" Pact on Migration and Asylum'. In Thym, D. and Odysseus Academic Network (eds.) *Reforming the Common European Asylum System: Opportunities, Pitfalls, and Downsides of the Commission Proposals for a New Pact on Migration and Asylum, Schriften zum Migrationsrecht* (Vol. 38) (Baden-Baden: Nomos), pp. 11–32. https://doi.org/10.5771/9783748931164-11

Tsourdi, E. (2020) 'Holding the European Asylum Support Office Accountable for Its Role in Asylum Decision-Making: Mission Impossible?' *German Law Journal*, Vol. 21, No. 3, pp. 506–531. https://doi.org/10.1017/glj.2020.21

Versluis, E. (2007) 'Even Rules, Uneven Practices: Opening the 'Black Box' of EU Law in Action'. *West European Politics*, Vol. 30, No. 1, pp. 50–67. https://doi.org/10.1080/01402380601019647

Winn, M. (2021) 'The Far-Right and Asylum Outcomes: Assessing the Impact of Far-Right Politics on Asylum Decisions in Europe'. *European Union Politics*, Vol. 22, No. 1, pp. 70–93. https://doi.org/10.1177/1465116520977005

Zaun, N. (2018) 'States as Gatekeepers in EU Asylum Politics: Explaining the Non-Adoption of a Refugee Quota System'. *JCMS: Journal of Common Market Studies*, Vol. 56, No. 1, pp. 44–62. https://doi.org/10.1111/jcms.12663

Zhelyazkova, A. (2024) 'Do EU Policies Constrain Government Autonomy? Insights From the Implementation of EU Migration Policies'. *West European Politics*, Vol. 47, No. 3, pp. 595–618. https://doi.org/10.1080/01402382.2022.2135247

Zhelyazkova, A., Kaya, C. and Schrama, R. (2017) 'Notified and Substantive Compliance With EU Law in Enlarged Europe: Evidence From Four Policy Areas'. *Journal of European Public Policy*, Vol. 24, No. 2, pp. 216–238. https://doi.org/10.1080/13501763.2016.1264084

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