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Populist Radical Right Parties and the Securitisation of Asylum Policy

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Abstract

This article examines the indirect impact of populist radical right parties on the securitisation of asylum policy. The theoretical foundation of the paper draws on classic theories of securitisation, expanding them to the field of (forced) migration and combining them with theories on indirect policy impact. In a two-step analysis, this article firstly investigates changes to asylum law in Austria and Germany from 2015 to 2016, using a policy analysis. The case studies include populist radical right parties with and without parliamentary representation. Thus, the resulting stage model also accounts for gradation of the influencing factor. In the first step of the analysis a securitisation of the policy field is revealed in both cases; however, it appears to a stronger degree in Austria. The results are then related to the strength of the populist radical right parties, operationalised as poll ratings, and to election dates to capture the behaviour of government parties under growing electoral competition. In Austria, the securitisation of asylum law could be attributed to the increasing strength of FPÖ, while the results for Germany are ambiguous. Accordingly, the results suggest that securitisation of asylum policy is more likely when populist radical right parties experience strong support from the electorate.

Keywords: asylum policy; policy impact; radical right; securitisation;

Radical right populists are on the rise throughout Europe (Benveniste, Campani & Lazaridis, 2016; Lucarelli, 2019, p. 17). The increasing power of these groups, which are characterised by anti-migration positions (Hainsworth, 1992; Ivarsflaten, 2008; Rydgren, 2008), is reflected in public discourse through discussions over national identities and assessments of refugees by their alleged risk potential (Lazaridis & Wadia, 2015; Mavroudi & Nagel, 2016). Simultaneously, tensions between EU member states have become visible, particularly in the wake of increasing migration movements (the so-called ‘refugee crisis’¹). Since 2015, this conflict became apparent in policy too, as the former joint European governance of asylum regimes was re-nationalised through restrictive border controls, fence constructions, asylum caps and decentralised reception centres. Collective achievements that were developed over the years, such as the Schengen and Dublin systems, were consequently limited in scope after 2015.

This paper assumes a connection between the increase in power of populist radical right parties (PRRP) and these changes in asylum policy. By means of a legal analysis, it examines if the securitisation of asylum policy can be understood as an effect of the political strength of PRRP. For this purpose, I draw on the work of Nagy (2016) who explores the asylum legislation under the government of the Hungarian populist radical right party Fidesz and identifies a high degree of securitisation of the policy field. This article expands on Nagy’s results by adding two further case studies: Austria and Germany. It explores whether the same effect can be observed when PRRP are not part of the government but are instead in electoral competition with mainstream parties and pressure centrist parties to adopt (more) restrictive asylum policies by shifting public opinion towards anti-immigration stances. As political parties influence the shape policies take “not at the moment they are formed, but at the moment when they achieve an electoral breakthrough” (Schain, 2006, p. 271), it is assumed that with stronger establishment of PRRP in the political system, the probability of mainstream parties co-opting far-right populist positions increases.

The following chapter introduces the key concepts *securitisation* and *radical right populism*, before outlining the relationship between PRRP and policy impact that is assumed in my approach and concluding with an explanation of the interrelation between minority and migrant issues. After the presentation of the methodological considerations, the empirical results will be presented through a detailed explanation of legal changes in each country (Chapter 3), followed by a correlation analysis (Chapter 4). The conclusion sums up the main findings and discusses limitations and starting points for future research.

1. Theoretical Framework and Key Concepts

The concept of securitisation stems from the so-called *Copenhagen School*² and represents a counter-concept to the classic, narrow concept of security which focuses on military threats to national territoriality (Daase, 2010, p. 3). Securitisation can be understood as a process that transforms specific policy areas into security problems through public speech acts. Every policy field can thereby become a security problem through the construction of an extreme threat that legitimises the use of exceptional means (Huysmans, 2006, p. 80; Buzan et al., 1988, p. 32f.). The so-called *Paris School*³ redefined the concept and focuses not only on speech acts but examines social practices and the governability of the field applied through institutions, bureaucracy, and other security actors (Bigo, 2002; Huysmans, 2006; Squire, 2015; Karamanidou, 2015). According to this definition, if a policy area undergoes a securitisation process, it will be interpreted exclusively by means of its risk potential and other possible lenses of perception will be omitted. Migration could, for example, also be assessed on humanitarian principles (Lazaridis & Konsta, 2015, p. 11) centred on the individual need for protection (Daase, 2010, p. 11). The resulting and inclusive notion of society would then be based on solidarity and mutual responsibility (Lazaridis & Konsta, 2015, p. 190). On the contrary, the securitisation of migration consists in the conceptual segregation of migrants from the ‘domestic’ population through the process of *othering*: “It raises identity questions in an essentialist manner and opposes block against block, cultures and civilisations whose values are seen as antagonistic” (Bigo, 2005, p. 69). Through the attribution of alleged cultural or ethnic characteristics, even second-generation immigrants can be constructed as a threat to national unity and conceptually excluded from the population.

The securitisation ‘lens’ competes not only with human security approaches but also with the economisation of migration which regards migration primarily in terms of cost-benefit assessments (Buonfino, 2006, p. 24). For a long time, this was the dominant lens before being gradually challenged by the emerging securitisation processes of the 1980s (Bigo, 2005, p. 53f.; Huysmans, 2000, p. 756). The unification of European asylum policy through the Treaty of Amsterdam and the development of the Schengen system have led to further measures aiming at the protection of mobility within EU borders. Simultaneously, the existence of a right to asylum as stipulated by Article 18 of the Charter of Fundamental Rights of the European Union (hereinafter CFR) exemplifies the coexistence of human security approaches with securitisation approaches. However, this equilibrium has shifted towards securitisation since 9/11 (Buonfino, 2006; Karamanidou, 2015) and the partial collapse of the Common European Asylum System

(CEAS) and re-nationalisation of asylum policy suggest an intensification of this process.

1.1 Conception of Radical Right Populism and Policy Impact

Radical right populism can be characterised as a subtype of populism and therefore shares two traits that are constitutive of all forms of populism. The first element refers to the populist claim to speak for the “people” (Müller, 2016, p. 44). The depiction of an alleged “will of the people” requires the definition of a “true population” (Müller, 2016, p. 46). The population serving as a reference point is regarded as pure and homogenous in a moral, not in an empirical sense. Populists act according to the belief of being the sole representatives of the “true people”, thereby discrediting all political competitors (Müller, 2016, p. 26). This anti-pluralism is complemented with the second element: anti-elitism (Mudde, 2004, p. 543). Since the processes of homogenisation of this ‘true population’ and the equation of the party with the population occur by means of a moral-based separation of population and elites, the elites are perceived as undemocratic and power-obsessed. (Mudde, 2004, p. 544).

Radical right populism as subtype complies with these necessary conditions and, in addition, bases its claim to sole representation on an exclusive definition of the population. Another specific feature of right-wing populists is the reproach of an alliance between a “parasitic underclass” (Müller, 2016, p. 43) and the elite. Both groups are excluded from the definition of the people and perceived as a threat which undermines the national community (Nagy, 2016, p. 1043). This distinction between groups often involves cultural demarcations (Priester, 2012, p. 6) and is frequently accompanied by nativism, i.e., the prioritisation of native groups over ethnic or cultural minorities (Mudde, 2007, p. 18f.). An antimigration position is one of the pillars of radical right groups, it is their “issue par excellence” (Hainsworth, 1992, p. 7). Xenophobia, racism, and the rejection of any type of multiculturalism therefore form the basis for the “welfare-chauvinist policies and anti-immigration measures” (Lazaridis & Tsagkroni, 2015, p. 210) of PRRP. Scholars have pointed out that the newly emerging type of PRRP shares a nativist, exclusionist ideology (Rydgren, 2008). In extreme variations, asylum seekers are exclusively assessed as a security threat and considered the root of socio-political and economic problems (Lazaridis & Tsagkroni, 2015, p. 208). Opting for liberal asylum policies is therefore framed as a decision against the survival of the national community (Huysmans, 2000; Mudde, 2007). Moreover, the myth of the homogenous nation-state is reproduced by implying its restoration through the exclusion of ‘others’. Such othering processes create a conceptual intersection between the phenomena of radical right populism and the securitisation of asylum, as both are based on exclusion rooted in external ascriptions

of culture and ethnicity.

This article surmises that PRRP can also develop the potential to trigger securitisation without government participation, as certain narratives prevail discursively according to agenda-setting processes, consequently altering public opinion and then being picked up by decision makers. Some scholars; however, argue that radical right ideas are part of mainstream values and the populist radical right merely represents a radical interpretation of these (Mudde, 2010). Yet, to successfully portray asylum seekers as a menace, securitising actors require discursive power or legitimacy (Lazaridis & Tsagkroni, 2015, p. 210). The power of PRRP in my approach is therefore understood as a reinforcing factor on securitisation that is not necessarily tantamount to its origins. Rather, PRRP catalyse anti-immigration sentiments and pave the way for their institutional manifestation. Although the ideological drivers behind securitisation of asylum policy are worth investigating, this analysis considers *if* the strength of PRRP influences asylum legislation, not *why*. Moreover, my approach rests on the observation that legal changes occur when PRRP gain strength, thus it remains to be investigated why these ideas still need an institutionalised radical form to become established despite their prevalence.

As indirect effects on policy occur once “the party is organisationally and electorally established” (Schain, 2006, p. 273), it is suggested that the degree of securitisation as an indirect effect varies with the (perceived) strength of the PRRP. Considering case studies from Western Europe, the research literature “indicates that even a modest electoral breakthrough triggers a political dynamic that influences immigration policy” (Schain, 2006, p. 286). Simultaneously, this article assumes feedback effects occur as radical right claims are taken up and implemented by other parties and therefore experience higher salience and stronger legitimacy. This again reinforces the approval of PRRP (Lazaridis & Konsta, 2015, p. 189).

1.2 Policy Impact as Indirect Effect

PRRP can exert influence on policies via two pathways: either directly through their participation in a government coalition or indirectly by shifting discourse and public opinion, thereby affecting government parties and pushing them to alter their policy agenda. The theoretical framework of this article rests upon the assumption that PRRP can influence policies even from the opposition. This assumption stems from models on party interactions, specifically the spatial theory developed by Anthony Downs (1957), which understands political parties as purely rational actors seeking to maximise votes by any means.

Meguid (2009) modifies the spatial theory and adds instruments that mainstream parties use to cope with the electoral success of emerging niche parties. In contrast to the classic spatial

model which expects only neighbouring parties to compete with emerging niche parties through issue-based strategies, this altered model assumes that any political opponent can be seen as a threat (Meguid, 2009, p. 32). This holds specifically true in multi-party systems (Meguid, 2009, p. 33). Meguid differentiates between *dismissive*, *adversarial*, and *accommodative* strategies. While the first aims at decreasing issue salience and visibility, the other approaches increase salience by adopting a position on the policy or issue. Accommodative strategies challenge the niche party's ownership of the issue by co-opting and integrating it into the mainstream party's policy. Thereby, if credible for the voters, it "undermines the distinctiveness of the new party's issue position" (Meguid, 2009, p. 28f.) and causes voters to abandon their support for the niche party. Adversarial strategies, on the other hand, adopt a stance opposite to the niche party's position. They reinforce the issue ownership of the niche party, but as the mainstream party could risk its credibility when co-opting collides with programmatic responsibility or reasonable timing, it might be the better choice (Meguid, 2009, pp. 35ff.). The theoretical framework assumes that mainstream political parties adopt more restrictive asylum policies due to the (perceived) electoral risk of liberal asylum policy when PRRP increasingly gain support.

Several case studies have delivered evidence for indirect policy effect (Bale, 2003; Davis, 2012; Heinisch, 2003; Howard, 2010; Schain, 2006; Van Spanje, 2010; Zaslove, 2004). Yet, the existing research literature on indirect policy effect remains equivocal as other scholars argue that indirect influence is limited at best (Akkerman, 2012; Manatschal, 2012; Mudde, 2013; Muis & Immerzeel, 2017; Zincone, 2006) and/or that the alteration towards more restrictive immigration policies is rooted in programmatic or ideological shifts of centre-right parties (Akkerman, 2012; Duncan, 2010; Meyer & Rosenberger, 2015; Van der Brug et al., 2015). In addition, some scholars expect the indirect effect to be stronger than the direct impact (Mudde, 2013), while others attribute a stronger impact to direct influence, i.e., during government participation of PRRP (Minkenberg, 2001; Williams, 2006). However, attention must be paid to the fact that the bulk of research literature was produced before the momentum that PRRP have gained in recent years (Halikiopoulou & Vlandas, 2019; Lazaridis, Campani & Benveniste, 2016; Rydgren, 2018; Vieten & Poynting, 2016). These findings suggest that the possibility of altering asylum policy depends to a great extent on pre-existing political and societal conditions and constraints. This article focuses on explaining the consequences for refugees and asylum seekers in these specific cases and time period—while mindful of the difficulties in making general statements about the impact of PRRP—due to the complexity of asylum and migration policies (Lutz, 2019).

Assuming that immigration and asylum policy were highly politicised and salient issues in 2015/16, a low probability of success for dismissive strategies can be surmised. Therefore, I expect that the set of choices for the parties competing with Freiheitliche Partei Österreichs (FPÖ) and Alternative für Deutschland (AfD) was restricted to accommodative and adversarial strategies, and my hypothesis is that accommodation has taken place. It can be assumed that due to increasing electoral success and advancing institutionalisation, the “potential of [PRRP’s] partisan and legislative impact should increase” (Schain, 2006, p. 272). Thus, due to the advanced institutionalisation of FPÖ, I expect to find a higher degree of securitisation in Austria.

1.3 Interrelation Between Asylum Policy and Minority Rights

Multiple scholars have emphasised the policy connections between minority and migration issues (Jacobs & Tillie, 2004; Cholewinski, 2005; Sasse & Thielemann, 2005, p. 665). This is important for a variety of reasons. Firstly, minorities are often the result of earlier migration movements and newly arriving migrants are faced with similar problems regarding their acceptance by and their position in the new society. Secondly, in many cases it is not possible to draw a sharp distinction between both groups, as many asylum seekers also belong to a minority in their country of origin. Minority status is an important driver for migration as ethnic, national, or social minorities often flee persecution, repression, or armed conflicts (Sasse & Thielemann, 2005, p. 659). However, the right or possibility to leave a country depends on the status within the respective society. Thus, it can be highly limited for social minorities, like women, queer people, disabled people, or ethnic minorities such as the Rom*nja in the Balkan countries. Additionally, even after arrival, the two groups cannot be clearly demarcated from each other; a strong example again are Rom*nja (Guglielmo & Waters, 2005; Magazzini & Piemontese, 2016). Third, following their arrival, all migrants become part of “ethnic/racial, religious and linguistic minorities in their new host societies” (Sasse & Thielemann, 2005, p. 659). At some point, due to migrants’ position at the margins of society, reception and integration merge into minority issues (Cholewinski, 2005, p. 697; Sasse & Thielemann, 2005, p. 659).

These conceptual interrelations are reflected in policy output: The instruments applied to promote a certain ideal of integration are often targeted at reducing the formation of minority and/or diaspora networks. In asylum law, this can for instance be seen in the strategy of dispersion. Moreover, the legal provisions regarding the socio-economic sector, such as the access to the labour market, the recognition of previous qualifications, and the access to social

provisions determine whether migrants will form a social minority within the receiving society. These legal provisions aim at disincentivising migration by reducing the attractiveness of the welfare state. Such efforts demonstrate that policymakers presuppose a low socio-economic status of many migrants in their country of origin.

Finally, as the access to social welfare is conditional on social citizenship, the definition of belonging to a society becomes crucial (Anderson, 2017). Recently, a racialisation of social citizenship can be observed which affects both immigrants and minorities (Castles & Schierup, 2010). From a legal perspective, the restricted access to social benefits as well as limited political rights for migrants opposes Article 22 of the CFR, which establishes equal treatment and is one of the main instruments for minority-sensitive policies (Sasse & Thielemann, 2005, p. 661). Thus, I believe that legislation concerning refugees and asylum seekers plays an important role in the positioning of migrants within a society and in determining if and how they are consequently constructed as minorities.

2. Methodological Approach

The analysis aims to shed light on whether the change in European asylum policy is accompanied by a securitisation of the policy field and is correlated with the strength of PRRP. To this end, the study is divided into two steps. The first part of the analysis examines newly adopted legislation in the area of asylum law with the category system developed by Nagy (2016) for the purpose of reproducibility. The second part compares the development of the strength of PRRP, for this purpose operationalised as poll ratings, and the developments in asylum policy. Election dates are also considered as it can be suspected that they fuel political competition. The investigation period covers the period between January 1, 2015 and December 31, 2016 and thereby includes the peak of the migration flows to Europe (Luft, 2016). A test for the variable “asylum application numbers” was included to preclude high numbers of asylum applications as confounder.

2.1 Case Selection

The case selection aims at capturing different degrees of the strength of PRRP. Provided that PRRP exert indirect impact on asylum policy, this design will indicate whether a certain level of institutionalised power, i.e., parliamentary representation is needed or if public opinion mediated through poll ratings might be sufficient. Thus, the period 2015 to 2016 was chosen to depict a three-stage model. The findings concerning the radical right populist party Fidesz in Hungary (Nagy, 2016) form the starting point and represent a PRRP in a government position.

Through the addition of Austria and Germany, a case with a PRRP in the role of opposition (FPÖ) and a PRRP only represented at state, not national level (AfD) are included. If the strength of PRRP is indeed the (or one of the) independent variables, then the highest degree of securitisation can be expected in Hungary, a moderate one in Austria, and the lowest in Germany.

The selection of Austria and Germany is justified by a most similar case design, as they show an accumulation of parallel structures (Williams, 2006, p. 48). Both countries are nation-states with historically rather ethnically homogenous populations since they only became immigration countries following WWII. In 2015, they exhibited an equal share (21%) of population with migration history (Federal Statistical Office, 2016; Statistik Austria, n.d.). They also share their geographic location in the centre of Europe, without access to the Mediterranean, so that they are among the ‘profiteers’ of the Dublin system which they are both subject to under the CEAS. In Austria as well as in Germany, the government in the investigation period was formed by a so-called ‘great coalition’, thus the perceived threat to electoral stability posed by PRRP should be comparable. Finally, both parties “demonstrate ... a right-wing radicalism that must come to terms with the legacy of fascism” as they operate in countries with a fascist past and both “remain ... tied to ideas of an ethnically pure society” (Williams, 2006, p. 48). Despite further similarities such as shared language and historical intertwining, they differ in the variable “strength of right-wing populist parties”. Although FPÖ and AfD today are seen as sister parties (Grigat, 2017, p. 10), they play different roles in their respective parliamentary systems. While FPÖ was founded in 1956, established itself not later than 1986, and participated twice in a government coalition, in Germany since 1945 no PRRP managed to surpass the five percent threshold until 2017.

FPÖ can clearly be categorised as PRRP since Jörg Haider took on the party chairmanship (Priester, 2012, p. 3). The election programme of 2017 is taken as a source to map the programmatic and ideological orientation during the investigation period. All the constituting elements of radical right populism can be found in the programme: The moral claim to sole representation manifests itself already in the preface which claims that the “big parties” would act against an allegedly evident will of the majority (FPÖ, n.d.). There exists a clear connection to anti-elitism as the government parties are accused of abusing the freedom of the press in an alliance with the “nationally subsidised media for the targeted manipulation of the citizens into a particular political direction”⁴ (FPÖ, p. 6). The allocation in the radical right spectrum is expressed by the imputation of a conspiracy that would enable elites and NGOs to

enrich themselves at the expense of the Austrian population in an “asylum industry” (FPÖ, p. 2). Islam and the migration of Muslims are constructed as a bogeyman which FPÖ wants to oppose “to protect the homeland, the autochthonous population and thereby the Austrian dominant culture” (FPÖ, p. 1). The term *autochthonous* clearly stems from a nativist ideology (Mudde, 2007, p. 18f).

Like FPÖ, AfD was initially characterised by infighting, but the radical right populist wing took over with the *Grundsatzprogramm* (‘basic programme’) (Rosenfelder, 2017, p. 139f.). The ideological equation with the *Volk*⁵ emerges already in the preamble: “want to be and stay Germans” (AfD, 2016). The second necessary condition; elite criticism, is reflected in frequently used defamations: *Kartellparteien* (‘cartel parties’) and *Lügenpresse* (‘liar press’). AfD assumes that daily politics are controlled by a “political cartel” (AfD, p. 8) which seeks to “minimise the influence of the Volk” (AfD, p. 22f.). The homogenisation of the population takes place through the imagining of a shared homogenous culture, language, and ethnicity (Rosenfelder, 2017, p. 105; Wildt, 2017, p. 104f.). Thus, it must be understood as national and exclusive. Moreover, AfD makes use of socio-Darwinian theory (Bebnowski, 2015, p. 15). Due to the similarity in characteristics and structural conditions, these cases are perfectly suited to investigate whether PRRP influence securitisation of asylum and if the degree of their strength correlates with the degree of securitisation.

2.2 Category System

The first step of the analysis includes all a) law enactments, b) legal changes, and c) measures which ignore existing legislation or d) measures without a legal basis in the respective policy field. The resulting cases are ordered and analysed following five categories that are taken from Nagy’s (2016, p. 1052f.) operationalisation of securitisation. The more categories are fulfilled, and the more cases can be grouped into these categories, the higher will be the resulting degree of securitisation. This paper excludes the category ‘denial’ as it refers to discursive securitisation instead of direct policy measures. As shown before, it is surmised that PRRP seek to consolidate the exclusive and securitising narrative in public discourse. This study, therefore, presupposes its existence and analyses how far it was co-opted by the governing parties.

The first category, *deterrence*, refers to all measures that aim to deter refugees from applying for asylum. The next category, *obstruction*, is interconnected with deterrence as obstruction means to prevent the (successful) asylum application through physical or legal barriers. The third category, *punishment*, refers to legislation in criminal law that sanctions any ‘illegal’ border crossing or criminalises certain behaviour. These types of ‘crimes’ can only be

committed by non-citizens (Gliszczyńska-Grabias & Klaus, 2018, p. 85) and the resulting criminalisation reproduces the construction of a threat. The last two categories describe the interaction with EU law. The category *free riding/lack of solidarity* subsumes policies that transfer responsibility for the accommodation or deportation of refugees to another member state. Finally, the category *breaching superior law* evaluates legislation and policy measures regarding their legality in accordance with international, national, or supranational (EU) law (Nagy, 2016, p. 1053). Initially, it was planned to add the category *contrary developments* to trace developments that exhibit a more liberal/humanitarian security understanding. However, the vast majority of policy changes could be attributed to securitisation policy measures. In Austria, apart from the elimination of an obligatory stay at reception centres (§ 15 (3) lit. a and lit. b AsylG), only minimal contrary trends could be tracked. In Germany, they were slightly more pronounced but almost exclusively concerned the societal participation of people who had already obtained a residence permit. Only the much-discussed decision of Chancellor Merkel to consider asylum applications of Syrians who had travelled through Hungary and Austria, thereby suspending the Dublin procedure, can be understood as a measure in the sense of human security approaches.

3. Analytical Part I: Policy Analysis of Asylum Law in Austria and Germany

The first step of the analysis rests on multiple data sources. In Germany, six legislative changes could be captured in the *Federal Law Gazette*⁶ while for Austria two major legislative changes, encompassing multiple laws, were measured by means of the Austrian Legal Information System. The analysis further incorporates official statements of experts and interest groups that were published or formally submitted to a hearing during the legislative process. This facilitates the juristic evaluation. To capture measures not covered by law and to obtain an overview of the overall situation, country reports and analyses of the United Nations High Commissioner for Refugees (UNHCR) and Amnesty International were added as data sources, as well as fact sheets of the Austrian Integration Fund. In total, with the help of a computer-assisted analysis (MAXQDA) 92 documents were examined and 655 cases assigned to the five categories.

3.1 Austria

Since it became evident over the course of the analysis that especially the categories obstruction and breaching superior law account for an extensive number of cases, only an abridged overview will be presented. This overview will concentrate on legal changes that most accurately represent the general pattern for that category *pars pro toto*. Relevant legal changes in the investigation period were the Aliens' Law Amending Act in 2015

(*Fremdenrechtsänderungsgesetz*; FrÄG) and the amendment of the Asylum Act in 2016, which constitutes the largest change since its recodification in the 1990s (Austrian Federal Bar Association, 2016, p. 2).

The policy changes that fall into the category of deterrence exhibit the intentional creation of difficult conditions for asylum seekers. The underlying assumption is a belief in alleged ‘pull factors’ and the possibility of disincentivising migration. Amnesty International described the conditions in Austrian reception centres as “poor and unhygienic and in some cases amount[ing] to degrading treatment” (Amnesty International, 2015, p. 2). Furthermore, not all federal states complied with the statutory accommodation quota (Amnesty International, 2016, p. 6; Austrian Integration Fund, 2015, p. 4). The Aliens’ Law Amending Act (FrÄG) allowed the complete withdrawal of primary care for asylum seekers whose request is decided in fast-track procedures. Even in pending procedures they are no longer accommodated by the state. This can lead to homelessness and precarisation, particularly in conurbations (Agenda Asyl, 2015, p. 2). The FrÄG also introduced new ‘loss events’ for the withdrawal of primary care (Amnesty International Austria, 2015, p. 11; § 2 (4) and (7) GVG-B). During the legislative process, political representatives repeatedly emphasised that this reduction of needs-based primary care aimed at making Austria less attractive for refugees (UNHCR, 2016a, p. 3; Austrian Federal Ministry of the Interior, n.d., p. 3). The construction of physical barriers, like border fences, also constitutes deterrent measures (Nagy, 2016). Austria initiated the construction of such a fence in December 2015 on the border to Slovenia (UNHCR, 2015b, p. 2).

However, the fence can also be interpreted as a measure of obstruction. This category captures further the two major legal changes in 2015 and 2016 which exacerbated access to asylum so severely that the Austrian Federal Bar Association condemned it as “overriding minimum standards of modern constitutional states for an entire group of people” (2016, p. 2).

The changes of § 16 (2) and 4 BFA-VG as well as § 17 (1) to (3) BFA-VG represent a significant obstruction as they substantially restrict the time limit for appeal for asylum seekers who received an official deportation threat. Through the simultaneous abolition of the suspensory effect of a complaint at the Federal Administrative Court, the possibility of renegotiating an application is crucially reduced. At worst, this can lead to a breach of the principle of non-refoulement (Refugee Convention, 1951, Art. 33). In addition, the new special provisions enable the complete denial of asylum procedure to newly arriving asylum seekers. In accordance with § 38 (1) and (2) AsylG, asylum seekers may be required to submit their

asylum application directly to registrars at the border and will then be examined in fast-track procedures (§ 38 AsylG) which only verify whether rejection or deportation are permitted. Only when this is not applicable, the asylum procedure will be initiated under the jurisdiction of the Federal Office for Immigration and Asylum (*Bundesamt für Fremdenwesen und Asyl*; BFA). In the case of an erroneous deportation, appeal practically becomes impossible as the access to effective judicial remedy, as granted by Article 47 of the CFR, is severely restricted since appeals can only be lodged after the execution of the measure, i.e., from abroad (University of Graz, 2016, p. 8). The official justification of the special provisions rests upon a threatening scenario in which the collapse of public administration will be imminent if asylum applications stay on a consistent level. The available figures do not support the existence of such an emergency (Austrian Judges' Association, 2016, p. 2). The threat scenario of a presumed collapse of the security apparatus lacks foundation, as total crime rates were at their lowest in 15 years (Diakonie Austria, 2016, p. 5).

The implementation of a fixed-term asylum in § 3 of the sixth principal section AsylG introduces a “second-class asylum” (Volkshilfe, 2016, p. 5) and represents an obstruction per se as it does not grant full membership in the receiving country. By extending the waiting period for family reunification for people with subsidiary protection status to three years (§ 35 (2) AsylG) and implementing a three-month deadline for application for people with refugee status (§ 35 (2) AsylG), relatives of beneficiaries of protection are prevented from entry. Specifically, the provision in § 35 (2) AsylG that the application must be submitted from abroad practically inhibits family reunification completely, as in most countries of origin an Austrian embassy or consulate does not exist. After the expiration of the deadlines, people with recognised asylum status or subsidiary protection are obliged to fulfil certain necessary requirements of a very high standard (§ 60 (1) to (3) AsylG). Consequently, family reunification is quasi-suspended.

Due to the introduction of an asylum cap in January 2016, asylum applications past the annual threshold of 37,500 applications were not considered (Austrian Integration Fonds, 2016, p. 12). The closure of the West Balkan route in March 2016 additionally complicated the access to an asylum procedure (UNHCR, 2016b, p. 2). Finally, the classification of six countries (Algeria, Georgia, Ghana, Morocco, Mongolia, and Tunisia) as safe countries of origin led to the requirement to prove factual persecution even if the Austrian legislator generally dismisses this reality.

Falling into the category of punishment, the FrÄG added new grounds for custody in § 77 FPG which do not exclude vulnerable groups such as pregnant or nursing women, children,

or victims of torture (UNHCR, 2015a, p. 17). The amendment of AsylG; moreover, enables the extension of detention up to 14 days (§§ 35 and 39 FPG). Furthermore, the suspensory effect of a complaint can be denied based on new offences in § 18 (1) BFA-VG. This is consistent with the EU Procedures Directive (Art. 31 (8) 2013/32/EU) but is still critical, since a wrong first-instance decision can lead to violations of the principle of non-refoulement (UNHCR, 2015a, p. 5).

The closure of the West Balkan route as well as the introduction of an asylum cap resulted in an accumulation of asylum seekers in Greece and Northern Macedonia, who were denied the onward journey to Serbia (UNHCR, 2016c). The special provisions which enabled a mere review for breaches against the principle of non-refoulement in case of a deportation also entailed that asylum seekers had to seek international protection in other countries. Both measures clearly can be interpreted as *free riding* in the context of the unilateral suspension of Union law, specifically the Dublin Regulation (UNHCR, 2016d, p. 6), as Austria opts out of its responsibility under the CEAS.

Experts of asylum law evaluated multiple legal changes as *breaches of superior law*. First, the interpretation of a pendent Dublin procedure as a reason for arrest (§ 76 (3) Z. 6 FPG) constitutes a clear contradiction to Article 28 (1) of the Dublin Regulation, which prohibits detention on these grounds. Furthermore, the fact that children are not exempt from detention refutes Article 11 (2) and Article 23 (2) of the EU Reception Conditions Directive (2013/33/EU) which prioritise children's wellbeing. This category again includes the withdrawal of primary care possible through § 2 (4) and (7) GVG-Bund as the European Court of Justice (ECJ) ruled with reference to the Reception Conditions Directive that the protection of human dignity must be preserved at all times (*Cimade (GISTI) v Ministre de l'Intérieur, de l'Outre-mer, des Collectivités territoriales et de l'Immigration*, C-179/11). Furthermore, there seems to be a clear contradiction with Article 20 (5) 2013/33/EU as well as Articles 1 and 47 of the CFR. Another severe example which could amount to the violation of the principle of non-refoulement is the elimination of procedural guarantees such as § 21 (2) lit. a (reduction of time limit for appeal) and (6) lit. a (lapse of oral hearing) BFA-VG, which neglect the guaranteed remedy set out by Article 47 of the CFR. The before mentioned obstructed family reunification can lead to violations of Article 8 of the ECHR and the UN Convention on the Rights of the Child.

The strongest case in this category consists in the possibility of proclaiming a quasi-state of emergency. This enables a sole review for admissibility of rejection or deportation,

which amounts to an abandonment of the previous asylum system (Volkshilfe, 2016, p. 2) and a repeal of the right to an asylum procedure as granted, among others, in Article 18 of the CFR (Austrian Federal Bar Association, 2016, p. 12). As according to § 38 (3) AsylG an interview conducted by the BFA only takes place *after* reviewing the applicability of rejection, deportation, or obstruction of entry and § 17 (2) defines that the intention to seek asylum is only expressed in the interview, previously expressed intentions to claim asylum might just be ignored (Austrian Federal Bar Association, 2016, p. 12). Meanwhile, effective objection from abroad is virtually impossible and so the right to effective objection (Art. 13 ECHR) is pried out (UNHCR, 2016d, p. 6).

3.2 *Germany*

As the categories deterrence, punishment, and breaching superior law comprise an extensive number of policy changes, only the most relevant will be discussed in detail. In the category lack of solidarity, no cases could be registered.

Already the purpose of the first Asylum Package aimed at deterrence: “[T]he subsequent measures are required to cope with the current influx of refugees. This includes the acceleration of procedures and the avoidance of disincentives” (German Federal Government, 2015, p. 1). For the government, “pocket money” apparently falls under incentives, as it was axed by adding § 1a AsylbLG and changing § 3 AsylbLG. Primary care was also substituted with payment in kind. Other cuts became possible when someone “obliged to leave”—which includes so-called ‘Dublin’ cases—continues their stay (§ 1a (2) and (3) AsylbLG). The social benefits then only include nutrition, accommodation, heating, sanitary products, and health care. The assumption that a ‘pocket money’ of 143 Euro is pivotal for the decision to flee seems doubtful considering that over 75% of refugees in 2015 fled from war or crises (Diakonie Germany, 2015, p. 14). The Federal Constitutional Court has also noted that a shorter duration of stay cannot be equated to lesser needs (Diakonie Germany, 2015, p. 14). Through the amendment of § 47 (1) S. 1 AsylG, the duration for accommodation in initial reception centres was extended from three to six months. The obligation to live in these centres is connected to work prohibition (§ 61 (1) AsylVfG) and asylum seekers from ‘safe’ countries of origin are not allowed to move out of reception centres during the asylum procedure (§ 47 (1) AsylG), hence, they too are subjected to work prohibition for the entire period.

The list of ‘safe’ countries of origin was expanded by the addition of Albania, Kosovo, and Montenegro. Considering all measures in relation to each other, the conclusion close at hand is that the government aimed to specifically deter asylum seekers from the Balkan states

and, furthermore, assumes that they claim asylum primarily for material incentives (GGUA Flüchtlingshilfe, 2015, p. 2). Thereby, for instance, the fact that Rom*nja experience heavy discrimination and social exclusion in the Balkan states is dismissed. Finally, Asylum Package II reduced social benefits for asylum seekers further. With the new § 5 (5) AsylG, the installation of special reception centres for asylum seekers subjected to fast-track procedures became possible. This includes people from ‘safe’ countries of origin and follow-up applicants. Only unaccompanied minors are excluded; however, people considered particularly worthy of protection according to Article 21 of the EU Reception Directive (2013/33/EU) are not (Diakonie Germany, 2016, p. 3). The isolation and precarisation caused by this policy seem to be intended to enforce ‘voluntary’ departure (Pro Asyl, 2016, p. 2).

Due to the extension of the list of ‘safe’ countries of origin, access to asylum is considerably obstructed for asylum seekers from these states, since they have to provide evidence that their country of origin is in fact not safe, instead of proving an individual need for protection (German Caritas Association, 2015, p. 10). The attempt to further classify Tunisia, Algeria, and Morocco as ‘safe’ countries in May 2016 was prevented by the Bundesrat. § 30a AsylG was introduced by Asylum package II and enabled fast-track procedures in which a decision is made within one week. The right to appeal can only be made use of within another week. It is questionable that an individual assessment is possible in such a brief period. Asylum Package II further simplified deportations despite health problems, prohibiting them only in case of “life-threatening or serious illnesses which would worsen significantly through a deportation” (§ 60 (7) S. 1 AufenthG). The biennial suspension of family reunification for people under subsidiary protection in § 104 (13) AufenthG also falls under obstruction. As the classification of Syrian refugees has changed⁷, Syrians are mainly affected by this, together with applicants from Afghanistan and Iraq. The impact for unaccompanied minors is particularly dramatic as the right to family reunification lapses upon reaching maturity (Pro Asyl, 2016, p. 6).

Moreover, the possibility for an abandonment of asylum applications was implemented: According to § 33 (2) S. 3 AsylG the application will be considered as withdrawn if applicants violate the temporary resident permit (§ 56 AsylG) by breaking the residence obligation (§ 30a (3) AsylG). Thus, visiting relatives can already cause the immediate termination of the application. New entry and stay bans were introduced through changes to § 11 AsylVfG. Such bans, applied to the EU as a whole, can now be imposed on people with a permit for a tolerated stay if they violate the obligation to cooperate in leaving the country, or after applying repeatedly or for ‘unfounded’ reasons (§ 11 (7) AsylVfG). This is especially problematic in

combination with fast-track procedures, as these applications are rejected more frequently due to the increased burden of evidence (Federal Working Group for Non-Governmental Welfare Services, 2015, p. 6). As entry and stay bans entail the prohibition of a residence permit even if a claim arises (§ 11 (1) AsylVfG), some are obligatorily and without exception excluded from protection through the law (Pro Asyl, 2015b, p. 9). This again applies at elevated levels to Rom*nja fleeing from Balkan states (Pro Asyl, 2015b, p. 14).

One of the most severe cases in the category *punishment* is the already discussed exclusion from an asylum procedure through § 33 AsylG, which allows authorities to terminate the asylum application procedure if they can assume an abandonment of the application. If asylum applicants do not manage to request a reinstatement, a deportation to the persecutor state may be a consequence. The deadline to request a reinstatement is nine months; however, at times it took up to nine months until asylum applicants were notified about the termination of the proceedings (Pro Asyl, 2016, p. 6). The other cases within this category mostly concern new grounds for the detention of asylum seekers. Due to changes in § 2 (14) AufenthG, asylum seekers can be arrested on the basis of a nonconcrete “risk of absconding or for other concrete preparatory acts”. Hitherto, an intent to abscond was a prerequisite for arrest and the new regulation therefore requires fewer preconditions. Even considerable sums of money paid to third parties to reach Germany can now be considered a possible indication of the risk of absconding (§ 2 (14) Nr. 4 AufenthG). As the entry to Germany is almost impossible without the help of smugglers due to, inter alia, the Dublin Regulation, it is questionable whether cash payments to smugglers can be interpreted as evidence for a risk of absconding.

Another problematic aspect is considered within the category of *breaching superior law*, as the aforementioned sanctions neither tie in with controllable behaviour nor do they demand actions through which the people affected can overcome their need for help. Yet, national law requires that the sanctioned behaviour could theoretically be altered. The only possible breaches of European law detected in this study concern the extension of detention grounds: First, § 2 (15) S. 2 AufenthG allows a detention on the basis of a pending Dublin procedure which is prohibited in the Regulation (Art. 28 604/2013/EU). Second, it became possible to detain refugees for collective deportation for up to four days without special grounds, which contradicts European law (Pro Asyl, 2015b, p. 4).

The concept of ‘safe’ countries of origin raises fundamental concerns as the right to claim asylum is an individual right which requires an individual and thorough assessment, i.e., the principle of *ex officio* investigation. The explanatory memorandum for the extension of

‘safe’ countries of origin (Annex II to § 29a AsylVfG) does not fulfil the requirements for a classification as ‘safe’ country, as the states are only assessed for political persecution and persecution by the state. Persecution by non-state actors (Art. 6 lit. c 2011/95/EU) and acts of persecution under the definition of the Qualification Directive (Art. 9 2011/95/EU) were therefore left out. These types of persecution, nevertheless, highly affect women and LGBTIQ+ people (Shuman & Bohmer, 2014; Sunny, 1994; Valji, 2001). Furthermore, the new classification did not verify whether the discrimination against minorities (specifically against Rom*nja) does amount to persecution within the meaning of the Qualification Directive (German Caritas Association, 2015, p. 10). The highest administrative court in France, for instance, deemed the classification of Kosovo on those grounds to be illegal (Sürig, 2015, p. 16).

Another set of policy changes are the previously discussed restrictions to social benefit claims in § 1a AsylbLG, as they contradict the jurisprudence of the Federal Constitutional Court from July 18, 2012, according to which Article 1 Basic Law (*Grundgesetz*) in combination with Article 20 Basic Law requires the guarantee of subsistence level at any time and in any case. Considerations of migration policy, which are used in the explanatory memorandum, shall not matter according to the court’s decision (German Caritas Association, 2015, p. 2). Moreover, the new paragraph contradicts the ECJ judgement from September 27, 2012 (*Cimade (GISTI) v Ministre de l’Intérieur, de l’Outre-mer, des Collectivités territoriales et de l’Immigration*, C-179/11). The accelerated procedures in § 30a AsylG, introduced through Asylum Package II, ignore procedural safeguards prescribed by the EU Asylum Procedures Directive (2013/32/EU), such as reasonable deadlines for decisions, access to lawyers and NGOs, and the right to a personal interview and legal information (Diakonie Germany, 2016, p. 4; Neue Richtervereinigung, 2015, p. 2; Pro Asyl, 2016, p. 5). The possibility of termination of the asylum procedure (§ 33 AsylG) can be interpreted as a “simulated declaration of withdrawal” (Neue Richtervereinigung, 2015, p. 4). Hitherto, a request to continue the procedure was stipulated on the fundamental right to legal protection (Art. 19 (4) Basic Law) and the right to fair hearing (Art. 103 (1) Basic Law), before assuming the withdrawal. This raises constitutional problems, as it cannot be guaranteed that asylum seekers receive a notification about the termination before the expiry of the time limit (German Federal Bar Association, 2016, p. 11). A final severe case in this category is the suspension of family reunification for people under subsidiary protection status through § 104 (14) AufenthG, as the separation of children from their parents contravenes Articles 9 and 10 of the UN Convention on the Rights of the Child, the Family Reunification Directive (2003/88/EC), the Qualification Directive

(2011/95/EU), as well as Article 6 (1) Basic Law, and Article 8 of the ECHR (Diakonie Germany, 2016, p. 8; German Federal Bar Association, 2016, p. 17; Pro Asyl, 2016, p. 6).

4. Analysis II: Correlation Analysis Between Securitisation of Asylum Law and Strength of PRRP

After observing, in both the Austrian and the German case, a securitisation of asylum policy, the possible causal link between the established dependent variable “securitisation of asylum policy” and the independent variable “strength of populist radical right parties” will be analysed. The independent variable was operationalised as poll ratings for the respective parties. To exclude the possibility that the securitisation of the policy field is influenced by high numbers of asylum applications, an examination of this variable was included too. From both independent variables “number of asylum applications” (IV 1) and “poll ratings for FPÖ” (IV 2) or “poll ratings for AfD” (IV 2) and the dependent variable “securitisation of asylum policy” (DV), eight possible combinations result. Ultimately, the illustration also considers elections (state elections or higher) as these could function as catalysts when high poll ratings for FPÖ or AfD were recorded. The analysis is broken down by month.

Table 1: *Analysis Grid*

IV 1: Asylum applications	IV 2: Poll ratings	DV: Securitisation	Combination
+	+	+	C1: Correlation between IV 1 and IV 2 with DV
–	–	–	C2: Correlation between IV 1 and IV 2 with DV
+	+	–	C3: No correlation
–	–	+	C4: No correlation
+	–	+	C5: Correlation between IV 1 and DV
–	+	–	C6: Correlation between IV 1 and DV
+	–	–	C7: Correlation between IV 2 and DV
–	+	+	C8: Correlation between IV 2 and DV

Note. The combinations in bold text suggest a causal relation between the variable “strength of populist radical right parties” and the variable “securitisation of migration”. The combinations C7 and C8 have the highest probability of causality as an interference with rising asylum applications is excluded. Securitising measures were illustrated and classified as “present” (+) and “absent” (–). For asylum applications and poll ratings “+” illustrates increasing numbers compared to the previous month, while “–” describes a decrease compared to the previous month.

Both countries were subjected to similar financial burden and workload relative to the asylum applications. In Austria, 88,160 asylum applications were submitted in 2015, which corresponds to one percent of the total population (8.6 million; Eurostat a). In 2016 that number

dropped to 42,245 applications or 0.48% of 8.7 million inhabitants (Eurostat a). In Germany 476,510 asylum applications were submitted in 2015 which equals 0.58% of the population share (81.2 million; Eurostat a). In 2016, the number almost doubled to 940,150 applications or 1.13% of the total population (82.2 million; Eurostat a). This represents the maximum load for the public authorities, yet, compared to the economic power of the country, it should still be considered as relatively low. For Germany, as the strongest economy in the EU, additional costs should presumably be less of a burden than for Austria, which ranks 10th in the EU (Eurostat b).

4.1 Austria

From January to November 2015, combination C1 prevails as both independent variables show parallel developments: They first drop from January to March (IV 1) and April (IV 2) and then steadily increase until November with a short interruption between July and August. Simultaneously, a securitisation of asylum law takes place through the *Aliens' Law Amending Act* and the partial suspension of the Dublin Regulation with coinciding resumption of border controls. Between November and December 2015, both independent variables fall as the bills for so-called 'temporary asylum', for limitation to family reunification, and for the construction of a border fence have further promoted securitisation. This trend is in accordance with C4. After January 2018, combination C8 can be observed as IV 1 is continuously falling—possibly because of the previously introduced measures—while poll ratings for FPÖ are still on the rise and further securitising measures are introduced. Furthermore, there is a striking concurrence of election dates and the adoption of various policies. Between the adoption of the *Aliens' Law Amending Act* in the National Council (May 21, 2015) and the state elections in Burgenland and Styria (May 31, 2015) only ten days passed, as well as between the decision of the Federal Council to amend the *Asylum Act* (May 12, 2016) and the first round for the election of the federal president (May 22, 2016).

4.2 Germany

In Germany, the developments are not unambiguous enough to classify them as a trend. From January to August 2015, there is only one policy which contains securitising elements, but it simultaneously improves the status of refugees living in Germany in the sense of a human security approach. In addition, the poll ratings for AfD dropped, but the asylum applications did not show a clear development. Between August 2015 and May 2016, the poll ratings were continuously rising, yet the asylum applications also rose even if they saw repeated declines as in December 2015 or May 2016. This period can be classified as C1, albeit alleviated. From

May to July 2016 an opposite development (C7) could be observed, in which the poll ratings for AfD were declining while asylum applications rose (interrupted by a small plateau from June to July). Applications rose from 15,685 in July 2016 to 94,350 applications in August 2016, which represented the maximum level of applications within the period investigated. Meanwhile, poll ratings recovered and reached the maximum of 13.8%. Yet, no policy measure fell into that time frame and thus no correlation was present (C3). Asylum applications declined sharply from August onwards, reducing by 15,925 applications between August and September, and by as much as 44,155 applications (more than half of total applications of preceding months) between September and October. This downward trend slowed after October, yet still reached the lowest point of the investigation period by the end of the year (20,550 applications).

The poll ratings initially rose between August and September, before subsequently falling again. A clear assignment of a combination is not possible in this case either. Despite the lack of a general trend, a simultaneity between securitising measures and election dates can be observed. March 13, 2016 constitutes the most important election date in the investigation period, as three states (Baden-Württemberg, Rhineland-Palatinate, Saxony-Anhalt) that together cover one fifth of the total population, held their state elections. Only two days before (March 11), the Asylum Package II, the strongest securitisation of asylum law in this study, was passed. In September 2016, Mecklenburg-Western Pomerania (September 4) and Berlin (September 18) held their elections, right before the government put forward another bill for cuts of social benefits for asylum seekers, which was eventually rejected by the Bundesrat. Given the results of AfD in the previous elections—in Mecklenburg-Western Pomerania they became the second most voted party with 24.3%, while they received 14.1% of the vote in Berlin—the bill can be interpreted as a reaction to the election results, more so as the asylum applications experienced a sharp fall.

Figure 1

Developments of Asylum Applications and Poll Ratings for FPÖ in Austria 2015/16

1: Draft for FrÄG

2: FrÄG discussed and adopted in the Federal Council

3: FrÄG passed in Bundesrat

4: a) Dublin Regulation only applied relatively; b) Reintroduction of border controls; c) Draft and resolution of the law on accommodation and redistribution of vulnerable foreigners

5: a) Bill for fixed-term asylum ("Asyl auf Zeit"); b) Limitation of family reunification; c) Announcement of border fence and start of construction

6: a) Asylum summit decides on asylum cap; b) Draft for a new asylum law

7: a) Further reduction of asylum cap; b) New 'safe' countries of origin

8: Closure of the Balkan route

9: Adoption of the amendment of the Asylum Act in the National Council

10: Adoption of the amendment of the Asylum Act in the Federal Council

11: Decree for the regulation concerning the special provisions

12: State elections in Burgenland and Styria (May 31, 2015)

13: State elections in Upper Austria (September 27, 2015)

14: First round of run-off election of the Federal President (April 24, 2016)

15: Second round of run-off election of the Federal President (May 22, 2016)

16: Redial second round of run-off election of the Federal President (December 4, 2016)

Figure 2

Developments of Asylum Applications and Poll Ratings for AfD in Germany 2015/16

1: Adoption of the law for the redefinition of the right to stay and termination of the stay
2: a) Entry without registration becomes possible for refugees travelling from Hungary; b) Introduction of border controls and suspension of Dublin procedures vis-à-vis Austria; c) Adoption of Asylum Package I in cabinet and presentation of draft
3: Adoption of the Asylum Package I in parliament
4: Draft for the law on improvement of data exchange
5: a) Adoption of the law on improvement of data exchange; b) Draft for the law for facilitated expulsion of criminal foreigners and for the extended exclusion from refugee status for criminal asylum seekers; c) Draft of Asylum Package II

6: a) Adoption of Asylum Package II; b) Adoption of the law for facilitated expulsion
7: Adoption of the Integration Act in cabinet and presentation of draft in parliament
8: Enactment of Integration Act
9: Draft for an amendment of the Asylum Seekers Benefits Act
10: State elections in Hamburg (February 15, 2015)
11: State elections in Bremen (May 10, 2015)
12: State elections in Baden-Württemberg, Rhineland-Palatinate und Schleswig-Holstein

(March 16, 2016)

13: a) State elections in Mecklenburg-Western Pomerania (September 4, 2016); b) State elections in Berlin (September 18, 2016)

Conclusion

The research literature suggests a causal link between the strength of PRRP and securitisation of asylum policy due to conceptual intersections. Therefore, this paper initially investigated to which extent a securitisation of the policy field has taken place in Austria and Germany. The first analytical step showed an extensive securitisation in Austria which entailed strong limitations on access to asylum. To this end, infringements of fundamental rights were accepted. All five analytical categories exhibited numerous measures and legislative changes focusing on deterrence and obstruction, with concurrent failure to comply with existing laws. The introduction of an asylum cap and the possibility of declaring a state of emergency, which allows authorities to only verify whether a rejection would breach the principle of non-refoulement, particularly impeded access to protection in Austria. In conjunction with the quasi-suspension of family reunification and the aggravated right to appeal, the policy changes amount to a “de facto abolition of the right to asylum” (Austrian Federal Bar Association, 2016, p. 12). Legislation on all legal levels (constitutional, union, and international law) was simultaneously disregarded, partially to a severe extent. The results suggest that Austria has not carried out a complete withdrawal from the CEAS or a complete suspension of the right to (access to) asylum. However, it undertook strong derogations of fundamental rights that partially led to breaches against essential norms of international law, such as the principle of non-refoulement (1951 Refugee Convention, Art. 33). The second analytical step reinforced the assumption that there is a causal relationship between the strength of PRRP and the securitisation of asylum, as even after the decline of asylum applications further securitising policy changes were passed. The simultaneity between these policies and election dates, during times when FPÖ seemed to be able to mobilise many voters, strongly suggests the applicability of the hypothesis that PRRP provide for a securitisation of asylum policy even from the opposition.

In the case of Germany, the first part of the analysis also showed a securitisation of the policy field. The policy changes were directed to a great extent against citizens from the Balkan states. A large proportion of the policies—such as the limitation of family reunification, the sanctioning of certain behaviours with the termination of the asylum application, and the possibility to withdraw primary care—show an approach that emphasises measures of obstruction and punishment that aim to push asylum seekers to leave the country. This stands in contrast to existing legislation. Unlike in Austria; however, the policy changes did not go as

far as effectively suspending the possibility to claim asylum. Furthermore, not all policies could be assigned to a process of securitisation, as some improved the status of refugees already living in Germany with a residence permit. The decision in the summer of 2015 to allow asylum seekers from Syria to continue their travels to Germany without registration counts as an opposite development in the sense of human security approaches. The second part of the analysis did not show an unambiguous result, thus the (comparatively attenuated) degree of securitisation cannot unequivocally be connected to the increasing strength of AfD in the political system. Nonetheless, these findings do not preclude a possible effect as the analysis did not examine at what point the strength of PRRP takes effect and if a certain threshold needs to be exceeded. This hypothesis is also suggested by Davis (2012) who considers the credibility of the threat by an anti-immigration party as necessary condition. Furthermore, the results showed a securitisation in all cases, regardless of whether parliamentary representation existed or not. Even though the hypothesis of a varying degree according to the level of power of PRRP could be tested and verified, it remains unclear at what point the power of PRRP is sufficient to influence policy decision-making. Thus, future studies should test these results in cases without any form of institutionalised power of PRRP.

The validity of the results however is subjected to certain limitations. The choice of cases achieved approximately similar conditions and structures, yet congruence cannot be obtained. Therefore, it cannot be excluded that the different degree of securitisation is, for example, conditioned or caused by the difference in economic power, i.e., available resources for the handling of additional costs caused by high migration numbers. The choice of method was based on the observation that in public discourse about immigration, cultural aspects were stressed more than economic aspects. The constructed threat scenarios mostly emphasise the risk for the coherence of society and add economic arguments merely as support (Lazaridis & Konsta, 2015; Lazaridis & Tsagkroni, 2015). The question of how the influence of the variable “strength of populist radical right parties” operates remains unsolved. The securitisation could either be an intrinsic change of policy agenda due to a change in societal norms towards radical right positions or a method of opportunistic co-option to tackle electoral competition. The motivation behind the policy output should be explored in further research, for example with the help of expert interviews. Furthermore, it is conceivable to examine the explanatory memoranda of the laws and investigate to which extent narratives of radical right parties are co-opted. It also remains unclear how impactful the influence of ‘emergency situations’ is on policy output, especially as part of the research literature suggests low impact of radical right

parties on the restrictiveness of immigration policy. It is advisable to consolidate the validity of the results by expanding the investigation to further case studies in the European Union. Increasing the time frame could shed light on early stages of securitisation and would allow to further narrow down the functioning of the impact of PRRP and possible reinforcing variables.

Notes

1. The terms ‘crisis’ or ‘refugee crisis’ will intentionally be avoided as they are ideologically charged and serve narratives that are adduced to legitimise an enforced securitisation and so-called emergency policies (Freedman et al., 2017, p. 7; Cantat, 2016).
2. The school of thought was developed at the Conflict and Peace Research Institute (COPRI) in Copenhagen in the 1990s and is characterised by a re-conceptualisation of ‘security’. In *Security: A New Framework for Analysis* (1998), the main text for the definition of the term ‘securitisation’, Buzan, Wæver and de Wilde argue for a wider understanding, incorporating also environmental and identity issues.
3. This strand of security studies understands security as a socially constructed concept and draws strongly on the works of Foucault. However, it has been argued to understand these categories rather as “specific individuals and debates much more than unitary schools of thought” (C.A.S.E. Collective, 2006, p. 444).
4. Translations from German to English were made by the author.
5. The term ‘Volk’ in current German language is often avoided because of its ambiguous and controversial connotation as well as related words like ‘völkisch’ or ‘Volksgemeinschaft’. Due to the use of the term in Nazi Germany, the word remains ideologically charged. With regard to the conceptual history of ‘Volk’, some scholars argue that despite the transformation of the interpretation, processes of exclusion were always inherent to the term and its use (cf. Wildt, 2017).
6. This includes the so-called (1) Asylum Package I (*Asylverfahrensbeschleunigungsgesetz*), (2) the Asylum Package II (Act for the Introduction of Accelerated Asylum Procedures), (3) the Integration Act, (4) the Data Exchange Improvement Act, (5) the Act Facilitating the Expulsion of Criminal Aliens and for the Expanded Exclusion of Refugee Status for Criminal Applicants for Asylum as well as (6) the Redefinition of the Right to Stay and the Termination of Residence Act.
7. In 2015, 99,6% of Syrians received refugee status, compared to only 59% in 2016 (Amnesty International Germany, 2016, p. 1).

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Appendix A

<i>Month</i>	<i>Asylum applications</i>	<i>Poll ratings FPÖ</i>
2015M01	4.030	26,5%
2015M02	3.255	26,0%
2015M03	2.920	25,9%
2015M04	4.040	25,4%
2015M05	6.390	26,5%
2015M06	7.675	27,8%
2015M07	8.790	28,6%
2015M08	8.795	28,8%
2015M09	10.780	31,8%
2015M10	12.275	32,0%
2015M11	11.930	32,3%
2015M12	7.280	30,3%
2016M01	5.910	32,0%
2016M02	5.125	32,0%
2016M03	3.355	32,3%
2016M04	4.160	32,0%
2016M05	3.855	33,5%
2016M06	3.240	34,0%
2016M07	3.125	34,7%
2016M08	3.315	34,3%
2016M09	2.640	34,2%
2016M10	2.635	34,0%
2016M11	2.415	33,7%
2016M12	2.470	33,0%

Source for asylum applications: Eurostat: *Asylum and first-time asylum applicants by citizenship, age and sex Monthly data (rounded)[migr_asyappctzm]*. European Commission. <https://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>. Retrieved: September 14, 2020. Filters were set for the time period under TIME (January 2015 to December 2016) as well as the GEO filter for Austria and Germany.

Source for poll ratings: neuwal – Verein zur Förderung politischer Bildung. <https://neuwal.com/wahlumfragen/>.

Disclaimer: As the data was taken from two different survey institute, the average value for each month was detected. The number of respondents is considerably lower than for German survey institutes, yet this data set is the only available for the Austrian context.

Appendix B

<i>Month</i>	<i>Asylum applications</i>	<i>Poll ratings AfD</i>
2015M01	26.875	6,3%
2015M02	27.695	6,2%
2015M03	33.865	6,3%
2015M04	28.720	5,8%
2015M05	27.595	5,2%
2015M06	37.030	4,6%
2015M07	39.825	3,9%
2015M08	39.480	3,6%
2015M09	47.185	4,4%
2015M10	60.355	6,9%
2015M11	59.615	8,1%
2015M12	48.270	8,7%
2016M01	59.070	10,0%
2016M02	74.865	11,0%
2016M03	67.300	11,6%
2016M04	67.865	12,0%
2016M05	61.295	13,2%
2016M06	80.750	12,4%
2016M07	78.665	10,7%
2016M08	94.350	11,3%
2016M09	78.425	13,8%
2016M10	34.270	13,1%
2016M11	27.745	12,0%
2016M12	20.550	12,2%

Source for asylum applications: Eurostat: *Asylum and first-time asylum applicants by citizenship, age and sex Monthly data (rounded)[migr_asyappctzm]*. European Commission. <https://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>. Retrieved: September 14, 2020. Filters were set for the time period under TIME (January 2015 to December 2016) as well as the GEO filter for Austria and Germany.

Source for poll ratings: Wahlrecht.de. <https://www.wahlrecht.de/umfragen/index.htm>. Retrieved: September 14, 2020. Data was taken from the subpages of the institutes Allensbach, Emnid, Forsa, Infratest dimap and INSA and an average value was determined.