

Empowering Frontex, Building ‘Fortress Europe’?
*A Congruence Analysis of the European Integration of External
Border Management*

Zane de Ponte – 459269

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Erasmus University Rotterdam

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Dr. M. Onderco

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Dr. A.T. Zhelyazkova

Abstract

The goal of this case study is to explain the process of external border management integration in the European Union (EU) and analyze which theory of European integration better explains the establishment of the European Border and Coast Guard (EBCG) in 2016. The EBCG is a direct successor to the European Agency for the Management of Operational Cooperation at the External Borders (Frontex). Operational and regulatory competences regarding external border management of EU member states have been considerably broadened and deepened in the new agency, as the EBCG now brings national border and coast guards of member states together under one institutional umbrella. Central innovations include an expanded risk analysis and strategic mandate, the right to intervene in member states facing extraordinary migratory pressures, along with the obligation of member states to contribute border guards. The EBCG is furthermore capable of purchasing its own technical equipment such as patrol boats and helicopters, ensuring for the first time a degree of operational independence of the agency. As such, the establishment of the EBCG is a significant step towards further European integration of external border management. A congruence analysis using theories of European integration, complimented by the causal process tracing method, will be used to determine whether the predictions derived from the chosen theories match the causal mechanisms resulting in the EBCG. The three theories under examination are neofunctionalism, liberal intergovernmentalism and new intergovernmentalism. The dual focus of the research is thus the following. First, to explain the processes resulting in border management integration through a case study of the EBCG. Second, to analyze and compare the explanatory leverage of theories of European integration in explaining the case of the EBCG.

Abbreviations

AFSJ	Area of Freedom, Security and Justice
CEAS	Common European Asylum System
Commission	European Commission
Council	European Council
EAM	European Agenda on Migration
EBCG	European Border and Coast Guard
ECJ	European Court of Justice
EP or the Parliament	European Parliament
EU	European Union
Frontex	European Agency for the Management of Operational Cooperation at the External Borders Of the Member States of the European Union
JHA	Justice and Home Affairs
UNHCR	United Nations' High Commissioner for Refugees

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1.1 Introduction and problem statement

The EU has incrementally gained the competence to formulate and implement migration, asylum, and external border management policies. The first policies related to migration and border management in the EU were primarily created to address new challenges related to the creation of the Schengen Area and the lifting of internal borders as “common rules for the control of the external borders have always formed the *conditio sine qua non* for the lifting of checks at the internal borders” (Rijpma 2016: 9). These policies were limited in scope and primarily intergovernmental in form, focusing on information-sharing and informal ministerial dialogues (Hix and Høyland 2011). Cooperation in border-related affairs developed slowly, with member state concerns to retain sovereignty on the delicate matters of territorial border control and migration management consistently blocking proposals for a more integrated European approach (Uçarer 2012). Nonetheless, successive Treaties from Maastricht up to the Lisbon Treaty have expanded the competences of European institutions in external border management.

In the last two decades, external border management cooperation and the Area of Freedom, Security and Justice (AFSJ) have developed to become a fully-fledged and vibrant policy area of the EU (Uçarer 2012; Lavenex 2006). Besides the creation of the Schengen Area, with which the emergence of AFSJ is intertwined, several developments spurred cooperation at the European level. Important developments include the widespread belief that the nation-state was ‘losing control’ over migration (Sassen 1996; Joppke 1998), the sharp politicization of migration (Hollifield 2007; Hampshire 2013), the securitization of migration through issue-linkage with terrorism exemplified by recent concerns with return-fighters and jihadi radicalism (Castles, Haas & Miller 2014) and migratory concerns related to European enlargement (Leonard 2009). To address migratory flows at the external borders of the EU, the Commission presented an ambitious proposal for a “European Corps of Border Guards” in 2002 (European Commission 2002: 21). The precise shape and competences of such a new body was the subject of contention between member states’ officials and the Commission, but the necessity was no longer disputed (Carrera 2007). Frontex was established in 2004 to facilitate external border management cooperation between member states (Leonard 2009).

From its humble beginnings as a relatively small agency, Frontex has undergone a process of ‘agency empowerment’ in the past two decades with legislative amendments and an expanded budget (Rijpma 2016). However, structural problems continued to hamper the agency’s operational performance and overall role in external border management. The ‘European refugee crisis’ of 2015 led to a serious reconsideration of the capabilities of Frontex as an agency. Extraordinary migratory pressures were indirectly threatening the Schengen-zone area of free travel within Europe, as member states temporarily reinstated border controls to fend for themselves. EU efforts to relocate asylum-seekers between member states and burden-sharing with front-line states such as Italy and Greece were

unsuccessful. The EBCG was presumably created to correct the incomplete integration in external border management and help member states regain control over external borders. The EBCG is, then, to a certain extent, a case of crisis policy-making meant to address the brave new world of never-ending migratory pressures fueled by conflicts in Europe's southern and eastern neighborhood. The goal of the EBCG was to remedy the insufficient power of Frontex and create some degree of operational and technical independence (Rijpma 2016). The EBCG regulation has been a significant step in external border management integration, as the agency has grown to occupy an increasingly important position, namely that of "the European core of a network made of the national authorities in charge of border controls" (De Bruycker 2016: 13). Frontex is no longer the facilitator of operational cooperation, but in some ways has become a *primus inter pares* – with competences to advise and evaluate member states' external border management quality and the capability to dispatch its own liaison officers for this end (Rijpma 2016: 19). The EBCG constitutes both a broadening and deepening of competences regarding external border management, as the agency now inter alia has the capability to purchase its own equipment, statutes that improves its recourse to member state border guards, and responsibility for cross-border crime at the external borders (Rijpma 2016).

European integration in border management and migration affairs seems to have continued unabated, even as other policy areas of the EU seem to have reached an 'institutional equilibria' of sorts (Hix and Høyland 2011). This development nonetheless leaves us with questions and an unclear account of what is driving integration in border management. Should border management integration be understood as an inevitable result of the Schengen border system or are there other explanations, such as intergovernmental venue shopping and the 'flight to Europe' hypothesis for migration management in the face of national governments losing control (Guiraudon 2000; Geddes & Scholten 2016)? The refugee crisis has undoubtedly been a crucial factor in stimulating further integration. However, a recognition of the crisis' importance alone says little about the precise causal mechanisms that led to the EBCG regulation.

The literature on Frontex and external border management of the EU has largely focused on the legality of operational cooperation at the external borders (Carrera 2007), the securitization of border management (Neal 2009; Moreno-Lax 2018) and the accountability of Frontex (Rijpma 2012; Wolff & Schout 2013; Pollak & Slominski 2009). Less attention has been dedicated to the integration process of external border management with the use of *theories of European integration*. Jorry (2007) and Leonard (2009) consider the institutional development from a historical perspective, but avoid applying theories of integration. Most recently, the EBCG regulation was analyzed as a case of neofunctionalist integration (Niemann & Speyer 2018). This analysis flies in the face of intergovernmentalist claims that external border management integration is a process carefully guided and controlled by member states. Besides this one case, the application of theories of integration to

external border management integration has been scarce and no congruence analysis comparing different theories of integration have yet taken place. This constitutes an unfortunate gap in the literature, as theories of integration can be complimentary for a better overall understanding of both how external border management integration has developed thus far and which theories are best suited for helping us understand how this integration may continue to develop in the future.

1.2 Research aim and question

The increased level of European external border management cooperation should be understood as a process of integration. Following the most common definition of political integration (Haas 1958: 16), the author defines external border management integration as the process through which member states of the EU deepen and widen international policy coordination of external border management and transfer regulatory and operational competences to supranational institutions and agencies (see 3.1). This research aims to explain the European integration of external border management with a congruence analysis using theories of integration, given the lack of such a focus in the literature. A case study approach is chosen given the clearest practical expression of external border management integration of late: the recasting of Frontex as the EBCG. The aim of this research is to (a) explain the processes resulting in external border management integration through a case study of the EBCG and (b) to address the gap in the literature through a congruence analysis of the EBCG using theories of integration.

- (a) What are the drivers of European border management integration in the case of the EBCG?**
- (b) Which theories of integration better explain the creation of the EBCG?**

1.3 Theoretical and societal relevance

The theoretical relevance of this research is two-fold. The first is addressing the identified gap in the literature, namely: the lack of research on external border management integration informed by theories of integration. This will be done with a congruence analysis case study on the establishment of the EBCG. A congruence analysis is a research design that compares the explanatory leverage of a theory in comparison to other theoretical approaches. The main academic relevance of a congruence analysis is to critically reflect on the relevance and importance of specific theories or paradigms (Blatter & Haverland 2012). Such a contribution to the literature can take different forms, dependent on whether the main research focus is a competing or complimentary theories approach. To be clear, the author of this research considers the two approaches to be two ideal-types of congruence analysis research, with no reason to assume that it is not possible to conduct a research that is flexible to consider both the competing and complimentary aspects of the theories under consideration. As such, the main theoretical relevance of this research is the comparison of theories of integration in

explaining European external border management integration and hopes to contribute to theory-building of this policy field in the EU.

Understanding and explaining the integration of border management is socially relevant in three aspects. First, member states of the EU are committed to spending substantially more on migration and border management policies in the next long-term budget of the Union, the multi-annual financial framework (EU Observer 2018a). Indeed, an increase in spending in these policy areas seems to be one of the few areas that member states agree on. Explaining what drives border management integration is thus relevant for how European tax-money is spent and will continue to be spent. Second, migration is driving a wedge through political discussions about solidarity at the national and European level. A theoretically informed and empirically validated understanding of European border management integration is important for discussions about 'Fortress Europe' and the responsibilities of the EU towards citizens within its borders and human beings at its external borders.

2. Literature Review: The External Border Management of the EU

The process of border management integration in the EU developed concomitantly with the goal of creating common European asylum and migration policies, with structural tensions impeding, and sometimes accelerating, the European integration of this policy area. This chapter will present a literature review that covers this broad development. First, the literature on the development of border management and migration policies at the European level will be reviewed. Second, the main drivers of external border management integration will be considered.

2.1 Border Management and Migration Policies in the EU

European cooperation in external border management and migration date back to the intergovernmental TREVI-framework, a forum for cooperation between interior ministries set up by the Council in 1975 to discuss cross-border security issues (Hix and Høyland 2011: 286). The Schengen Agreement made such cross-border cooperation increasingly salient. This cooperation scheme was brought under the institutional structure of the EU after the Maastricht Treaty (Rijpma 2013). Successive Treaties resulted in the formalization, institutionalization, and finally, ‘communitarization’ of migration, asylum, and external border management policies (Uçarer 2012: 286). This sub-chapter will review the literature on this development.

2.1.1 The Schengen Agreement and Early Intergovernmental Cooperation

The Schengen Agreement is considered one of the cornerstones of the European project. Schengen has its origins as an intergovernmental agreement in 1985 between Germany, France and the Benelux countries. The removal of internal borders necessitated the creation of “flanking measures” to mediate the consequences of the free movement of people within the Union (Rijpma 2013: 2). In the intergovernmental TREVI framework, ministers of the interior would regularly meet to discuss policy priorities, share information and coordinate policy efforts (Hix and Høyland 2011: 286). The Schengen agreement greatly enhanced the need for such intergovernmental cooperation in this framework, especially regarding border management (Rijpma 2013). The Maastricht Treaty did not change the intergovernmental nature of this cooperation; however, it did formalize and deepen the approach by “bringing informal cooperation arrangements under the single institutional structure of the EU and preparing the ground for further integration” (Rijpma 2013: 1). Member states, keen on maintaining control, created a ‘double-lock’ procedure for JHA policy-making: unanimity voting on all measures, followed by ratification before any implementation could take place (Rijpma 2013: 5). This immensely slowed down policy-making. Nonetheless, increased cooperation within the European framework slowly fostered reciprocal learning and a culture of trust among member states, which created the foundation for further integration in the Amsterdam Treaty (Rijpma 2013: 6).

2.1.2 From Amsterdam to Lisbon: The Area of Freedom, Security and Justice

The Amsterdam Treaty came into force in 1999 and integrated the Schengen Acquis into the EU legal framework. Furthermore, the Treaty provided a partial answer to the inefficiencies of the JHA pillar and the cumbersome intergovernmental decision-making procedures – all JHA policy areas would be ‘communitarized’ within five years, giving the Commission the right of legislative initiative to improve policy-making efficiency and stimulate cooperation (Uçarer 2012: 285). During the Tampere European Council in October 1999, member states furthermore agreed to establish a new comprehensive policy area: The Area of Freedom, Security and Justice (AFSJ) (Uçarer 2012: 289). The AFSJ is considered to have been the most important innovation and driver of EU policy-making in external border management and other JHA policies, thanks to the explicit support of the Council (Uçarer 2012). The necessity for external border management to guarantee the free movement of people is explicitly formulated in Article 3 of the Treaty on European Union:

The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime. (EUR-Lex 2012)

The introduction of the community method in AFSJ legislation meant a greater role for supranational institutions and signaled the beginning of a plethora of policy initiatives in JHA. Notable legislation includes the establishment of a Common European Asylum System (CEAS) with a package of directives creating minimum standards for international protection, reception conditions and procedural guidelines (Den Heijer et al. 2016). Among the most important developments was the intensification of intergovernmental cooperation in JHA policy areas. This saw its practical expression in the proliferation of new Council Working Groups – groups represented by senior policy officials of member states - such as the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA). A second SCIFA group would be created in 2002 and included heads of the national border guards of member states, the so-called ‘SCIFA+’ (Wolff & Schout 2013; Pollak & Slominski 2009). The SCIFA+ was responsible for external border management and created a more operationally focused Practitioners Common Unit (PCU), responsible for coordinating centers for border control established on an ad-hoc basis in different member states (Wolff & Schout 2013: 311). This organizational set-up was abandoned because it lacked coherence and a clear division of competences – SCIFA+ and the PCU were subsumed under Frontex in 2004, bringing border cooperation together under a single agency (Wolff & Schout 2013: 315). This development points to how an intergovernmental working method was carried over into the new agency, and personnel from both groups constituted the management board and top policy officials of the new Frontex (Wolff & Schout 2013: 316).

The Lisbon Treaty now subjects the entire AFSJ mandate and its policy areas, including external border management, to the ordinary legislative procedure (Uçarer 2012). This brief historical overview now allows us to consider more closely the state of the art on the creation of Frontex and the literature on the European integration of external border management and migration policies.

2.2 External Border Management Integration

Frontex was established in 2004. The agency was tasked with coordinating the operational cooperation of member states at the external borders and was granted numerous competences to this aim, such as *inter alia* analyzing risks at the external borders and developing a European training curriculum for national border guards (Carrera 2007). The main overarching goal of Frontex is to build and improve the migration management capacity of the EU, with reducing illegal migration flows as the main organizational priority (Carrera 2007; Neal 2009; Leonard 2009). However, Frontex is not a typical ‘regulatory agency’ as it lacks autonomous decision-making powers (Rijpma 2012). This sub-chapter will present an overview of external border management integration in the EU as discussed by scholars of public administration, international relations, and European law, and will thus consider the most frequently cited explanations for integration in this field along with a consideration of agencification in the EU.

2.2.1 External Border Management Integration as Venue Shopping

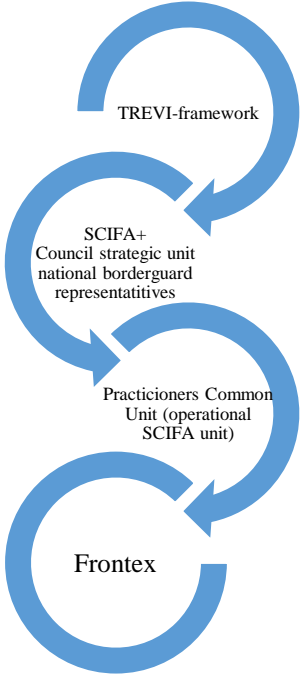
One of the most established hypothesis on why member states chose to intensify cooperation and give the EU more competences regarding migration and border management is the ‘escape to Europe’ hypothesis, otherwise also known as ‘vertical venue-shopping’ (Geddes & Scholten 2016; Lavenex 2006; Guiraudon 2000). This hypothesis “sees the ceding of power as a voluntary, interest-driven act on the part of states aimed at attaining their material and security objectives and at reinforcing their capacity to exert controls on immigration” (Geddes & Scholten 2016: 148). The paradox of ceding power and reinforcing the capacity to control immigration can be accounted for by the insulation that takes place at the European decision-making level. Government representatives gain autonomy because they become ‘shielded’ from their pluralistic domestic arenas, and simultaneously gain an information advantage over their domestic political competitors (Lavenex 2006: 331). This hypothesis views the development of border management and migration integration as a process of intergovernmental bargaining, strategically ceding competences to the EU when the perceived benefits outweigh the costs. The premise is that migrants are difficult to expel upon arrival because of legal constraints, as such, international cooperation is pursued as a form of venue shopping “by shifting policy elaboration away from national judiciaries” (Guiraudon 2000: 259). Venue shopping at the European level helps migration control officials achieve their goals in three ways, namely allowing them to avoid judicial constraints; bypassing (domestic) adversaries and parliamentary scrutiny, and

lastly it allows them to enlist cooperating parties, such as migration and border control officials from other countries, for their cause (Guiraudon 2000: 261). European cooperation in migration and border policies has also gradually enlisted the aid of neighboring third countries, in a process known as the ‘externalization’ of border and migration policies (Boswell 2003; Lavenex 2006). ‘Externalization’ refers to the “exportation of classical migration control instruments to sending or transit countries outside the EU”, and includes capacity building of migration management in third countries and information-sharing to combat human smuggling and trafficking (Boswell 2003: 630 – 635).

2.2.2 Securitization of border management

Securitization has played an important part in facilitating the development towards stronger border management control and more restrictive practices in the past two decades, not just in Europe but the world (Castles, de Haas & Miller 2014). In an analysis of the establishment of Frontex, Neal (2009) points to how the main logic of securitization was not the principal driver behind the agency’s formation. The political and policy processes did not “use overt securitizing language (...) the predominant conceptual language in the rationale, documentation and practices of Frontex is that of risk” (Neal 2009: 335). Nevertheless, the language of risk carries with it the potential to be creatively exploited, as risks can be, when sufficiently inflated, the existential threat securitization theory talks about (Neal 2009). Such exploitation can take place within the context of a ‘crisis’, and this is the argument of scholars who take an institutionalist and long-term perspective of Frontex (Meissner 2017; Rijpma 2012; Moreno-Lax 2018). From this perspective, external border management integration is achieved during moments of critical junctures that pave the way for far-reaching reforms and/or innovations (Meissner 2017). Tragedies in the Mediterranean, such as the Lampedusa drowning in 2013, has facilitated the introduction of humanitarianism into the securitization logic of border management, with operational missions at sea, e.g. Triton (2014) and Sophia (2016), now justified both in terms of ‘saving lives’ and ‘combatting illegal immigration and human trafficking’ (Moreno-Lax 2018: 124 – 125). Both the language of risk and security has played an important role in furthering external border management integration, and the most recent policy innovation by the EU has been to justify interdiction in terms of saving lives.

Figure 1. Institutionalization of intergovernmental cooperation into Frontex agency



2.2.3 External Border Management Integration and ‘Agencification’

The previous paragraphs briefly summarize the literature that explains external border management integration primarily as a conscious, preference-driven decision of member states. Egeberg and Trondal (2017) argue that the best way to analyze this is through a research program on ‘agencification’ – an institutional development with strong implications for the executive governance order of the EU. According to the authors, there has been a remarkable growth of agencies with a wide range of regulatory and operational tasks in the past two decades due to a compromise between (a) *functional needs* for the supply of more cooperation and regulatory capacity at the European

level, and (b) member states’ *political aversion* to supranationalism and delegating more powers to the Commission (Egeberg & Trondal 2017: 675). Nonetheless, agencification can be conceptualized as intergovernmental, supranational or transnational ‘images’ of cooperation and integration – the first and the second views agencies as corresponding to either national or supranational poles of power and influence, whilst the transnational image view agencies as somewhere in between and enjoying relative autonomy (Egeberg & Trondal 2017: 676 – 677). The discussion of agencification ‘images’ point back to broader theories of integration, but help specify the analytic lens regarding external border management integration as this process itself has become centered on Frontex.

In the AFSJ area, European policy-making is more oriented towards practical cooperation between national enforcement authorities because competences within the policy area are politically sensitive and approximate matters of sovereignty. For this reason, agencies such as Frontex are not typical ‘regulatory agencies’, as they lack autonomous decision-making powers (Rijpma 2012). Still, Frontex holds influence on border management cooperation through the delivery of risk analysis; however, its main task is operational support and coordination – making the agency something of a hybrid (Rijpma 2012: 90). There are different arguments explaining the establishment of the Frontex agency. Leonard (2009) emphasizes concerns about enlargement, security, and migration-control – although the choice for an agency-structure was only one among many in the early 2000s (378 – 380). Much more cited arguments include the desire to signal credibility for cooperation in an ambivalent policy environment (Rijpma 2012: 91), blame shifting, and especially the “*depoliticization*” of a politically contentious policy area by creating a technical, expertise-centered agency (Rijpma 2012; Pollak & Slominski

2009: 907). Wolff and Schout (2013) similarly emphasize the institutionalization of intergovernmental cooperation into Frontex as a way to gain a depoliticized policy instrument. However, how the agency has developed since then, and which ‘image’ of agencification best captures this (Egeberg & Trondal 2017), point to the necessity of an analysis informed by theories of integration.

2.2.4 A Case of What?

Authors have investigated external border management and Frontex from an institutionalist perspective (Leonard 2009, Pollak & Slominski 2009), and highlight the crisis-driven nature of integration in this field (Carrera 2007; Meissner 2017; Rijpma 2012), the securitization of border management (Neal 2009; Moreno-Lax 2018), and opportunistic venue-shopping by member state governments (Guiraudon 2000; Lavenex 2006; Geddes & Scholten 2016). Legal scholarship on Frontex focuses on issues of accountability (Wolff and Schout 2013) and the (lack of) respect for fundamental rights (Carrera 2007, Rijpma 2012). The literature reviewed, however, pays scant attention to the development of Frontex with the use of theories of integration, even though scholars allude to their potential explanatory advantage (Egeberg & Trondal 2017).

The literature review provides the following important insights for the theoretical framework. The need for border management and other AFSJ policies were originally conceived of as “flanking measures” for Schengen. These measures, including information-sharing and operational cooperation, were initially intergovernmental in nature but have become institutionalized in the European framework as member states have paradoxically sought to increase control over unwanted immigration by shifting the venue to the European level. The choice for an agency was guided by multiple factors, including depoliticization and a hesitance to delegate competences to the Commission. Agencification is a useful analytic lens, and the different ‘images’ agencification can take point to the importance of theories of integration in assessing the establishment of the EBCG.

3. Theoretical Framework

The research focus on the EBCG requires a theoretical framework based on a firm understanding of the main theories of European integration. Theories of European integration provide a framework for interpreting the process through which member states of the EU deepen and widen international policy coordination and transfer executive, legislative, regulatory and judicial competences to supranational institutions. This chapter will start with a brief overview of theories of European integration, followed by a discussion on neofunctionalism and liberal intergovernmentalism. The ‘new intergovernmentalism’ is included because the theory presents useful theoretical modifications to intergovernmentalism based on recent research, and furthermore fits well with the analytic lens of ‘agencification’ (Bickerton et al. 2015a). The chapter is concluded with the theoretical predictions on the EBCG.

3.1 An Old Debate? Situating ‘Integration Theory’ in the Study of the European Union

For scholars of political science and international relations, theories of European integration may well seem to be part of an ‘old debate’ about the meta-systemic origins and development of the EU (Rosamond 2000). This is in part because the ‘grand theories’ of integration, neofunctionalism and intergovernmentalism, emerged and developed concomitantly with its object of study (Tranholm-Mikkelsen 1991). More importantly, it is because EU scholarship has ‘moved on’ from grand theories of integration to consider a broader avenue of empirical questions from different disciplinary perspectives. This includes the ‘governance turn’ and public administration approaches (Egeberg & Trondal 2017), studying the EU as a political system (Hix and Høyland 2011), and even reflections on the EU as an ‘international actor’ in global politics (Krotz 2009). This is with good reason because “the continuing theoretical joust between neofunctionalists and intergovernmentalists fails to pose all of the possible questions about contemporary European integration” (Rosamond 2000: 105).

This is a fair assessment. Nonetheless, the case study of the establishment of the EBCG lends itself well to integration theories given the context of external border management integration (see 2.2) and the dearth of articles with such an approach. Furthermore, recent scholarship has demonstrated that theories of integration continue to provide worthwhile explanations of EU integration, specifically during crises (Hodson 2013; Niemann & Speyer 2018). To highlight the complimentary and discriminatory nature of the theories, three important aspects of integration are considered, namely:

- What the **main drivers of integration** are
- What are the **European Union institutions’ role and behavior** in the integration process
- What is the **relative importance of member states’, supranational and transnational interest groups preferences** in the integration process

3.2 Neofunctionalism

Neofunctionalism is one of the ‘grand theories’ of European integration (Strøby Jensen 2012). It was developed in the 1950s to account for the early development of supranational cooperation in Western Europe (Haas 1958). Neofunctionalism has undergone both periods of decline and flourishing, in tandem with whether integration was heating up or slowing down (Tranholm-Mikkelsen 1991). During a renewed period of integration in the 1980s, neofunctionalism once again gained traction and underwent theoretical refinement, and it continues to be used for understanding European integration today (Sandholtz & Stone Sweet 2012, Strøby Jensen 2012). This sub-chapter will explain the main theoretical edifice of neofunctionalism and highlight its central arguments about the dynamics of integration. This will serve to inform its predictions on the EBCG.

3.2.1 Theoretical edifice

Ernst B. Haas and Charles Lindberg developed neofunctionalism to explain the process of political and economic integration between sovereign nation-states in Western Europe (Tranholm-Mikkelsen 1991). For a definition of integration, it is thus best to turn to Haas and Lindberg themselves. For Haas, “political integration” is:

“... the process whereby political actors in several distinct national settings are persuaded to **shift their loyalties, expectations and political activities toward a new center**, whose institutions possess or demand jurisdiction over the pre-existing national states. The end result of a process of political integration is a new political community, superimposed over the pre-existing ones” (Haas 1958: 16, emphasis own).

Lindberg similarly focused on political integration whereby “nations forgo the desire and ability to conduct foreign and key domestic policies independently of each other, seeking instead to make joint decisions or to delegate decision-making to new central organs” (Lindberg, referenced from Tranholm-Mikkelsen 1991: 4). Both scholars shared the key premise that integration is a process that involves institution building in a new (supranational) center. The political community in the new center is the foundation which integration is built upon, and integration is deepened to the extent that rule-making competences are transferred to it. Neofunctionalism was developed to describe, explain and predict this process of European integration (Haas 1958, Tranholm-Mikkelsen 1991).

Neofunctionalism posits three core arguments about the dynamics of integration: the spillover hypothesis, the elite socialization hypothesis and the hypothesis on transnational interest groups (Tranholm-Mikkelsen 1991, Haas 1958: 283 – 313, Strøby Jensen 2012). Together, these processes create a powerful dynamic of path dependency and positive feedback loops resulting in a continuous, incremental process of political integration.

3.2.2 Spillover, elite socialization and supranational interest groups

Spillover is the most important concept in neofunctionalism. Distilled to its essence, spillover refers to how cooperation in one sector may necessitate cooperation in an interrelated sector. For example, the creation of the border-free Schengen area made the goal of guaranteeing the free movement of people within the EU possible. However, border-free travel within the EU necessitated new forms of cooperation to guarantee the continued smooth functioning of Schengen. Among others, European member states were required to establish a common visa policy for legal visitors. The new goal (common visa policy) is secured in order to maintain the functioning of previous goals (free movement of persons). The generation of new political goals through such a process is the core of the concept of spillover (Strøby Jensen 2012). This is what Haas refers to as the *expansive logic of sector integration*, as “sector integration (...) begets its own impetus toward extension” (1958: 297). Neofunctionalism, importantly, emphasizes two important things about spillover. First, this process of integration and the creation of goals are often not deliberate but unintended consequences of previous integration (Strøby Jensen 2012). Second, spillover is not necessarily an ‘automatic’ process, meaning it does not immediately occur when cooperation in one sector necessitates cooperation in another sector to improve its efficiency or effectiveness (Strøby Jensen 2012). Neofunctionalists still consider the agency of actors and the contingency of politics as important dependent variables for whether increased cooperation is pursued or not – spillover is only one of plausible choices (Schmitter 1970: 845). The logic of spillover has three aspects, relating to the different ‘pressures’ that drive the necessity of new goals and new forms of cooperation forward: functional, political and cultivated spillover (Tranholm-Mikkelsen 1991).

Functional spillover is a mechanism of integration arising from the interrelatedness of functional tasks between certain sectors, such as the Schengen example highlights. Cultivated spillover refers to situations in which supranational institutions push for deeper integration, offering technical solutions for upgrading the level of mutual commitment (Strøby Jensen 2012: 63). Political spillover refers to a shift in the loyalties, expectations, and activities of political actors and societal elites based on the perception that their interests are better served at the supranational rather than the national level (Tranholm-Mikkelsen 1991). It is important to distinguish between political elites and societal elites. Political elites refer to politicians and civil servants who adopt increasingly pan-European norms and ideas through increased contact and activity at the European level, subsequently taking up the cause of supranational cooperation – a process referred to as ‘elite socialization’ (Strøby Jensen 2012). Societal elites refer to business groups and other organized interest groups whom shift their activity to the European level, whereby the supranational center “become(s) the locus for a new kind of politics, spurring the formation of transnational associations and interest groups” (Sandholtz & Stone Sweet 2012: 20). National interest groups are expected to progressively shift their loyalties, expectations, and activities to the European level because greater advantages or goals can be realized by lobbying the

supranational level. Supranational institutions are expected to ‘supply’ policies that match transnational interest group ‘demands’, establishing a positive feedback loop spurring further integration (Tranholm-Mikkelsen 1991). Two transnational groups have a marked interest in European border management. First, security industry associations benefit from European funds to conduct research and development on surveillance and other border management technologies, which are then sold to EU agencies such as Frontex (Akkerman 2018; Sanbar 2017). Second, human rights-based groups have been successful, through advocacy and engagement in legal discourse, in pushing the EU to adopt and incorporate international human rights law into border management legislation (Slominski 2013).

3.2.3 Cultivating spillover? European institutions and supranational entrepreneurship

According to neofunctionalism, European institutions play an important part in ‘cultivating spillover’ by promoting deeper integration and presenting supranational solutions for policy challenges. The Commission, the Parliament, and the ECJ are not passive ‘agents’ of member state governments but rather have their own institutional interests, policy preferences, resources and powers (Hix and Høyland 2011: 17). These institutional interests and policy preferences are, according to neofunctionalism, inherently supranational and geared towards an ‘ever-closer Union’ – even in cases when member state governments may oppose integration. ‘Cultivated spillover’ is most clearly expressed with the concept of supranational entrepreneurship, which states that European institutions use their autonomy and resources to influence policy-making. Supranational entrepreneurship has been defined as an effort to “wield political power (...) to induce authoritative political decisions that would otherwise not occur” (Moravcsik 1999: 271). Other scholars emphasize how supranational entrepreneurs, through facilitation and mediation, “achieves results by helping parties locked into competitive-cooperative interactions to solve or circumvent a range of bargaining problems” (Young 1999: 807). The definition used for this thesis is that supranational entrepreneurs propose solutions that ameliorate barriers to effective cooperation while also pursuing their own institutional preferences in creative ways – this process is known as ‘upgrading the common interest’ (Hodson 2013).

The Commission’s right of legislative initiative is the primary instrument of supranational entrepreneurship. However, the Commission’s ability of (informal) agenda setting is another avenue of entrepreneurship through “the mobilization of information and ideas in support of further integration” (Hodson 2013: 303). This mobilization refers to the capability of supranational institutions to frame policy challenges and solutions in such a way as to promote integration, which is particularly important for rallying transnational interest groups and socialized elites. The Parliament supports integration because members of parliament (MEPs) undergo elite socialization, develop Pan-European values, and subsequently ‘transfer’ their loyalties to the EU (Strøby Jensen 2012). The Council is excluded from these considerations because of its intergovernmental nature (Strøby Jensen 2012: 65).

3.2.5 Predictions

In the case of this research, predictions refer to the theoretically informed observations that can be expected to have taken place leading up to the regulation establishing the EBCG. In short, neofunctionalism considers the main drivers of integration to be spillover, elite socialization, and transnational interest groups. The following predictions are thus deduced from neofunctionalism.

3.2.5.1 Main drivers of integration (spillover)

P1. If the spillover hypothesis is correct, then the EBCG was established because of functional pressures on interdependent policy areas related to external border management and the incomplete integration of these interdependent policies.

P2. If the transnational interest group hypothesis is correct, then:

- (a) Interest groups in the civil security industry promoted and lobbied European institutions for the establishment of the EBCG;
- (b) Human rights-based interest groups promoted and lobbied the European institutions for the establishment of the EBCG.

3.2.5.2 Behavior and role of European institutions (supranational entrepreneurship)

P3. If the supranational entrepreneur hypothesis is correct, then the Commission (a) actively mobilized ideas and information to promote further integration of border management in the EU and to ameliorate barriers to cooperation at an opportune moment, and (b) increased its own strength at the expense of member states.

3.3 Liberal Intergovernmentalism

Liberal intergovernmentalism is one of the most important theories of European integration within the broader paradigm of intergovernmentalism. The foundations of intergovernmentalism are state-centrism and a rationalist model for the analysis of state behavior (Rosamond 2000; Pollack 2012; Cini 2012). Intergovernmentalist theories view European integration as a process primarily controlled by utility maximizing states, who only pursue integration when it is in their best interest. Early accounts of intergovernmentalism, however, faced two difficulties: explaining why states choose to cede competences and tolerate incursions into their sovereignty; and how states went about deciding, i.e. negotiating, the proper form of integration amongst each other (Rosamond 2000:135; Cini 2012: 76). Moravcsik (1993) considerably expanded on the basic tenets of intergovernmentalism by providing a revised model that explicitly deals with these two issues. This chapter will provide an explanation of the theoretical foundations of liberal intergovernmentalism, which informs the predictions subsequently discussed.

3.3.1 Liberal National Preference Formation and Inter-State Bargaining

The framework of liberal intergovernmentalism consists of a liberal theory of national preference formation; a rationalist model of state behavior; and an intergovernmentalist analysis of inter-state negotiations (Moravcsik 1993, 1997). International cooperation is conceptualized as a process that takes place in two successive stages (two-stage model): state-society relations result in national governments defining a set of preferences; and national governments subsequently bargain among themselves to realize those interests (Moravcsik 1993: 479). The metaphor of demand and supply is used to describe this process of reaching international cooperation - national governments aggregate the preferences for cooperation (demand) and the results of inter-state negotiations facilitated by European institutions subsequently shape European integration (supply) (Moravcsik 1993: 481). Such a two-stage model does not commit the methodological error of focusing only on the demand or supply of integration, i.e. ‘supply-side reductionism’ or ‘demand-side reductionism’ (Moravcsik 1993). This link between the demand and supply of international cooperation in the EU is composed of three steps: preference formation, inter-state bargaining, and institutional delegation, i.e. integration.

The liberal theory of national preference formation is based on a pluralistic understanding of state-society relations (Moravcsik 1997). In this conception, the state is a representative institution, which is “constantly subject to capture and recapture, construction and reconstruction by coalitions of social actors” (Moravcsik 1997: 516). The interests of social actors are ‘aggregated’ through the state in the democratic process, and political elites subsequently formulate the state’s national preferences. National preferences are thus highly complex, reflecting a plurality of distinct and often competing interests. Furthermore, the identity, interests, and influence of groups may vary per issue (Moravcsik 1993: 483). In terms of European integration, there are three main types of issue areas for coordination, namely: commercial liberalization, socio-economic public goods provision and ‘political cooperation’ of a non-economic nature (Moravcsik 1993: 483). Group preferences are articulated most clearly when the costs and benefits of government policy are clear; and subsequently “except where implications are calculable, governments and parliamentary elites enjoy relatively broad autonomy to pursue (policy goals)” (Moravcsik 1993: 495). Thus, whilst the key aspect of this tenet is that preferences are always aggregated and formulated domestically, governmental elites have more discretion in formulating national preferences concerning non-economic issues.

The second step in liberal intergovernmentalism is inter-state bargaining, where nationally formulated preferences are brought to the intergovernmental table of the EU. Economic interdependence and policy externalities increase the likelihood of European policy cooperation, especially “where common policies result in greater de facto control over domestic policy outcomes” (Moravcsik 1993: 487 – 489). The driver of cooperation is thus rational self-interest, and strategic bargaining among states is the main process through which policy coordination, and thus European integration, is achieved

(Moravcsik 1993). There are three core assumptions about inter-state bargaining at the European level: it is a non-coercive, information-rich and institutionalized setting (Moravcsik 1993). An implication of this 'context' for negotiations is that outcomes should be efficient and opportunities for bargains are usefully exploited. The preferences of each member states define a 'bargaining space' of potential agreements regarding cooperation. The choice between agreements, however, has important distributional consequences. What this means is that decisions taken at the European level often produces 'winners' and 'losers' as the costs and benefits of policy coordination are often distributed unevenly, although positive-sum outcomes may be possible (Cini 2012: 80).

Strategic intergovernmental bargaining tends to reflect the relative power of each member state; with powerful states frequently 'winning' (Cini 2012, Moravcsik 1993). Side-payments are provided as recompense to less powerful or smaller states for their participation. Through such an understanding, intergovernmental bargaining between many states in the EU frequently falls back on 'package deals' to ensure an agreement between all parties (Moravcsik 1993). However, there are other determinants of interstate bargaining that are crucial, such as threats of non-agreement, threats of exclusion and the potential for compromise and linkage as "Governments with attractive alternatives will not tolerate inconvenient agreements, while governments with unattractive alternatives gain from co-operation even if they have to compromise" (Moravcsik 1993: 500). The intensity of the preferences and the potential distributional consequences of cooperation are thus crucial in this regard.

3.3.2 European institutions and delegation

The role of supranational institutions in inter-state bargaining is to reduce transactions costs – the costs of identifying issues, negotiating, monitoring, translating, and providing an 'institutional memory' for future negotiations (Moravcsik 1993: 507, Moravcsik 1999). Member states delegate competences to supranational institutions and pool their sovereignty to increase the efficiency of bargaining and negotiation, making these institutions "facilitators of positive-sum bargaining" (Rosamond 2000:144). Member states furthermore create new institutions or delegate competences to supranational organizations in order to secure substantive bargains and signal "credible commitment" for policy cooperation, allowing supranational institutions to function as 'neutral' non-state guarantors of such cooperation (Cini 2012: 80). Research on Council Presidencies indicates that far from being a toothless role "presidencies in the voting stage have additional leverage in EU decision-making compared with other member states" (Schalk et al. 2007: 245). According to liberal intergovernmentalism, this would need to suggest that member states possessing the Council Presidency have more tools at their disposal, i.e. agenda-setting for intergovernmental conferences, to pursue their nationally formulated interests.

Supranational institutions are considered well-behaved agents of the member states in the rule and facilitators of decision-making, and not promoters of supranationalism (Cini 2012: 81). Liberal intergovernmentalism is highly dismissive of supranational entrepreneurship and define it as “exploitation by international officials of asymmetrical control over scarce information or ideas to influence the outcomes of multilateral negotiations through initiation, mediation, and mobilization” (Moravcsik 1999: 272). When member states have a scarcity of information and resources, there will be a lack of leadership at the intergovernmental level. This creates a window of opportunity for the Commission, which will ‘exploit’ the opportunity to influence inter-state negotiations for its own gains – this causal model of necessary conditions is the only scenario in which supranational entrepreneurship is deemed possible (Moravcsik 1999: 275).

3.3.3 The dividing line of integration: High and low politics

Intergovernmentalism starts from the premise that government policy can take on varying degrees of political salience and that this distinction – the dichotomy of high and low politics - is vital for understanding the process of integration and who is leading it (Øhrgaard 1997: 5). Integration following the neofunctionalist ‘logic of integration’ is only valid in the area of low politics, in which policies have a highly technical nature, limited political implications and measurable economic costs and benefits (Hoffmann 1966: 881; Øhrgaard 1997: 6). Integration is either highly improbable or fully under the control of member states in the realm of high politics, such as defense and foreign policy, because “in areas of key importance to the national interest, nations prefer the certainty, or the self-controlled uncertainty, of national self-reliance, to uncontrolled uncertainty (Hoffmann 1966: 882). Together, this implies a clear division of labor in matters of European integration – ‘low politics’ is the remit of supranational institutions and transnational groups, and ‘high politics’ exclusively the remit of member states (Cini 2012: 75).

3.3.3 Predictions

Liberal intergovernmentalism points to important factors for the EBCG case. National preferences for stronger external border management and control on immigration is clearly of utmost importance. For inter-state bargaining, the relative strength of member states or member state coalitions, along with the distributional consequences of policy cooperation, are all highly relevant.

3.3.3.1 Drivers of integration (member states)

P4. If the state-centrism and inter-state bargaining hypothesis are correct, then (a) powerful member states and/or (b) member state coalitions with a strong preference for border management integration were the main drivers behind the establishment of the EBCG whilst (c) recalcitrant member states received side-payments and/or watered down the content of the proposal to the ‘lowest common denominator.

P5. If the state-centrism and inter-state bargaining hypothesis are correct, then the Council Presidencies of Italy, Luxembourg, and Latvia placed border management integration on the agenda at their own initiative and played an important role in the establishment of the EBCG.

3.3.3.2 Behavior and role of European institutions (facilitator)

P6. If the facilitating supranational institutions hypothesis is correct, then the Commission and the Parliament played a facilitating role in this process as they are firmly under the control of member states.

3.4 New Intergovernmentalism

The new intergovernmentalism is a relatively new research agenda that calls for rethinking the dynamics of European integration in the post-Maastricht period and forwards a new set of propositions for theorizing integration (Bickerton et al. 2015a; Schmidt 2015; Baird 2017). Proponents of new intergovernmentalism claim that integration has undergone a broad systematic change in the post-Maastricht period. Bickerton et al. (2015a) emphasize that member state governments have continued to pursue integration and that integration has even gained traction in formerly sensitive areas of policy-making such as border management and fiscal policy. However, the *form* of integration has drastically changed. Member states have become increasingly skeptical of delegating new competences to traditional European institutions such as the Commission, the Parliament or the ECJ. Rather, member states increasingly delegate competences to European agencies or *de novo bodies*, which differ from supranational institutions in the traditional sense because of their issue-specific mandate, relative independence in the EU executive order, an organizational form that overlaps with other organizations or agencies, i.e. ‘*interstitiality*’, and intergovernmental management board for member state control (Bickerton et al. 2015a, Egeberg & Trondal 2017, Bátorá 2013).

These two interrelated developments, a forward momentum regarding integration yet a lack of competence transfer to traditional supranational institutions, is referred to as the ‘integration paradox’ or *integration without supranationalism* (Bickerton et al. 2015a). Schimmelfennig (2015) is critical of the new intergovernmentalism, arguing that it lacks sufficient engagement with other theories of integration and does not advance intergovernmentalist theories of integration. Nonetheless, he concedes that there are new areas of integration, such as immigration and border management, which require more theoretical elaboration (Schimmelfennig 2015: 723). New intergovernmentalists respond that the claims against the theory are misplaced, citing empirical developments in favor of new intergovernmentalism, such as micro-level data that confirms the Commission’s changing preferences converging on ‘integration without supranationalism’ and the remarkable growth of European agencies since the Maastricht Treaty (Bickerton et al. 2015b: 735).

3.4.1 Theoretical edifice

New intergovernmentalism shares the core assumption of intergovernmentalism: the primacy and centrality of states in integration. However, it differs from liberal intergovernmentalism on two central points. The conceptual starting point of these differences emanate from the ‘integration paradox’. The differences concern:

1. The nature and derivation of states preference
2. The significance of international institutions in shaping the interactions of states and the creation of supranational agents (Pollack 2012:10).

3.4.1.1 Nature and derivation of state preferences

New intergovernmentalism posits that the classic distinction between high and low politics has become blurred or indistinguishable for two reasons. First, the preferences of member states have fundamentally changed because of their very participation in the EU - integration has itself become a means of upholding sovereignty, by ensuring that a member state has a ‘seat at the table’ and influence over the direction of political integration (Bickerton et al. 2015a). Existential concerns are “posed in relationship to a country’s *isolation* or *withdrawal* from the logic of European integration, not from its application” (Bickerton et al. 2015c: 715, emphasis in original). Second, the convergence between public and elite interests in formulating the ‘existential concern’ of high politics has been blurred due to “difficulties in forging any single and coherent narrative about the national interest” in the age of Euroscepticism, populism and new political cleavages (Bickerton et al. 2015c: 716). These two facts, the argument continues, cuts through the heart of the distinction between low and high politics (Bickerton et al. 2015c). This blurring is a necessary condition for explaining the willingness of member states to promote integration in sensitive areas such as border management, and follows older criticism that the high and low politics dichotomy is either ill-defined or too rigid (Cini 2012: 76).

3.4.1.2 Pursuing preferences

Concerning the significance of inter-state bargaining in shaping the interactions of states and choices for integration, new intergovernmentalism contends contrary to liberal intergovernmentalism that member states no longer vehemently pursue their domestically formulated preferences through methods of hard bargaining. Deliberation and consensus have superseded bargaining and tough negotiations, becoming the guiding norms of decision-making at all levels of the EU (Bickerton et al. 2015a: 29). The argument posited here is different from neofunctionalism’s claim of ‘elite socialization’, in which deliberation and consensus foster supranational integration. Instead, “deliberation and consensus-building are now ends in themselves rather than a means to further supranationalist integration” (Bickerton et al 2015c: 711). In other words, member states have embraced deliberation and consensus to maintain an intergovernmental control of integration. This has

fundamentally changed the nature of discussions on integration. The question is not whether integration *should* occur but *how* integration should be pursued.

3.4.2 European institutions according to new intergovernmentalism

New intergovernmentalism and its core hypotheses posit its own view of the decision-making processes and practices of European institutions. The European Council is no longer the informal forum for high-level debate and hard bargaining of yesteryear, instead, it has undergone a process of “institutionalization of deliberation and consensus seeking as core elements of intergovernmental decision-making” (Puetter 2015:165). This is underscored by three developments. First, the Council convenes with a greater level of frequency, discussing a higher number of issues in Council agenda meetings and is increasingly focused on debating concrete proposals for decision-making (Puetter 2015). Second, there has been a proliferation of new senior expert committees who are primarily charged with supporting policy coordination within the Council of Ministers (Puetter 2015: 171). Expert committees greatly bolster coordination efforts, especially when provided the top-level political support of the Council (Puetter 2015:172). Last, the appointment of a full-time European Council President is meant to ensure coordination amongst Council Formations but also in maintaining good inter-institutional relations with the Commission and the EP (Puetter 2015).

Supranational organizations such as the Commission have adapted to the developments in the post-Maastricht, recognizing that supranational transfer is unpopular and guided by other preferences, namely to find European solutions that ‘work’ but do not necessarily lead to member states ceding power (Bickerton et al. 2015a: 31). New intergovernmentalism posits that supranational institutions are no longer ‘hardwired’ for supranationalist integration. Several scholars have already noted the Commission’s reluctance to pursue integrationist initiatives unless they stand a chance of success, characterizing the Commission’s behavior as “strategic entrepreneurship” (Hodson 2013). Building on these insights, new intergovernmentalists build on these insights and argue that the Commission is no longer integrationist as such but even complicit of ‘integration without supranationalism’, particularly regarding *de novo* bodies (Bickerton et al. 2015c: 717). This is because *de novo* bodies operate in areas where the Commission is weak and because agencies offer resources and expertise that the Commission itself may lack. The Commission is, in this sense, also keen on deliberation and consensus.

The European Parliament (EP) under new intergovernmentalism is considered supportive of ‘integration without supranationalism’ (Pollak & Slominski 2015). Furthermore, the EP has consistently behaved as a “competence maximizer” that seeks to enhance its authority in European policy-making, even when this results in strengthening intergovernmental decision-making methods, such as its participation in secret trilogue meetings where only a handful of MEPs are involved in negotiations with officials from the Commission and Council (Pollak & Slominski 2015: 247).

Regarding agencies or *de novo* bodies, the EP has supported their creation and has consistently sought to maximize its influence over them through its budgetary rights and powers to amend staff regulations - it has even sought to insert itself into the management board of agencies (Pollak & Slominski 2015: 257). In short, the EP is an ally to 'integration without supranationalism' and gladly supports it to the tune of maximizing its own competences.

3.4.3 Predictions

The new intergovernmentalism differs from liberal intergovernmentalism in the way it recasts the preference formation of member states, the way it conceptualizes new forms of integration and delegation, and its specified view on the role of supranational institutions in facilitating these new forms of integration. The predictions specifically draw from these theoretical innovations.

3.4.3.1 Drivers of integration

P7. If the deliberation and consensus hypothesis is correct, then the Council meetings ahead of the proposal, as well as the inter-institutional negotiations and eventual adoption of the EBCG, was a process characterized by deliberation and consensus, not inter-state strategic bargaining.

P8. If the blurring between high and low politics hypothesis is correct, then (a) member states sought to bolster sovereignty through integration and (b) there was limited convergence between elite and popular sentiment on irregular immigration flows.

3.4.3.2 Role of European institutions

P9. If the role of European institutions in the 'integration without supranationalism' hypothesis is correct, then (a) the Commission did not attempt to maximize its competences, but was supportive of deliberation and consensus-seeking when creating the EBCG and (b) the Parliament attempted to maximize its competences, but was supportive of deliberation and consensus-seeking in inter-institutional negotiations

P10. If the 'integration without supranationalism' hypothesis is correct, then the EBCG follows the pattern and is itself a case of competence transfers to a *de novo* body.

3.5 Overview theories of integration

Table 1. Neofunctionalism

Drivers of integration	Spillover – functional, political, cultivated
Role of European institutions	Supranational entrepreneurship
Behavioral norms member states	Preferences primarily guided by spillover and maintenance of earlier policy goals

Table 2. Liberal Intergovernmentalism

Drivers of integration	State-centrism, integration occurs when there is a positive sum bargain in European cooperation
Role of European institutions	Facilitate and mediate among member states, reduce transaction costs to inter-state negotiations
Behavioral norms member states	Rational-choice, utility-maximizing bargaining

Table 3. New intergovernmentalism

Drivers of integration	Deliberation and consensus, integration without supranationalism, blurred distinction between high and low politics
Role of European institutions	Support integration without supranationalism and transferring competences to de novo bodies
Behavioral norms member states	Deliberation and consensus

4. Research design

This chapter will explain the research design of this thesis and the rationale for the methodological approaches chosen. The merits of conducting a case study are considered. The primary approach of this case study research is a congruence analysis complimented with causal process tracing. After a reflection on the reliability and validity of the research, the data collection method will be presented.

4.1 Conducting a case study research

Case studies are in-depth analyses of empirical phenomenon within a small number of cases or an individual case, hence the term small-N research. Case studies are defined as: “a non-experimental research approach that differs from large-N studies in (...) four characteristics” (Blatter & Haverland 2012: 19). These characteristics are the small number of cases, many empirical observations available per case, a large diversity of empirical observations for each case, and finally a rigorous reflection on the relationship between these observations and the chosen theoretical concepts (Blatter & Haverland 2012: 19). A large and diverse set of observations is crucial in forming the empirical basis for drawing causal inferences and make case studies highly adept at explaining processes of political decision-making.

The three main approaches to conducting a case study are co-variational analysis (COV), causal process tracing (CPT) and congruence analysis (CON). The most important difference between the three approaches is their research focus. The COV approach seeks to investigate whether a factor ‘makes a difference’ through an empirical analysis of the dependent and independent variables’ causal relation to one another. This is investigated by operationalizing and scoring the variables with due consideration for their context and controlling for other confounding variables (Blatter & Haverland 2012). The CPT approach is interested in understanding the causal mechanisms that resulted in an outcome, e.g. how was the establishment of the EBCG possible? Such an approach is also termed ‘Y-centered research’ because it places less emphasis on a set of dependent and independent variables, opting instead for a causal narrative of how the outcome in question materialized (Blatter & Haverland 2012: 80). The CON approach uses case studies to compare the explanatory leverage of a theory in comparison to other theoretical approaches.

4.1.1 Selection of case and theories

The EBCG is the most recent development within external border management integration in the EU, and thus the chosen case for this research. A case study approach congruence analysis informed by theories of European integration is an apt approach given the lack of such research in the literature. To take account of the large number of empirical observations and how they are meaningful for the case, the causal process tracing method is employed as a complimentary approach.

4.2 Research strategy: congruence analysis and causal process tracing

For a thorough and analytically rigorous account of the case study, a congruence analysis approach complimented with the causal process tracing method will be used. This sub-chapter will consider in more detail these two approaches.

4.2.1 Congruence analysis

A congruence analysis is a research design that uses case studies to compare the explanatory leverage of a theory in comparison to other theoretical approaches. A congruence analysis requires two steps after theory selection and the selection of the case. The first step is deducing specific propositions and predictions from abstract theories. Propositions in a congruence analysis “specify the constitutive steps and formulate the causal connections” (Blatter & Haverland 2012: 161). Predictions are defined as the concrete observations that can be expected to take place in the empirical world (Blatter & Haverland 2012). The second step of the congruence analysis consists in analyzing whether the predictions of the theories in consideration correspond with the empirical observations, including whether these predictions have “a higher level of empirical congruence than other theories, that it predicts crucial aspects of the empirical process more correctly than other theories, or that it leads to additional causal implications that are empirically corroborated and useful for theory development” (Blatter & Haverland 2012: 146). This comparative analysis is the crux of the congruence analysis.

There are two main types of congruence analysis. The first type is concerned with whether one theory provides a better explanation of a case than other theories – the competing theories approach (Blatter & Haverland 2012: 145). In contrast, the second type is less discriminatory and focuses on fruitful conceptual combinations and theory-building – the ‘complimentary theories’ approach (Blatter & Haverland 2012). The author of this research considers the two approaches to be two ideal-types of congruence analysis, with no reason to assume that it is not possible to consider both the competing and complimentary aspects of the theories under consideration. The selection of theories discussed earlier indeed expects both strong differences (‘contradictions’) and some overlap (‘complementarity’).

4.2.2 Causal process tracing

Causal process tracing (CPT) is a research approach that can serve as an addendum to other approaches. This research intends to use causal process tracing to compliment the congruence analysis. Therefore, it is necessary to consider the foundations of this approach.

4.2.2.1 Logical foundations of CPT

The CPT approach is interested in understanding the causal chains that resulted in a specific outcome or event (Blatter & Blume 2008). The first logical foundation of the CPT approach is making an

informed decision, with the use of prior knowledge and literature, to focus on those factors within the causal chain that seems to be the most important in explaining the outcome of interest (Blatter & Haverland 2012: 119). Subsequently, causal factors and mechanisms within the causal chain can be scrutinized with the logic of necessary and sufficient conditions. A necessary condition is an indispensable causal factor for a certain outcome. This does not imply that only the necessary condition is required, as “complimentary or contextual conditions must be included to explain why it actually occurred” (Blatter & Haverland 2012: 120). When a causal factor is a sufficient condition, the factor can produce the next step in the causal chain without the need of additional factors (Blatter & Haverland 2012: 120). For discriminating between different conditions, the principle of counterfactual reasoning can be used if these are historically and theoretically consistent (Blatter & Haverland 2012: 121).

4.2.2.2 Empirical foundations of CPT

The empirical foundation of CPT is the spatial and temporal dimension. For a comprehensive explanation of an event, CPT adopts three types of causal process observations: ‘comprehensive storylines’, ‘smoking guns’, and ‘confessions’ (Blatter & Haverland 2012: 111). These three observations each represent a different level of analysis: macro, meso, and micro. First, a comprehensive storyline provides an overall narrative with a focus on key events and structural conditions – “the macro-structural features” (Blatter & Haverland 2012: 111). Second, the researcher can start to ‘zoom in’ on key events in the narrative and search for “an observation that presents a central piece of evidence within a cluster of observations, which together provide a high level of certainty for a causal inference” (Blatter & Haverland 2012:115). These observations are the ‘smoking guns’ that hint to causal inferences that require more scrutiny and analysis. This meso-level approach is both event-centered and actor-centered. Lastly, ‘confessions’ focus on the rationale behind the behavior of individual actors and zooms in on the micro-level to “provide insights into the perceptions, motivations, and anticipations of major actors” (Blatter & Haverland 2012: 118). All three observations should be employed together to create a comprehensive causal process of the case.

4.2.2.3 Combining approaches

The primary difference between the two approaches is that CON is theory-centered and relies on “the discriminatory power of specific observations and on the competition between internally coherent theoretical frameworks” (Blatter & Blume 2008: 325). CPT, on the other hand, is case-centered and relies on creating a comprehensive causal process. This research will first apply CPT, followed by CON. There are two reasons for this choice. First, starting with CPT helps to identify and filter the range of relevant variables and causal mechanisms within a case (Blatter & Haverland 2012: 211). Second, conducting an analysis of the case and presenting its causal process explanation first, and applying theories to the observations that are confirmed to have mattered most second, can help flesh

out the theoretical mechanisms by linking causal factors to outcomes more explicitly (Blatter & Blume 2008: 334; Blatter & Haverland 2012: 80).

4.3 Reliability and validity of the research design

This sub-chapter will briefly reflect on the internal and external validity of the research design and its overall reliability.

4.3.1 Internal validity

The internal validity of a research refers to the degree to which a research minimizes systematic error and bias. In case studies, one should be alert to ‘the bias toward verification’ and avoid the tendency towards confirmation of preconceived notions (Flyvberg 2006: 233). One strategy to minimize systematic error is being explicit and specific when formulating the predictions and doing so prior to conducting the empirical analysis (Blatter & Haverland 2012: 165). For a congruence analysis, the validity can be strengthened by improving the concept validity of the theories used, ensuring that “the (predicted) observations express the meaning of the abstract conceptualization in an accurate manner” (Blatter & Haverland 2012: 166).

4.3.2 External validity

The external validity of a research design refers to whether the findings of a study can be generalized. Case studies, especially those based on a single case (n=1), produce findings that are too context-specific and therefore not generalizable (Flyvberg 2006: 224). The primary goal of this study is not generalizing beyond the case but providing a theoretically informed causal explanation of the EBCG regulation. Nonetheless, the congruence analysis may still result in generalizable conclusions if the findings have implications for theories of integration concerning European external border management (Blatter & Haverland 2012: 197-198).

4.3.3 Reliability

The reliability of the research design refers to the objectivity of the research (Yin 2003). This can be ensured by detailing the steps taken throughout the research process as clearly as possible, making it transparent to the reader which research steps have been taken, thus making it possible for others to replicate the study (Yin 2003: 105). The reliability of a congruence analysis is improved when the theory-informed predictions are clearly formulated before the empirical analysis is conducted (Blatter & Haverland 2012: 165). The reliability of CPT can be improved by paying close attention to contextual information and how it relates to causal process observations (Blatter & Haverland 2012: 98-99).

4.4 Data collection: literature study and types of evidence

Yin (2003) specifies that there are six sources of evidence for case studies, namely: documents, archival records, interviews, direct observation, participant observations and physical artefacts (Yin 2003: 85). Using multiple sources of information allows for data triangulation, which increases the accuracy and reliability of a case study. This sub-chapter will briefly explain the two main data collection methods of this study, semi-structured interviews and a desk research for documentary information.

4.3.1 Interviews

Semi-structured interviews allow the researcher to gain a more detailed understanding of a case through the perspective of an insider. The crux of a good semi-structured interview is asking well-sequenced conversation with less of an emphasis on rigidity, thus allowing an open conversation (Hermanowicz 2002). Unfortunately, gaining access to interviewee candidates from the Commission, Parliament and Permanent Representations proved difficult. Nonetheless, a senior Dutch civil servant who coordinated the EBCG negotiations during the Dutch Presidency and the parliamentary assistant of a shadow rapporteur on the EBCG agreed to an interview. Two interviews are far from ideal, yet both sources were very helpful and provided an ‘inside look’ at the preparations and negotiations for the EBCG regulation. Furthermore, both interviewees provided arguments and perspectives forwarded from their side of the negotiation table – the MEP assistant provided the European Parliament context, whilst the Dutch advisor provided insights into the intergovernmental context.

4.3.2 Desk research

The most important use of documents is “to corroborate and augment evidence from other sources” (Yin 2003: 86). The desk research will use a wide range of documents ranging from policy documents to academic studies and articles published by the press (Yin 2003: 86). Policy documents include legislative proposals, regulations, directives, and meeting conclusions of European institutions. Press articles will be used to aid the search for relevant evidence – websites *Politico* and *EU Observer* stand out for quality journalism on European politics. Together, these documents serve to create both a ‘comprehensive storyline’ for the research and point to ‘smoking guns’ for important causal mechanisms. Table 4 provides an overview of the EU documents that will be analyzed.

Table 4. Desk research analysis: European Union documents and retrieved data

<i>Source</i>	<i>Documents</i>	<i>Data retrieved</i>
European Union	<u>Regulation (EU) 2016/1624</u> establishing the European Border and Coast Guard	The main innovations of the EBCG.
European Commission	<u>Proposal (COM 2015, 671 final) on the European Border and Coast Guard</u> <u>Communication 2015/240 on A European Agenda on Migration</u> <u>Communication 2011/743 on The Global Approach to Migration and Mobility (GAMM)</u>	The strategy of the Commission regarding migration, asylum, and external border management policies.
European Council	<u>European Council Conclusions 2015 - 2016</u>	Agenda and perspective of the Council throughout the refugee crisis
Justice and Home Affairs (JHA) Council	<u>JHA Council Conclusions 2015 - 2016</u>	Agenda and perspective of the JHA Council throughout the refugee crisis

5. Contextualization: Frontex (2004 – 2016)

The empirical analysis requires a contextualization of Frontex as an agency that sets the stage for a fruitful engagement with the empirical observations. First, a brief explanation will be provided on the core mandate and main tasks of Frontex. Second, the ‘agency empowerment’ of Frontex will be considered, as well as the main structural deficiencies of the agency.

5.1 Frontex: Core mandate and main tasks

Frontex was established in 2004 to improve the migration management of the EU, with a specific focus on reducing flows of illegal immigration (Rijpma 2012). The six main tasks of Frontex were to coordinate operational cooperation between member states in the management of external borders; to assist member states on training of national border guard; carry out risk analysis; facilitate research for border-control and surveillance; provide technical assistance at external borders; and support member states in organizing return missions, i.e. deportations (EUR-Lex 2004: 349-4).

Operational cooperation at the external borders is the main task of Frontex. The first major Frontex operations were HERA I and HERA II in the Canary Islands between 2006 and 2007, which successfully reduced migratory pressures (Carrera 2007). However, the operations also highlighted structural problems that would continue to persist in the future, namely that Frontex has no operational capacity of its own, neither personnel nor equipment (House of Lords 2008). Member states’ solidarity is key; Frontex operations simply cannot be undertaken without technical equipment such as aircrafts and patrol boats (Wolff & Schout 2013: 318). Risk analysis is the second pillar of the agency’s activities and forms the basis for how Frontex sets its organizational priorities (House of Lords 2008: 26). The identification of threats and risks to border security form the impetus for further action such as joint operations or capacity-building initiatives, which the Risk Analysis Unit (RAU) is responsible for preparing. The RAU makes the agency a proper contender in external border management cooperation because risk analysis makes Frontex “more than some passive coordinator of Member States’ activity (...) because it is initiating the coordination that it engages in” (House of Lords 2008: 48). Frontex has also taken on an important role in facilitating and coordinating training provided to national border guards, and developing a common curriculum to harmonize standards of conduct. Frontex training increases interaction and exchange between national border guards, thus fostering a professional community of border guards at the European level (Horii 2012).

5.2 Agency empowerment

From its humble beginnings as a relatively small agency, Frontex has undergone a process of ‘agency empowerment’. Agency empowerment in the EU can be defined as “the process of growing capabilities and tasks of an agency, which allows it to offer expert knowledge to Member States and EU level institutions within its specific issue scope” (Meissner 2017: 6). This occurs when: legislation

expands the agency's mandate and scope of activities; through an increase in the size of the agency's financial budget; and a concomitant increase in the agency's staff and operational capabilities (Meissner 2017).

5.2.1 Legislative amendments to Frontex

Two legislative amendments have significantly empowered Frontex. The first amendment in 2007 introduced the so-called rapid border intervention team (RABIT) which are “composed of national border guards of member states and are deployed by Frontex at short notice to a requesting Member State which experiences an urgent and exceptional migratory pressure” (House of Lords 2008: 40). RABIT was the partial response to the chronic lack of sufficient border guards for operational missions and introduces the legislative innovation that member states are now “under an obligation to make (national) border guards available, thereby creating an on-call contingent of border guards at the disposal of the Agency” (Rijpma 2016: 11). The second amendment in 2011 extended this to normal joint operations. Nonetheless, member states retained an ‘emergency clause’ that allowed them to withhold border guards under specific circumstances (Rijpma 2016: 11). The creation of a European Border Surveillance System (Eurosur) in 2013 was also critical for the competence-expansion of Frontex. Eurosur is an information-system for the monitoring and surveillance of the external borders of the EU coordinated by Frontex, which makes it “the central hub of information exchange between national border guard authorities” (Rijpma 2016: 12).

5.2.3 Budgetary expansion and staff capabilities

Frontex has seen a large budgetary expansion throughout the years. In 2005, the budget of Frontex amounted to € 6,280,202 for its first year of operation. After just twelve years, the agency's budget has mushroomed to €302,029,000 in 2017. This budgetary expansion has enabled the agency to greatly increase its operational and administrative expenditures. The staff has grown from 57 in 2005 to 352 in 2017 (Frontex Budget 2017). If temporary agents and seconded national border guards are added to the count, the number is brought to a grand total of 685 (Frontex Budget 2017).

5.3 Persisting structural problems

Despite agency empowerment, structural issues have continued to affect the agency's overall performance. The most important issue is that Frontex does not possess border guards or technical equipment of its own for the operational missions it coordinates. In practice, this means that Frontex can have an expanding budget but, it still needs to request technical equipment and border guards from member states. Aggravating this issue is the systematic non-compliance of member states with such requests. For example, after a tripling of the budget in 2015, Frontex still could not strengthen its operational presence in the Mediterranean. Claude Moraes, chair of the LIBE committee of the EP,

stated in 2015 that “Frontex is a crucial tool in the response to this crisis and people will therefore be astonished that despite funds being available it’s not adequately resourced so that it can carry out the first-tier response.” (The Bureau of Investigative Journalism 2015).

Figure 2. Budgetary expansion of Frontex (own elaboration based on Frontex Budget 2005-2017)

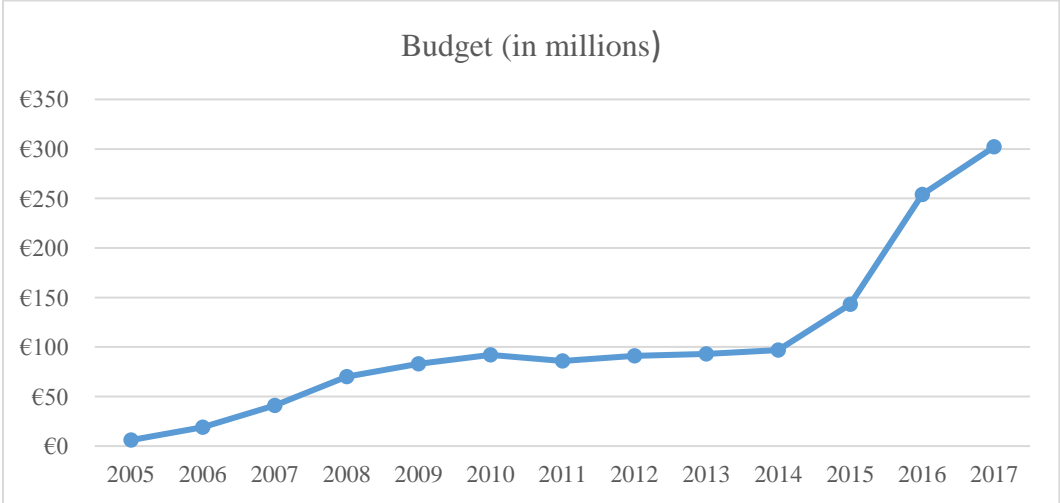
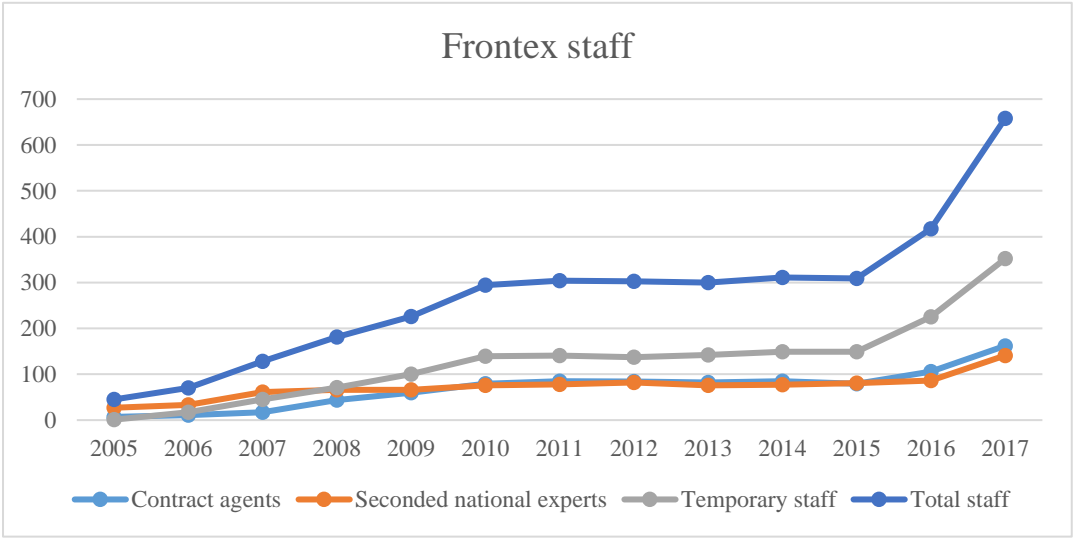


Figure 3. Frontex staff (own elaboration, based on Frontex budget 2005-2017)



6. Applying process tracing to the EBCG-case

The empirical analysis of this thesis consists of two parts: a causal process tracing analysis, followed with the congruence analysis. Causal process tracing will be used to reconstruct and analyze the political and institutional developments that led to the EBCG regulation. Prior knowledge of European border management and migration policies, along with the literature, are used to focus on those factors within the causal chain that seem to be the most important in explaining the outcome. The EBCG is considered an outcome of ‘crisis policy-making’ (Rijpma 2016; Guiraudon 2017). The ‘European refugee crisis’¹ is thus chosen as the comprehensive storyline (temporal order) of the empirical analysis. A special guiding focus of this part of the analysis are the Council meeting conclusions between heads-of-state and interior ministers – this serves as an effective gauge for agenda-setting and political deliberation. The chapter is divided as follows. First, the main political and policy responses to the refugee crisis will be considered. Second, the developments leading to the reinstatement of internal border controls will be analyzed. Last, the EBCG proposal itself and the inter-institutional negotiations of the regulation are presented.

6.1 Political and policy responses to the refugee crisis

Migratory pressures towards Europe had been steadily on the rise for years (see figure 4) but would reach dramatic heights in 2015 due to worsening conflicts and political instability in the Middle East and Northern Africa. More than 1,255,640 first-time asylum seekers applied for international protection in the EU in 2015, constituting a staggering increase from previous years (Eurostat 2018). Early in 2015, migratory pressures started to take on a proper European dimension as migrants and asylum seekers continued to arrive in greater numbers. This triggered the extraordinary European Council meeting on migration between heads of state in April 2015. To ameliorate the situation, the Commission presented a comprehensive strategy for migration and presented three legislative packages in May, September, and December 2015. This sub-chapter will focus on the developments immediately following the first extraordinary summit in April.

6.1.1 The Commission’s European Agenda on Migration (EAM)

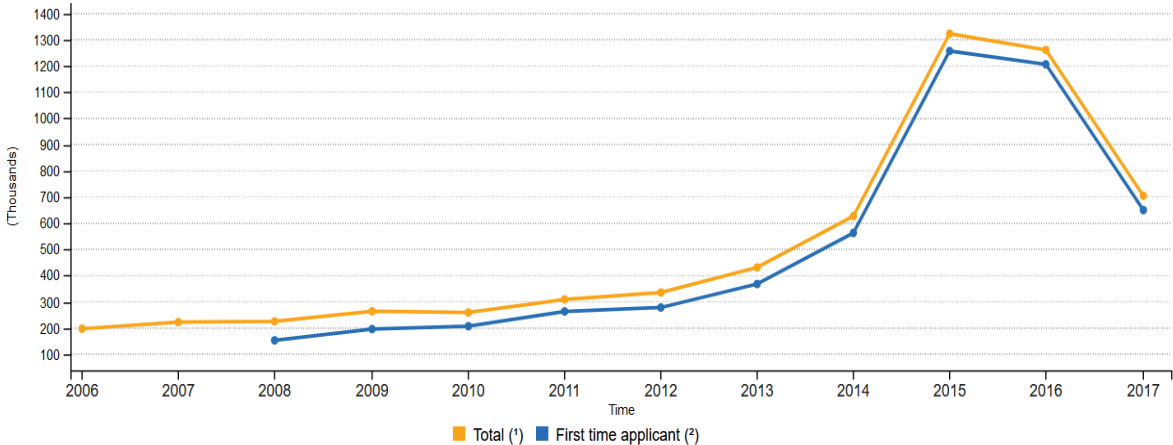
The extraordinary Council meeting on 23 April 2015 concluded with a joint declaration of member states committed to tackling illegal immigration, fighting human trafficking and bolstering the European presence in the Mediterranean (European Council 2015a). The declaration was broad and unspecified, and it was left to the Commission to propose how this serious migration problem could be solved. As a direct response, the Commission presented its European Agenda on Migration (EAM) on 13 May 2015. The agenda is an ambitious attempt at mobilizing information and ideas to further

¹ The refugee crisis is a contested frame because the term does not denote the root of the crisis (Den Heijer et al. 2016).

European integration in migration, asylum and border-related affairs. It was furthermore Jean-Claude Juncker’s first high-profile move as the new President of the Commission, and no reservations were made to hide the course on migration he believed the EU should chart.

Figure 4. Eurostat Asylum Statistics 2018 (reproduced from website, Eurostat 2018)

Asylum applications (non-EU) in the EU-28 Member States, 2006–2017



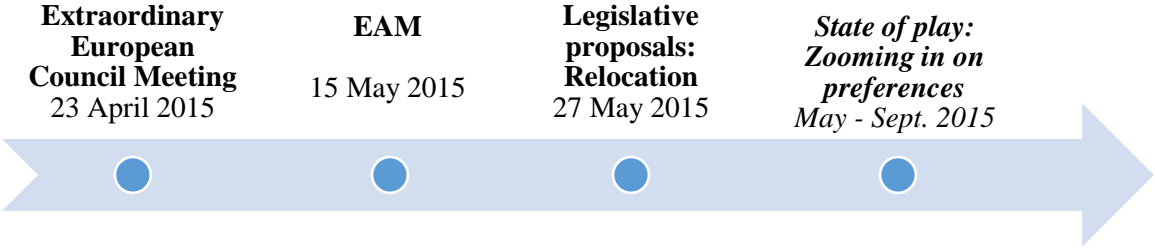
The Commission argues in the agenda that a “new, more European approach” is necessary to address the structural shortcomings of the current migration and asylum policies (European Commission 2015a: 2). The Dublin Regulation stipulates that asylum seekers are the responsibility of the first state of arrival, and this formal legal responsibility thrust upon the front-line states made cooperation especially difficult as there was little recourse for burden-sharing (Den Heijer et al. 2016; Rittberger et al. 2017). To ameliorate this, the agenda underlined immediate actions. The first legislative proposal would address the Dublin issue and migratory pressures in the short term. However, the Commission also outlined ideas for long-term reforms to address the structural weaknesses of European migration policies around four pillars: reducing incentives for illegal migration, better border management, a strong common asylum system and legal migration (European Commission 2015a: 6 - 17). Later in the year, these reforms would come to the fore in the second and third legislative package.

6.1.2 First legislative package: relocation and burden-sharing

On May 27, 2015, the Commission introduced the agenda’s “first implementation package” consisting of six legislative proposals. Among the proposals was the planned tripling of the Frontex budget for operations in the Mediterranean. However, the most important proposal was the temporary emergency relocation mechanism for the benefit of Italy and Greece. The provisional measure stipulates the total relocation of 40,000 third-country nationals from Italy (24,000) and Greece (16,000) to the other member states (European Commission 2015b). Relocation would be mandatory and based on a

‘distribution key’ such as the size of a member state, its gross-domestic product and the national unemployment rate (European Commission 2015b). The proposal was a clear corrective measure to improve burden-sharing because “today Member States’ asylum systems face an unprecedented pressure and that with the volumes of arrivals in particular to frontline Member States, their reception and processing capacities are already stretched to their limits” (European Commission 2015b: 2).

Figure 5. Causal process of the first half of 2015



6.1.3 The uncertain summer of 2015: Burden-sharing or status quo?

The relocation proposal of the Commission was contentious from the start. Front-line states such as Italy and Greece, but also major destination countries for asylum seekers such as Germany and Sweden, were supportive of relocation (Rittberger et al. 2017). However, there was also a coalition against the relocation mechanism, represented by Eastern European countries and the Baltic States, with Hungary in the lead. The crux of the relocation proposal was two-fold. First, whether emergency relocation was even a worthwhile solution to the ongoing refugee crisis or not; and more importantly, whether it should be adopted as a mandatory or voluntary relocation mechanism. Germany, France and Italy together were staunch supporters of the mandatory relocation mechanism, along with Commission President Juncker as well (Politico 2015a). Italian Prime Minister Renzi stated days before the June 2015 meeting of the European Council that “it is inconceivable that one country should tackle the entirety of this problem on its own (...) we need to decide if events in the Mediterranean are everyone’s problem, or only that of the countries in the region” (The Guardian 2015). Despite the great efforts and political weight tossed behind the proposal, the mandatory relocation scheme flopped during the Council Meeting of June 2015 and a decision on voluntary relocation was postponed (European Council 2015c: 2).

6.1.4 ‘Wave-through’ and Western Balkan route

Starting from June 2015, the number of migrants arriving through the Central and Eastern Mediterranean route began to dramatically increase (see figure 6). Unable to effectively respond to the migratory pressure and without burden-sharing from other member states, Italy and Greece both began implementing a “wave-through approach”. Allowing migrants and asylum-seekers to continue

traveling to other European states without being registered was a means to bypass the Dublin Regulation (European Commission 2016a). It is unclear whether this approach had the support from the highest political level and to what extent it was official policy, but migration consequently spilled over in the rest of Europe. From the second quarter to the third quarter of 2015, the number of registered illegal border crossings rose in the Western Balkans from 34,559 to 229,746 (Frontex 2016, see figure 7). This broadened the scope of the European refugee crisis, and the continued arrivals thereafter deepened the crisis.

6.1.5 *Wir Schaffen Das (Nicht)*: No relocation, no burden-sharing

The Commission, responding to the worsening situation, presented a second legislative package on the EAM in early September 2015. The emergency relocation mechanism was expanded to 160,000 people in need of international protection from Italy, Greece and Hungary – a move reflecting the changing context of the crisis. Furthermore, the second legislative package included a new proposal: a permanent relocation mechanism for burden-sharing of migratory pressures (European Commission 2015c). There was no consensus for the temporary emergency relocation, and as such, the matter was set to qualified-majority voting (QMV) – this was an unprecedented move and a clear breach of the convention of unanimity for Council decision-making (Puetter 2015: 165; interviewee A). Slovakia, the Czech Republic and Hungary rejected the relocation proposals on principles of national sovereignty. The permanent relocation mechanism was put to QMV as well. Though approved, permanent relocation would find its fate in the backburner files of the European Parliament, as no developments have been made on this dossier since October 2016 (European Parliament 2018).

It was hoped that the emergency relocation mechanism would bring a much-needed burden-relief to Italy and Greece and thus help them to ‘regain control’ over migration. However, the relocation mechanism never truly took off after QMV adoption in September. Planned relocations faced repeated delays and after six months in February 2016, less than 200 out of 160,000 asylum seekers had been relocated (European Commission 2016b). Rittberger et al. (2017) have convincingly explained this lack of cooperation as the result of an unfavorable Prisoner’s Dilemma between ‘affected states’ (front-line and major destination countries) and ‘non-affected states’ (low exposure to migratory pressures). Non-affected states preferred the status quo over the burden of the distributional consequences of relocation and could, furthermore, unilaterally ‘defect’ from relocation as the costs of doing so were comparatively low (Rittberger et al. 2017: 17). The only anomaly is the defection of Hungary itself, which faced high migratory pressures and stood to gain from relocation.

Figure 6. Arrivals to Italy and Greece in 2015 (UNHCR 2018a, UNHCR 2018b)

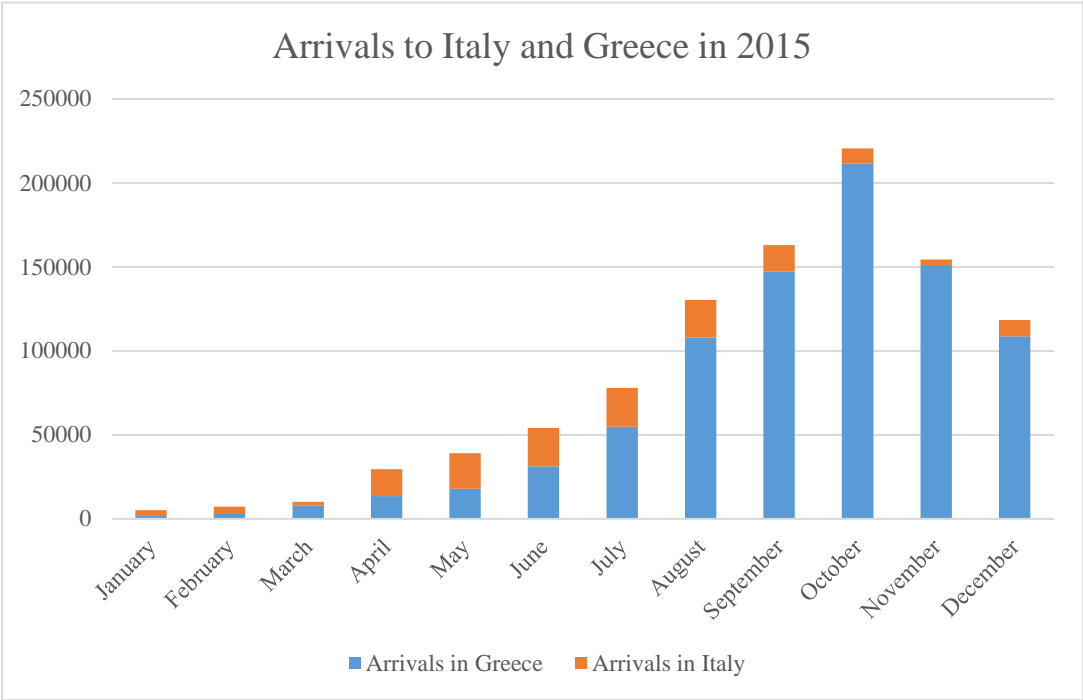
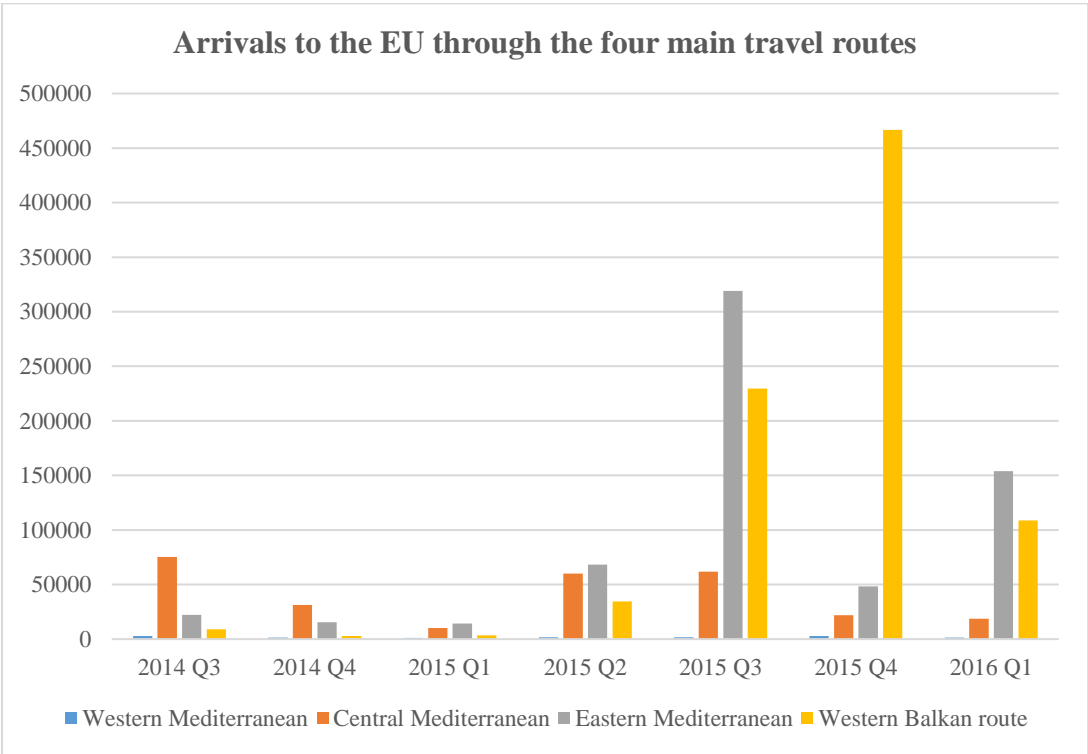


Figure 7. Detected irregular border crossings (based on data compiled by author; Frontex 2016)²



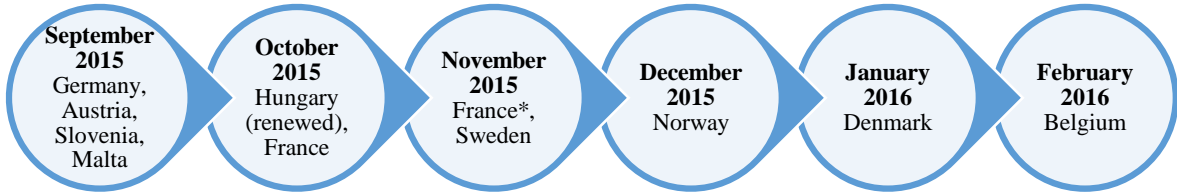
² Carrera & Den Heijer (2016) have highlighted the potential ‘double counting’ by Frontex, as migrants identified and counted on the Western Balkan route are highly likely to have first passed through Greece.

6.2 Stopping ‘Secondary Movement’: Internal Border Controls in Schengen

The solution found by member state governments to increasing migratory pressures was the reinstatement of internal border controls in September 2015. The political assessment was that control had to be regained at all costs. This was a move partially fueled by distrust, as member states suspected that Italy and Greece were not upholding the Dublin Regulation by refusing to stop so-called ‘secondary’ migratory flows (Guild et al. 2016: 10). Germany was the first to reintroduce border controls, doing so at its southern borders with Austria. A domino effect of internal border control reinstatement quickly ensued, with Austria and Slovenia following suit. Official reasons cited for temporarily reintroducing controls were ‘mass migration’ and ‘threat of terrorism’ (Guild et al. 2016: 9). At the end of 2015, numerous countries had reintroduced internal border controls (see figure 8). The reintroduction of controls coupled with the continued migratory pressures in the Mediterranean and the Western Balkans raised the question among many whether the Schengen-system itself was in crisis. (Guild et al. 2016: 16). It is difficult to determine the direct causal mechanism between the failed mandatory relocation proposal and internal border controls, but it is clear that the lack of a burden-sharing mechanism was a necessary condition for the reinstatement of internal border controls. Failed mandatory relocation was a contextual condition for this outcome.

On September 9, 2015, Juncker addressed the European Parliament in his first ‘State of the Union’ address (Carrera et al. 2015: 10). Discussing the refugee crisis, Juncker declared: “(w)e need to strengthen Frontex significantly and develop it into a fully operational European border and coast guard system (...) this is why we will propose ambitious steps towards a European Border and Coast Guard before the end of the year” (European Commission Press Release Database 2015: 4; Carrera et al. 2015: 10). As the member states were faced with a significant deadlock concerning relocation and how to solve the refugee crisis, Juncker acted upon a ‘window of opportunity’ and proposed a reform of Frontex as a viable solution (Niemann & Speyer 2018: 32). On the third emergency Council meeting on migration of the year in late September 2015, reforming Frontex to strengthen external border management was discussed for the first time (European Council 2015d).

Figure 8. Reintroduction of internal border controls in the Schengen area



The Commission immediately started drafting a legislative proposal for the EBCG in September, anticipating political consensus on the proposal (interview A). On October 9 – 10, the JHA Council continued the discussion on the future management of the EU's external borders, concluding that “an overwhelming majority of member states were in favor of strengthening the collective responsibility for external border controls and stressed the need to reinforce the role and capacity of Frontex” (Justice and Home Affairs Council 2015a). This consensus between interior ministers was then ‘kicked-up’ to the heads of state back home. Five days later, the European Council agreed to a strengthening of external border management “with an integrated border management system that will go beyond the Frontex mandate” (European Council 2015b). The Council now officially backed the Commission’s legislative preparations for the EBCG, with continuing support coalescing around the need to reinforce border controls to ‘protect Schengen’. Council President Tusk warned in November 2015 that solutions needed to be found because “the future of Schengen is at stake” (European Council 2015e). At the JHA Council on December 3, the Luxembourg Presidency expressed the need to cooperate on external border management to “protect the Schengen ‘acquis’ for all its member(s)” (Justice and Home Affairs Council 2015b).

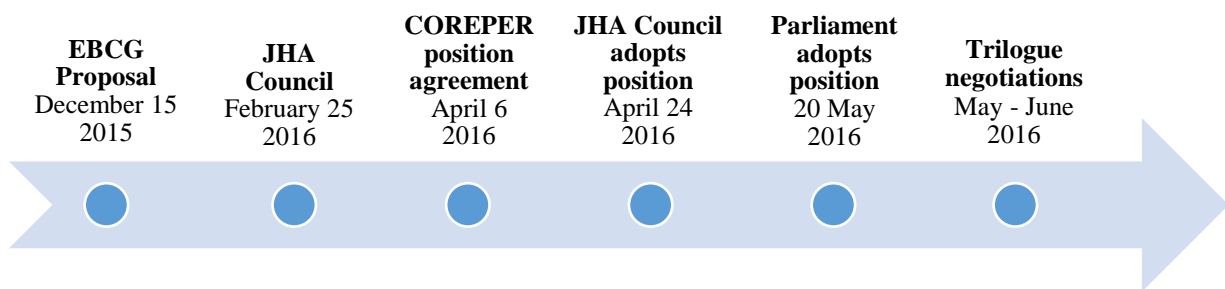
6.3 The proposal and inter-institutional negotiations on the EBCG

It is within this politicized setting and amid mounting support that the Commission presented its legislative proposal for the EBCG on 15 December 2015 (European Commission 2015d). Once presented, the actual legislative process went remarkably quickly. According to a high-level Dutch official, preparations within the ‘*Frontiers*’ Council working group on external borders began in early January (interviewee A). The preliminary issues, primarily the sensitive ‘right to intervene’ of the new EBCG, were immediately dealt with at the ministerial-level during the JHA Council on February 25, 2016. The *Frontiers* working group reached a common position for the Council in early April, which was quickly approved at the COREPER and ministerial-level. Parliamentary readings and discussions had similarly been underway since early January (interviewee B). MEP Artur Pabriks, a former Latvian Defense Minister was appointed to fast-track the issue through parliament (interviewee B). He did so with the tacit support of the leaders of all EP political parties (interviewee B).

The trilogue negotiations between the Parliament group (rapporteur Pabriks and shadow-rapporteurs), the Council *Frontiers* Working Group (led by a senior Dutch official as part of the Dutch Presidency) and Commission officials were under an enormous time pressure, and in general, the negotiations were dealt with extraordinarily quickly (interviewee B). Within six weeks after the start of negotiations, the final text was presented to and adopted by the Parliament in July 2016, and formally voted upon during September plenaries (interviewee B). The Council signed the EBCG regulation on September

14 2016, thus bringing to a close a veritable legislative *blitzkrieg*³.

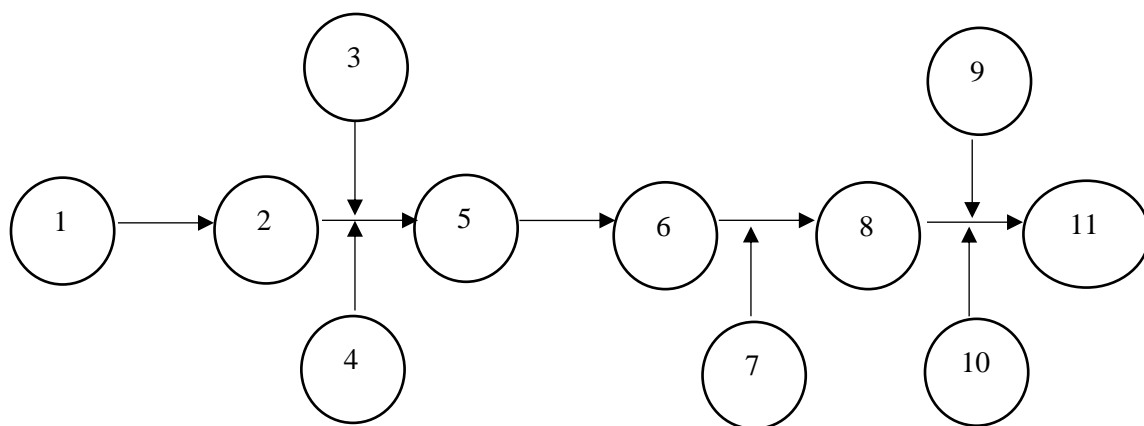
Figure 9. The legislative *blitzkrieg* of the EBCG proposal



6.4 Causal Process Tracing

The causal process leading to the EBCG proposal is visualized in figure 10 using the logic of ‘sufficient conditions’ (SC), ‘necessary conditions’ (NC) and ‘contextual conditions’ (CC) (see 4.2).

Figure 10. Causal mechanisms leading to the EBCG proposal



The increasing level of migration to Europe due to conflict and political instability in North Africa and the Middle East (SC 1) resulted in high-levels of immigration through the Central and Eastern Mediterranean route, leading to disproportionately high migratory pressures in Italy and Greece (NC 2). Migratory pressures continued to increase throughout the year, reaching unprecedented levels in the summer of 2015, an important contextual condition (CC 3). As discussed, there was no burden-sharing mechanism at the European level due to the specific configurations of the European asylum system (NC 4), which combined with high pressures in Italy and Greece, were both necessary conditions for the adoption of the so-called wave-through approach (SC 5). Migratory pressures

³ The average duration of the ordinary legislative procedure is 18 months (interviewee B).

consequently spilled over into the Western Balkans and the rest of Europe, making the 'refugee crisis' truly a European problem now as a majority of countries became affected, although unevenly (NC 6). The Commission's attempts to promote burden sharing with the relocation mechanism failed, as member states became deadlocked in a prisoner's dilemma (CC 7). Lacking any common European solution, several member states reverted to self-help and reinstated internal border controls, resulting in a 'Schengen crisis' (NC 8). During this time of political disarray, member states repeatedly emphasized their interest in maintaining Schengen and did not want the domino effect of internal border controls to spread throughout the EU. At numerous Council meetings, this was reiterated (NC 9). The Commission had already mobilized ideas and information for the EAM in March 2015 and was ready to start legislative preparations for the EBCG in September 2015 after internal border controls started (NC 10) (interviewee A). In December 2015, the EBCG proposal was presented (11).

7. Congruence Analysis

Having conducted the causal process tracing, the most important causal mechanisms of the European refugee crisis resulting in the EBCG have now been identified. With this, the congruence analysis proper can be conducted. The three theories discussed in the theoretical framework have led to several ex-ante predictions about the *integration process of the EBCG*. This chapter will be divided as follows. Each sub-chapter will consider one of the theories chosen and analyze its predictions. After comparing the congruence between the theoretical predictions and empirical facts of the case-study, the final sub-chapter will compare the three theories with one another to find out which theory has the highest level of empirical congruence. The main theoretical differences between neofunctionalism, liberal intergovernmentalism and new intergovernmentalism concern:

- What the main **drivers of integration** are (spillover, national preferences and inter-state bargaining, ‘integration without supranationalism’ along with deliberation and consensus)
- What is the **role of European Union institutions** in the integration process (supranational entrepreneur, facilitating agents, strategic entrepreneur)
- What is the **behavioral norms of member states** (non-opposition to integration due to preferences defined by unintended consequences of spillover, interest-based utility maximization in intergovernmental bargaining, deliberation and consensus)

7.1 Neofunctionalism

Functional spillover, supranational entrepreneurship and transnational interest groups are predicted to be the three most important factors in explaining the case of the EBCG. For a high degree of empirical congruence, all three theoretical predictions must show a causal mechanism of mutual reinforcement or positive feedback loop among one another or at the very least, the empirical findings must show that all three factors played a significant role as either necessary or sufficient conditions. A neofunctionalist analysis of the refugee crisis and the EBCG proposal has recently been conducted (Niemann & Speyer 2018); this analysis, however, differentiates itself with a focus on causal process tracing and a comprehensive focus on transnational interest groups.

7.1.1 Applying the functional spillover prediction (P1)

The refugee crisis is expected to have created and/or intensified existing functional pressures within the interrelated sectors of migration, asylum and border management policy to such an extent that the establishment of the EBCG was deemed necessary. The literature review has already highlighted the historical development and functional interdependencies between Schengen, migration and asylum policies, and external border management in the EU (see 2.2). The main question concerning this sub-chapter is to what extent functional pressures affected these interrelated sectors and/or prompted the

establishment of the EBCG.

7.1.1.1 Frontex, Dublin and the Common European Asylum System

Frontex was established to facilitate cooperation in external border management between member states but despite agency empowerment, the agency's dependence on member states for technical equipment and border guards remained a structural weakness (see 5.3). This assessment itself points to a degree of *incomplete integration regarding external border management*. This was indeed the preference of member states, which were keen not to relinquish sovereignty (see 2.2). Similarly, for the Dublin Regulation and the CEAS, structural weaknesses *related to incomplete integration remain* despite attempts to harmonize migration and asylum policies. The main problems of the CEAS include widely differing recognition rates and differences between member states in "procedural standards, reception conditions and the content of protection" (Den Heijer et al. 2016: 609). This is because the CEAS sets bare minimum asylum standards, but member states implement these according to their own "judiciary and distinct administrative environments" (Den Heijer et al. 2016: 610). The Dublin regulation stipulates that the first EU state of arrival is responsible for asylum seekers and provides very limited recourses for burden sharing between member states. This is problematic because it "not only leads to avoidance behavior of asylum seekers, it also encourages disobedient and competitive behavior on the part of member states" (Den Heijer et al. 2016: 612).

7.1.1.2 Incomplete integration and the refugee crisis

Having thus briefly examined the functional weaknesses of Frontex, the Dublin Regulation and the CEAS, a more focused congruence analysis can be considered building on the causal process tracing analysis. The European refugee crisis clearly *brought the structural weaknesses of these policy areas to the fore*. Italy and Greece were forced to carry the burden of asylum seekers throughout the first half of 2015, but when little progress was made on the emergency relocation mechanism, the two-member states decided to *renege on their commitments to Dublin and the CEAS by starting the so-called "wave-through approach"*. The Frontex budget was tripled for operational missions in the Mediterranean, however, the agency's dependence on member states' technical equipment and border guards continued to be a problem even at this stage. The "wave-through approach" consequently broadened the scope of the European refugee crisis and spread the burden to several member states whom, suspecting 'foul play' and eager to regain control, reinstated border controls in Schengen area.

This is a critical moment for the analysis. Thus far, no solutions had been found at the European level because migratory pressures had created two camps of member states, the affected and the non-affected states, with the latter simply unwilling to engage in relocation, i.e. burden sharing (Rittberger et al. 2017). The reintroduction of internal border controls, however, was likely to affect all member

states negatively by restricting the free movement of people (Guild et al. 2016). Furthermore, at the time, it was unclear whether migratory pressures would soon decline. As of December 2015, nine countries had already reinstated border controls and, *it would have been plausible to assume that more member states would soon follow*. Thus far, we have a proper *functional problem (internal border controls) caused by the migratory pressures and the non-cooperative behavior between member states*. To prevent an escalation of internal border controls, calls were made to reinforce external border management and the Council agreed in October 2015 to welcome a proposal from the Commission to this end. The EBCG was *the functional solution chosen for the crisis, given how other European proposals and initiatives had failed thus far*. Member states were eager to show, furthermore, a willingness to “finally do something about the refugee crisis” (interviewee A). The EBCG specifically addresses some of the structural problems faced by Frontex, giving the agency more operational autonomy and new competences, thus furthering integration.

The spillover hypothesis provides a convincing account of the EBCG proposal and if the analysis above is taken at face value, *has a high degree of empirical congruence*. One important consideration, however, is whether the EBCG was the best functional solution to migratory pressures. Legal scholars consider this highly unlikely (Carrera & Den Hartog 2016). Schmitter (1970: 852) provides an important insight in this regard: spillover is not necessarily the best functional solution to an interrelated (sectoral) problem in ‘objective’ terms; rather, *it is sufficient if member states believe that the chosen integrative step is the best solution*.

7.1.2 Applying the supranational entrepreneurship prediction (P2)

Neofunctionalism contends that *supranational entrepreneurship is one of the major drivers of integration*. An analysis of the EAM, the relocation proposal and the EBCG proposal along with a behavioral analysis of the Commission are the best method of examining this.

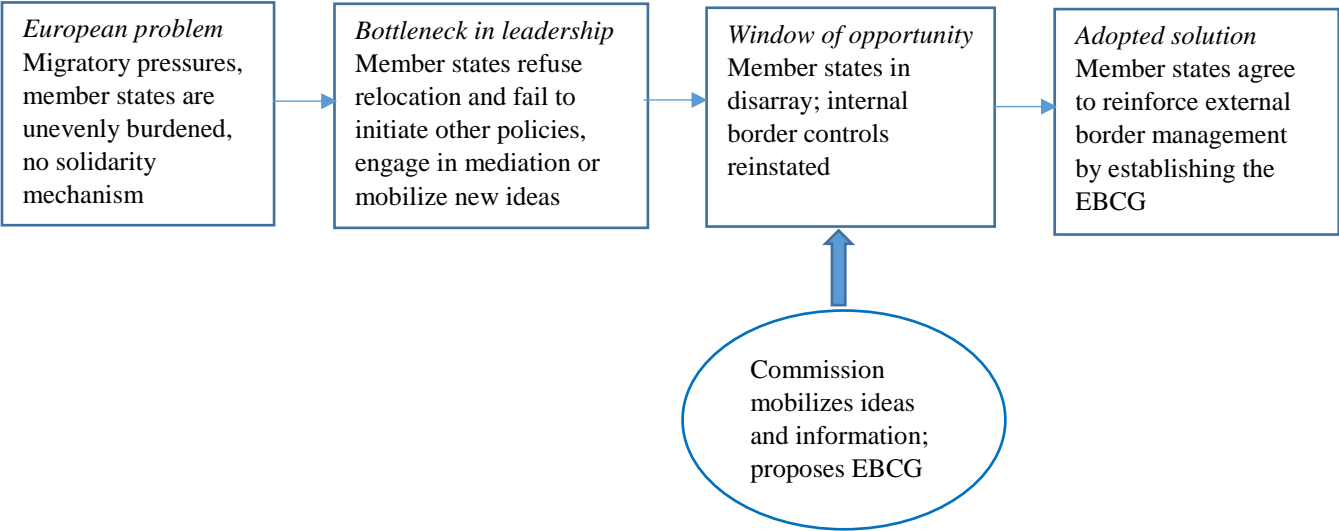
7.1.2.1 The EAM

The Commission argues in the EAM that a “new, more European approach” is necessary to address the structural shortcomings of the current migration and asylum policies, and calls are made for significant reforms, including border management (European Commission 2015a: 6 - 17). The language is ambitious and has the vocabulary of ‘upgrading the common interest’. The ideas, however, are not new, but were already formulated in the Commission’s Global Approach to Migration and Mobility (EUR-Lex 2011: 3). The Commission has developed a great repertoire of expertise on migration since the communitarization of JHA and was repackaging old ideas for the refugee crisis context (Niemann & Speyer 2018: 32). This constitutes *a clear mobilization of ideas and information promoting integration*.

7.1.2.2 The EBCG proposal

The Commission’s immediate actions after the EAM sought to upgrade the common interest with numerous legislative proposals (see 6.1). However, the Commission was not successful with its first-choice solution for the refugee crisis: the relocation mechanisms. Juncker had invested serious political capital in making his burden-sharing proposal work (Politico 2015b). However, its distributional consequences were deemed unacceptable (Rittberger et al. 2017) and member states agreed to a limited emergency relocation mechanism. It was only at this point, that considerations are likely to have started for the EBCG. Juncker’s announcement in early September of creating an EBCG constituted a serious pivot from relocation. This shift, regardless of the rocky start, *is an astute move by the Commission that recognized that another approach was necessary*. The causal process analysis highlights the disarray among member states following the “wave-through approach” , when migratory pressures spread to the rest of Europe. This clearly represents a bottleneck in leadership (Moravcsik 1999) that member states could not resolve, which was when the Commission is likely to have recognized a window of opportunity for the EBCG proposal. *The Commission presented the EBCG at the right moment, when member states were most eager to ‘try something new’* (interviewee A). In a different analysis, the timing of the Commission and leadership role in proposing the EBCG are similarly highlighted (Niemann & Speyer 2018: 32).

Figure 11. Causal model for supranational entrepreneurship based on Moravcsik 1999: 275



The question that remains is *to what extent did the Commission seek additional supranational powers for itself at the expense of member states in the proposal?* The Commission proposed a substantive expansion of competences to the EBCG (Rijpma 2016; EUR-Lex 2016). Some of these competences are *at the expense of member states* but does not constitute a direct empowerment of the Commission itself. The only attempt at *bolstering its own supranational powers* is the ‘right to intervene’ in member states based on a Commission decision (Rijpma 2016: 18). This was amended during

negotiations and is now a Council prerogative (EUR-Lex 2016: 251/23).

7.1.2.4 Conclusion on supranational entrepreneurship

If the supranational entrepreneurship prediction for the Commission is relaxed to include empowerment of the European executive order, instead of exclusively self-empowerment, *the empirical congruence of this prediction is very high*. The EBCG proposal was presented by the Commission at a moment when the EU member states were in disarray, and the Commission mobilized ideas and information to argue for its need. This move can indeed be best understood as *the astute move of a supranational entrepreneur*.

7.1.3 Applying the transnational interest groups prediction (P3)

In the case of the EBCG, transnational interests can be divided into two groups: the civil security industry, and human rights organizations with a focus on refugees and migrants. This sub-chapter of the empirical analysis will introduce both groups and analyze their respective roles in external border management integration. Unfortunately, access to empirical data in terms of primary sources proved to be difficult. Given this constraint on data, two strategies were considered. First, a broad search was conducted for available scholarship on the lobbying efforts of the two groups. Second, using the largest open-source lobby database covering the EU⁴ and the EU's official transparency register, a search was conducted using keywords related to external border management. The search results were filtered to focus only on transnational interest groups that had held a meeting between the period of December 2014 and September 2016 with a Commissioner, members of a Commissioner cabinet or directors-general of DG HOME. Such meetings will be referred to as 'high-level meetings'. These meetings are a useful indicator of access and hence plausible influence.

7.1.3.1 The civil security and defense industry

Private firms and businesses in the civil security and defense industry have become increasingly active at the European level since the communitarization of JHA policies (Baird 2018). The European refugee crisis has led to a booming border security market and greater profit margins for the civil security industry thanks to EU budget amendments to increase spending for the purpose of reducing irregular immigration (Akkerman 2018). Furthermore, security firms profit from lucrative European research programs and win grants to finance their own research and development, particularly on surveillance technology (Sanbar 2017: 87). Firms that sell technical equipment, vehicles, patrol boats, drones and a broad swath of surveillance technology have created large industry associations with privileged access to European institutions (Baird 2018, Akkerman 2018, Sanbar 2017).

⁴ Lobby Facts EU - <https://www.lobbyfacts.eu/>

The two most prominent associations in the European defense industry are: the European Organization for Security (EOS) and the Aerospace and Defense Industries Association of Europe (ASD). Both associations seek to shape EU legislation and policies by advocating common positions that promote security industry interests; and border security is a top priority for both associations (Sanbar 2017: 94). EOS has a dedicated Integrated Border Security Working Group with privileged access to the Commission, Council, Parliament and the EBCG (EOS 2018). ADS explains its core objectives on border security on its website, stating that it aims to “inform EU initiatives on border security, support investment in border management infrastructures and (...) further develop its relationship with the EBCG” (ADS 2018). Furthermore, the lobby register of the EU lists several firms which spend between €300,000 to €2,000,000 on a yearly basis in order to bolster their influence in the Brussels circuit (Akkerman 2018). Using the open-source lobby register of the EU and using data compiled by Sanbar (2017) on Matthias Reute, a table was made to show all of the (declared) high-level meetings between civil security industry groups and the Commission on border management. Matthias Reute was the director-general and highest functioning civil servant of DG HOME at the time. Dianne Schmitt is the Head of Cabinet of Dimitris Avromopoulos, the Commissioner responsible for migration.

Table 5. Meetings between high-level Commission officials and the civil security industry

Date	European official	Entities	Subject
19/12/2014	Matthias Reute	EOS	Cybersecurity and integrated border management
14/01/2015	Matthias Reute	Friends of Europe	Preparation of the Migration Policy Forum
23/01/2015	Matthias Reute	ASD	Security industry issues, border management
23/04/2015	Matthias Reute	EOS	Security industry issues
09/10/2015	Matthias Reute	Rheinmetall Group	Migration, border security
15/10/2015	Dianne Schmitt	EOS	Border management
05/11/2015	Matthias Reute	ASD	EU industry’s role in the migration crisis
20/04/2016	Matthias Reute	Friends of Europe	Working lunch on the refugee crisis
27/04/2016	Matthias Reute	Airbus Group	Border & Coastguard system

It is clear from this table that the largest security industry associations had frequent access to the highest levels of migration policy-making of the EU during the refugee crisis. This in principle confirms *a partial transference of loyalties, expectations, and activities to the supranational level – partial because it does not preclude the fact that security firms may indeed still lobby at the national level in a ‘multi-level’ approach* (Sanbar 2017). Minutes of four meetings were found in the transparency register of the EU. Two ASD meetings with Matthias Reute (23/01/2015 and 05/11/2015), and two EOS meetings, one with Matthias Reute (19/12/2014) and the other with Dianne Schmitt (05/10/2015). The most interesting findings are the communication of Reute to EOS that integrated border management is being reviewed and may be redefined at the European level, and his discussions with ASD exploring the scope for private sector products and services for migration affairs (Ask the EU 2016a, Ask the EU 2016b, Ask the EU 2016c). The EOS pitched potential contributions of EOS members to the current migration crisis in October 2015, including a “technical package for deployment in emergency situations that could provide technical assistance for e.g. surveillance, search and rescue, and registration of persons” (Ask the EU 2016d). Schmitt hinted that the current border management approach is being reconsidered and may indeed benefit from such technical solutions, furthermore suggesting the need to discuss this further at the “services level” (Ask the EU 2015d). These discussions demonstrate, at the minimum, that *both parties seem to be accommodating towards one another, with the Commission receptive to industry ideas, products and services concerning external border management*. However, no direct reference is made to the EBCG, although it is likely to have been alluded to.

The role of the security industry associations regarding the EBCG remains indeterminate, as there is an unsatisfactory amount of data to make the empirical claim whether these associations *actively promoted external border management integration or were simply positioning themselves to profit from anticipated border management practices at the European level*. It can be surmised that industry associations *are likely to be supportive of external border management integration because it is ‘good for business’*. More data would be necessary to assert such a statement with confidence. Furthermore, it is impossible to gauge the actual influence exercised on high-level Commission officials. The frequency of industry meetings with high-level officials at the time, combined with the stated purpose of industry associations and lastly the fact that the security industry as a whole has been flourishing in the past few years (Akkerman 2018), leads to a tentative *modest confirmation* of the prediction.

7.1.3.2 Human rights organizations

Following the EBCG proposal, three prominent human rights organizations co-published a critical briefing on it, arguing that border management cooperation “cannot be at the expense of sufficient safeguards in EU law with regards to effective access to international protection and human rights compliance” (Amnesty International et al. 2016: 1). The UNHCR (2016) also published its comments

in a briefing, highlighting fundamental rights concerns. No mention was made in the surveyed documents of whether the EBCG and further border management cooperation was desirable or undesirable, seemingly adopting the position that, *if it was going to pass as legislation, at least important human rights amendments should be made* (Amnesty International et al. 2016: 12 – 14).

Thirteen human rights organizations are recorded to have held a high-level meeting with the Commission. The data suggests that human rights organizations *did not engage in a targeted approach to influence external border management or the EBCG proposal*, instead, agenda-points ranged from unaccompanied minors in the migration-chain to specific aspects of the refugee crisis (see annex). Besides one vocal opposition to the EBCG regulation organized by the ‘Frontexexit’ group (Frontexexit 2018), *opposition to integration was relatively absent*. This suggests that human rights organizations were neither uniformly supportive nor opposed to the EBCG and played a minimal role. The speediness of the legislative procedure in Parliament is likely to have been an important factor in the lack of more mobilization (interviewee B).

7.1.3.3 Degree of transnational activity

Human rights organizations played a minor role. Security industry associations did have frequent and focused access to high-level Commission officials and are likely to have been aware of the legislative preparations on the EBCG ahead of time. If they could not influence the process, at the very least, they could start preparing for an impending strengthening of external border control management at the European level. The empirical congruence of this prediction is *indeterminate, or if given the benefit of the doubt, partial at best in the case of the civil security industry*.

7.2 Liberal Intergovernmentalism

Liberal intergovernmentalism predicts that the establishment of the EBCG was dominated by national preferences, state-centrism and inter-state bargaining. For the theory to show a high level of empirical congruence, the two-stage model needs to convincingly highlight the interplay between preferences and bargaining resulting in the EBCG.

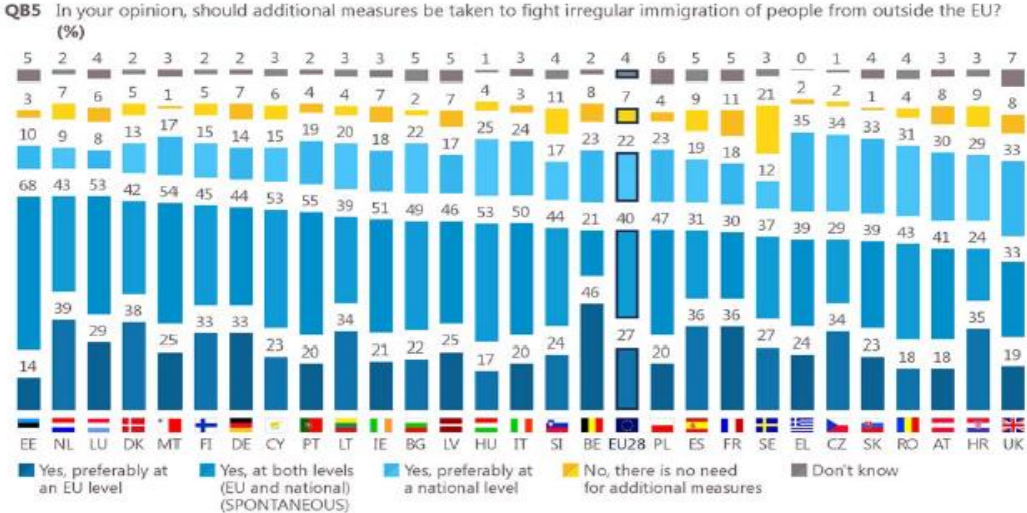
7.2.1 Applying the national preferences and inter-state bargaining prediction (P4)

National preferences on external border management integration are considered in two ways. First, following the importance of *domestic preference-formation*, the standard Eurobarometer will be used to measure member states’ preferences. The main focus is on significant outliers in terms of *support for European solutions to irregular immigration*. Second, following the importance of *inter-state bargaining*, *two coalitions of member states with strong stated preferences on external border management integration are considered*. Third, the *distributional consequences of the EBCG are considered to see if the regulation established any ‘winners’ or ‘losers’*.

7.2.1.1 National preferences on immigration

The standard Eurobarometer survey is one of the largest, standardized surveys conducted in the EU. It is the most feasible way of making a broad assessment of member states’ preferences on border management integration. In May 2016, the support for a common European approach to immigration was measured for the first time. Approximately 89% of respondents were in favor of additional measures to reduce irregular immigration from outside the EU (Eurobarometer 2016). The domestic support for an EU response was high, and support was strongest in The Netherlands, Denmark, Lithuania, Belgium, Spain, France, the Czech Republic and Croatia (Eurobarometer 2016). No significant opposing outliers were found.

Figure 12. Standard Eurobarometer 85 (Eurobarometer 2016: 55)



7.2.1.2 Surveying plausible coalitions within inter-state bargaining

If no strong preferences opposed to reducing irregular immigration can be identified, the second step would be to *identify coalitions with a strong preference for external border management integration, to furthermore consider if they had a disproportionate role in EBCG negotiations*. Two notable coalitions during the refugee crisis were the ‘Club Med’-group and the Viségrad Group.

The ‘Club Med’ group is an alliance between Cyprus, France, Greece, Italy, Malta, Portugal and Spain. One of the most important issues of common interest for the group has been migration around the Mediterranean Sea. The group has held yearly ministerial meetings since 2014, with migration and border control featuring prominently as priorities. The causal process tracing has demonstrated how Italy and Greece repeatedly attempted to lobby for burden sharing at Council meetings in 2015, albeit not successfully. However, the two countries seem to have been successful in pulling the group together to support the EBCG. On 25-26 February 2016, the group announced their collective support

to safeguarding the EU's external borders through a common approach based on solidarity, furthermore adding that: "unilateral actions cannot be a solution to this crisis, which requires a comprehensive and systematic approach to be pursued at the EU-level" (Petrides 2016: 180).

The Viségrad Group (V4) is an alliance of four Central European member states, namely the Czech Republic, Hungary, Poland and Slovakia. On June 19, 2015, the V4 refer to the EAM, arguing against any relocation mechanism and adding regretfully that "the (EAM) fails to address and find adequate solutions to migration pressure from and via the Western Balkan route" (Viségrad Group 2015a). Due to the remarkable growth in migratory pressures in the third quarter of 2015, the group held an extraordinary meeting on September 4. The group affirmed their collective opposition to relocation but were in favor of reinforcing external borders, stating their full readiness to provide "experts and technical equipment for EU external border protection (...) and assistance to the border protection and migration management of the countries of the Western Balkans" (Viségrad Group 2015b: 2).

Both groups were highly in favor of reinforcing external border management and the EBCG. However, in the absence of any clear opposition, it is unclear how important this support was. Using the logic of counterfactual reasoning, one can ask whether the EBCG would not have been established without the statements of both groups. Given the widespread politicization of irregular immigration and the large consensus on reducing flows, this seems unlikely. The lack of evidence suggesting inter-state competitiveness on the proposal confirms this further.

7.2.1.3 Distributional consequences of the EBCG

The distributional outcomes of the EBCG may point to the 'winners' and 'losers' of inter-state bargaining. Because the EBCG mainly has regulatory and operational competences, the distributional consequences are not directly attributable but can nonetheless be considered from the prism of technical equipment, border guards, financing and competences.

7.2.1.3.1 Technical equipment and border guards

The structural problems of technical equipment and border guard shortage (see 5.3) has been partially addressed in the EBCG regulation. Member states can no longer use the 'emergency clause' to withhold national border officials for rapid border interventions – compliance is obligatory (Rijpma 2016: 16). The emergency clause can be invoked for joint operational missions, but: "interestingly, the determination of whether such a situation exists is no longer left to the Member State itself but depends in least in part on the Agency's assessment of a national situation" (Rijpma 2016: 16). Furthermore, member states shall now make technical equipment available for operational missions on an annual basis. Pledged equipment must be delivered to the EBCG upon request. Last, the agency is now capable of purchasing its own technical equipment (EUR-Lex 2016: 251/35). However, there are

no clear distributional consequences from these new provisions, as they apply to all member states equally. Large member states are likely to provide more border guards and technical equipment, but *in relative terms*, this is not an unfair distributional outcome. Furthermore, member states are reimbursed for technical equipment delivered to the agency and its seconded border guards (EUR-Lex 2016).

7.2.1.3.2 Right to intervene

In the event of non-compliance with recommendations following a risk analysis, the EBCG has the right to intervene based on a Council decision (EUR-Lex 2016: 251/23). The fact that the Council can approve of EBCG intervention missions in member states as a last resort is unprecedented. The member state can choose for compliance and cooperation with the intervention mission. If it does not comply within thirty days, adjacent member states have the right to implement internal border controls to ‘contain’ the migratory problem in order to protect the internal security and functioning of Schengen (EUR-Lex 2016: 251/24). It was not lost on anyone that the ‘right to intervene’ was meant as a safety clause to protect Schengen from member states such as Italy and Greece (interviewee A). Both countries opposed the right to intervene, but this dispute was settled at the ministerial-level (interviewee A). It would be wrong, however, to categorize Italy and Greece as ‘losers’ of the EBCG-regulation because their national coast guards now have a European contingent to call upon for assistance in cases of emergency, and other member states can only refuse to send technical equipment or border guards under highly constrained circumstances.

7.2.1.4 Hardly a Bargain

Given the lack of empirical evidence to suggest otherwise, it can be concluded that the EBCG proposal was not the outcome of intensive inter-state bargaining because the proposal had widespread support from all member states, and the regulation did not produce discrepant distributional outcomes. The empirical congruence of this prediction is thus low.

7.2.2 Applying the role of the Council Presidency prediction (P5)

The four council presidencies of Italy, Luxembourg, Latvia and the Netherlands fall within the temporal order of the EBCG-case. All four were in favor of more cooperation at the external borders, but based on interviews and a review of Council meeting conclusions and Council Presidency documents, this prediction largely does not hold (interviewee A, interviewee B). Italy, Luxembourg and Latvia together formulated a “Trio Programme” meant to improve the coherence of the three presidencies. Among the policy priorities touched upon in the Trio Programme, the three countries state that “the improvement and strengthening of integrated management of the European Union’s external borders will continue to be one of the key priorities” (Council of the European Union 2014: 47). However, no direct legislative actions or agenda-setting moves were undertaken to this end – likely because the time was simply not ripe (interviewee A).

One of the Italy's priorities during its presidency was bringing a new impetus to the EU's foreign policy, which clearly speaks of the Mediterranean region, migration, and the need to cooperate with third countries (Italian Presidency of the Council of the European Union 2014); but there is no evidence to suggest that *strengthening Frontex or amending its mandate was actively pursued*. During the refugee crisis in 2015, the Luxembourg Presidency aligned itself with the Commission and other supporters of mandatory relocation (Justice and Home Affairs Council 2015b). Budgetary amendments to Frontex were approved during this time. However, no specific actions were undertaken to discuss reforms or drastic organizational changes to the agency. Finally, the Latvian Presidency does not even mention border management as one of its top priorities, despite the politicized context of the refugee crisis (Latvian Presidency of the Council of the European Union 2015: 4 – 6). This brings us to the Dutch Presidency, which displayed great efforts to ensure the regulation would pass. However, these were *not the actions of a country eagerly pursuing its own agenda and preferences*. The Netherlands had little choice, “the EBCG (proposal) simply needed to be done” (interviewee A). Lacking the access necessary to confirm whether (and to what extent) the presidencies may have *attempted* to push for more border management integration is unfortunate, but absent contradictory evidence, the prediction for member states wielding the Council Presidency for the EBCG has low empirical congruence.

7.2.3 Applying the ‘facilitating supranational institutions’ prediction (P6)

The analysis for this prediction has been conducted in sub-chapter 7.1.2. This prediction has a low empirical congruence, as supranational entrepreneurship has high congruence.

7.3 New Intergovernmentalism

New intergovernmentalism posits that *deliberation and consensus were the guiding norms of the EBCG's legislative process*, which is facilitated by *the proliferation of expert committees and Council working groups, a greater frequency of meetings within the Council and the multi-level connectedness of this institution*. Furthermore, member states have become wary of transferring competences to traditional European institutions, *opting instead to transfer competences to semi-independent agencies or ‘de novo’ bodies such as the EBCG*. The Parliament and Commission are no longer traditional allies promoting supranationalism but are complicit in ‘integration without supranationalism’.

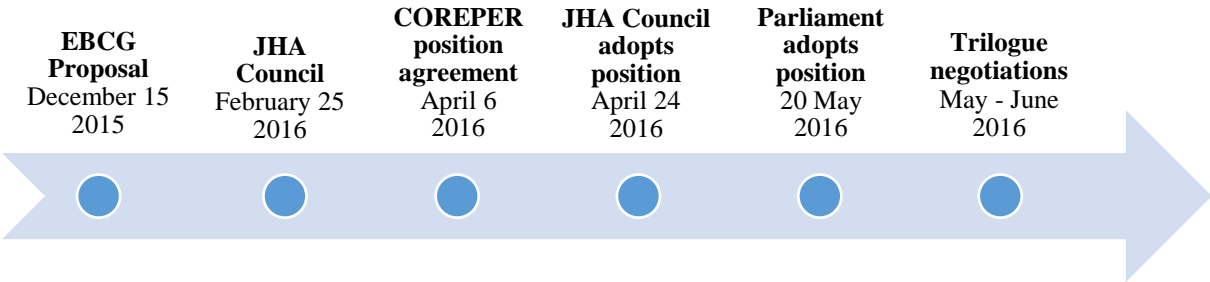
7.3.1 Applying the deliberation and consensus prediction (P7)

The empirical analysis thus far indicates that the political context of the refugee crisis produced broad consensus for European action to reduce irregular immigration. Thus, the situation was conducive to this prediction in the first place. A more careful analysis of the inter-institutional negotiations can shed

more light on this. The information presented here is largely based on two interviews.

7.3.1.1 Delibero, Ergo Sum?- Deliberation in the Council

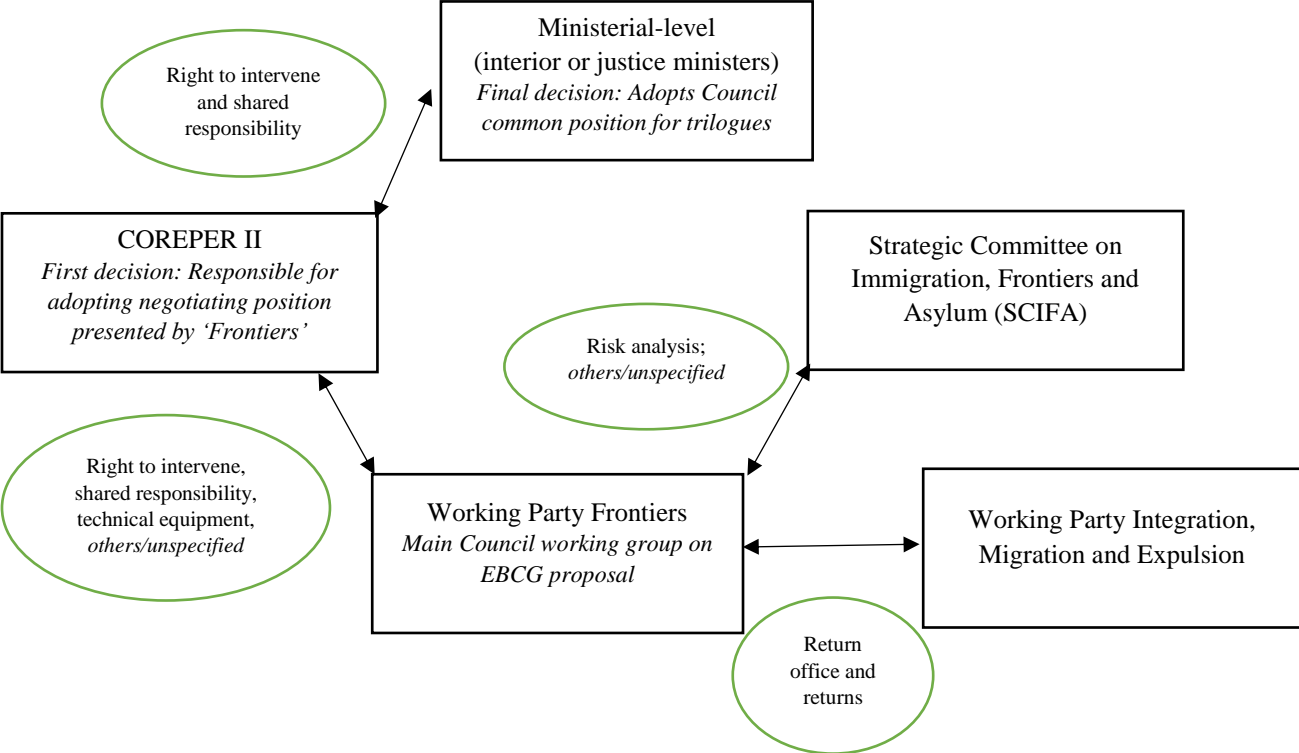
Once the Commission proposal for the EBCG had been presented in December 2015, the incoming Dutch Presidency appointed the *Working Party on Frontiers* (‘Frontiers’) to begin a legislative and political assessment of the proposal. Frontiers is the Council working group of specialists from interior ministries on measures related to the internal and external borders of Schengen and are furthermore responsible for Frontex. The group is composed of civil servants posted at the Permanent Representation of their member states in Brussels. A Dutch civil servant was appointed the coordinator of Frontiers in line with the incoming Council Presidency. Frontiers meetings started in early January 2015, and quickly separated key issues from minor details. All articles of the proposal related to the EBCG’s role on returns, joint returns, and the ‘return office’ were delegated to the *Working Party on Integration, Migration and Expulsion*. During the Frontiers meetings, a representative of the Commission (DG HOME) would be present to answer questions on the proposal. The most important issues identified were the ‘right to intervene’ and ‘shared responsibility of external borders’. The coordinator immediately signaled to fellow national officials that both topics would be moved to the COREPER (ambassador) level.



Due to the political pressure on passing the EBCG as quickly as possible, the COREPER level tabled the two articles to be discussed at the ministerial-level at the JHA Council Meeting in February 2016. With the two most politically sensitive measures – the right to intervene and shared responsibility - identified early and dealt with at the ministerial-level, Frontiers had “bought itself some precious time” to consider all the minor details that had been temporarily set aside (interviewee A). For articles of the EBCG proposal related to risk analysis and vulnerability assessments, the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) also became involved. SCIFA is composed of high-level political officials above the working group level. Meanwhile, Frontiers maintained frequent contact with the return group.

Figure 13 visualizes the working process within the Council on the EBCG proposal. Frontiers was the main working group on the proposal and has an important coordinating task with other Council bodies, with the coordinator of Frontiers responsible for signaling to the Council Presidency, i.e. Dutch colleagues at the Permanent Representation, when what decision needs to be taken where. The green circles represent the articles of the proposal that Frontiers had to ‘delegate’ or ‘kick-up’ because the group either lacked the expertise (return, risk analysis) or the political clout to decide upon (sovereignty-related issues). The right to intervene and shared responsibility were settled in February at the JHA Council. Frontiers presented its position to the COREPER level, which adopted a common position, later approved of by the JHA Council. The major amendments concerned curbing the agency’s competences on coordination of coast guards; the right to intervene became a Council competence, not that of the Commission; the agreement method to deploy EBCG teams to third countries was altered; and a fundamental rights mechanisms for the protection of personal data were incorporated (European Parliament Research Service 2016: 6 – 8). This set the stage for inter-institutional negotiations with the Parliament in May 2016.

Figure 13. Author visualization on Council actors involved with EBCG proposal



There were no opposing camps within the Frontiers group during negotiations and all agreed that the EBCG proposal was extremely necessary given the circumstances (interviewee A). Italy and Greece both had reservations regarding the right to intervene. However, this was not a bargaining-point; all officials understood this was sensitive, and it was handled as such at the ministerial-level (interviewee A). Data on the actual agenda-points and minutes of all Council meetings on the EBCG would be valuable to confirm this, but access was difficult. Nonetheless, it is evident that *the high degree of competence-division among different levels and groups within the Council in the case of the EBCG is likely to have resulted in a significant depoliticization of the issue and was thus conducive to deliberation and consensus as opposed to inter-state bargaining.*

7.3.1.2 The European Parliament

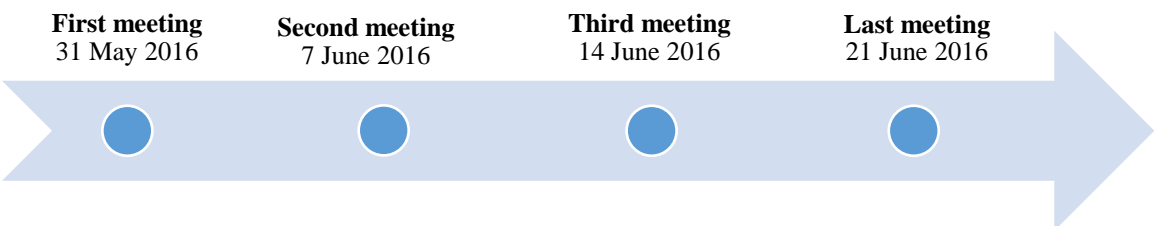
The EP adopted a resolution on 10 September 2015 reiterating its “commitment to open borders within the Schengen area, while ensuring effective management of external borders” (European Parliament 2015). This statement reflects the position of the largest political parties in the EP, who were all in favor of strengthening the Frontex agency. The EBCG proposal was assigned to the LIBE committee. All political parties within the Parliament can present their own candidates for the rapporteur role, and the matter is consequently put to a vote in the plenary. Often, candidates presented have substantial expertise on the topic. The EBCG proposal was different. Artur Pabriks, a former Latvian Defense Minister, had no previous experience on legislative dossiers on migration, asylum or borders. However, Parliament President Schulz made it personally clear to the leaders of the different parties in Parliament that Pabriks was the man for the job (interviewee B). Such high-level involvement is not uncommon but still noteworthy. The interviewee suspects that this was a well-mediated decision between Schulz and the Commission. In either case, Pabriks was appointed rapporteur and all political parties subsequently appointed their own shadow rapporteurs. Preparations were held within this closed informal group, and it was a remarkably quick process. Pabriks reminded the other shadow rapporteurs that he had gotten “a mandate from the highest political level to get this done quickly and effectively” (interviewee B). Pabriks’ position was very much close to the Commission proposal, save a few changes, and he was generally dismissive of shadow rapporteurs of the smaller political parties.

7.3.1.3 Inter-institutional negotiations or ‘trilogues’

Trilogues can be defined as “informal inter-institutional negotiations bringing together the representatives of the European Parliament, the Council and the Commission (...) facilitating early agreements between EU-decisions makers” (Roederer-Rynning & Greenwood 2017: 737). Trilogues have become the most dominant legislative format in practice, as small informal groups from the three European institutions can meet, deliberate and negotiate on which amendments need to be made to a legislative proposal in relative secrecy – in 2016, every single legislative decision was adopted after

trilogues negotiations (EU Observer 2018b). This process greatly facilitates the adoption of proposals in the first reading. The question remains, however, *to what extent were the meetings characterized by deliberation and consensus as opposed to hard-bargaining and how much were the three institutional groups in (dis)agreement with one another?* The three groups are: Frontiers (Council), Parliamentary Group (Rapporteur Pabriks and shadow rapporteurs), and the Commission team (DG HOME).

Figure 14. Trilogues on the EBCG



Rapporteur Pabriks held a tight control on the Parliament’s position on the proposal with the support of the four largest EP parties. Minor amendments were made to improve fundamental rights provisions, and the Parliament was supportive of amending the ‘right to intervene’ and other issues deemed sensitive by the Council. The Dutch coordinator of Frontiers mentions that “working relations with Pabriks was great (...) he was not out to make a career for himself in the Parliament and as a former Defense minister, was a reliable and realistic partner” (interviewee A). The Parliament did manage to expand its competences regarding the EBCG – albeit in a very limited sense – with an amendment that makes the executive director of the EBCG required to answer questions in plenary sessions on an annual basis when presenting the yearly report of the agency. Attempts to place a Parliamentary representative in the management board of the EBCG were unsuccessful. Largely, the Parliament followed the Council’s line on the proposal.

7.3.2 Applying the blurring between high and low politics prediction (P8)

The blurring between high and politics is sub-divided into two predictions. First, to what extent does the EBCG bolster sovereignty? The EBCG is far more operationally capable than its predecessor, particularly because structural problems related to technical equipment and border guards have been partially addressed. Member states who frequently call upon the agency are now undoubtedly more capable of managing the external borders – this is, after all, the *raison d’être* of the EBCG. The technical nature of the EBCG and how it functions as an institutional umbrella, combining the former

Frontex with national border and coastal guards, is in the tradition of Frontex as a depoliticized instrument (Wolff & Schouten 2013; Rijpma 2016). The ‘right to intervene’ is contentious, but member states nonetheless agreed to a less strenuous version of it under Council control, lending some credibility to the first prediction that *the EBCG bolsters member states’ sovereignty, and matters of sovereignty in the regulation were therefore not contentious.*

Second, considering the high-levels of agreement that immigration constitutes a serious problem and that more European approaches to reducing irregular migration flows is necessary (Eurobarometer 2016), it does seem that there was a high level of convergence between elite and popular sentiment. Government elites were eager for a response that would help them regain control and ensure more discipline across member states for external border management. Whilst far-left and far-right parties were certainly opposed to the EBCG, for concerns about human rights and sovereignty respectively, *the convergence between elite and popular sentiment on reducing irregular migration flows cannot be read as anything but the momentary salience of the issue.* Nonetheless, this salient issue was *translated through the technical language of the Commission into a less politicized matter* - the ‘right to intervene’ remains highly constrained, pledges of technical equipment and border guards are agreed on a biannual basis, the intergovernmental management board structure ensuring a high level of deliberation between member states’ representatives and the executive director remains unchanged, etc. (interviewee A). The second part of the prediction is thus not completely accurate, as momentary salience was reached in a moment of high politics. Together, the prediction has a modest level of empirical congruence because the first part has credible congruence whilst the second has low congruence.

7.3.3 Applying the strategic entrepreneurship prediction (P9)

For this prediction, the author refers to sub-chapters 7.1.3. The Commission’s proposal had clear elements of supranational entrepreneurship; meanwhile, the Parliament displayed a limited level of entrepreneurship due to the specificities of the case discussed and instead only sought to improve its competences over the EBCG. This constitutes modest empirical congruence with this prediction.

7.3.4 Applying the “integration without supranationalism” prediction (P10)

New intergovernmentalism predicts that governments and supranational actors support the creation and empowerment of de novo bodies. The characteristics of de novo bodies are their issue-specific mandate, relative independence in the EU executive order, an organizational form that overlaps with other organizations or agencies (‘interstitiality’), and intergovernmental management board for member state control (Bickerton et al. 2015a, Egeberg & Trondal 2017, Båtora 2013). The prediction is that the EBCG is a de novo body according to these characteristics, and that the regulation has not led to a strengthening of decision-making in the Commission or Parliament. A document analysis was

conducted of the EBCG regulation, supported with secondary analyses of legal scholars (Rijpma 2016; De Bruycker 2016; Carrera et al. 2015; Carrera & Den Hartog 2016).

7.3.4.1 Main innovations of the EBCG

The main innovations of the EBCG concern a substantive expansion of the supervisory, regulatory and operational competences of Frontex – these have been frequently grouped as eight main innovations in total (Rijpma 2016; Carrera & Den Hartog 2016; De Bruycker 2016). The right to intervene, and the greater availability of human and technical resources have both been discussed previously. Cross-border crime related to border management has been furthermore added to the EBCG’s competences but remains unspecified; this addition is inherently expansive and is likely to contribute to the acquirement of new competences for the EBCG in the future (interviewee B). The remaining five innovations concern: an independent supervisory role; a new hotspot approach; greater cooperation for return; operational cooperation with third countries; coastal guard and maritime security cooperation.

First, when operational weaknesses are identified, the EBCG can deploy liaison officers to monitor the management of the external border and “report regularly to the executive director on the situation at the external borders and the capacity of the Member State concerned to deal effectively with the situation at the external borders” (Carrera et al. 2015: 12). This independent supervisory role implies a form of hierarchy between national border guards and the agency, as the former’s cooperation is obligatory, and the latter’s evaluation takes precedent (Rijpma 2016: 14). Second, the hotspot approach creates migration management teams consisting of agents from the EBCG, EASO and seconded national border guards, which “provide assistance in screening, debriefing, identification and fingerprinting” individuals seeking international protection (EUR-Lex 2016: 251-22). Third, the EBCG now has the mandate to pool three types of return specialists from member states to create European return intervention teams to assist member states with deportations (Rijpma 2016: 20).

Fourth, the EBCG can now facilitate cooperation between member states and third countries in border management and migration management activities, and “matters covered by its activities and to the extent required for the fulfillment of its tasks” (EUR-Lex 2016, 254-44; Rijpma 2016: 23).

Cooperation with third countries is an essential aspect of the EU’s externalization of border management and a key mechanism in extending its scope of control beyond its own borders (Lavenex & Schimmelfennig 2009). Training and cooperation with third countries is meant to “promote European border management and return standards” (EUR-Lex 2016, 254-44). Last, provisions are set for cooperation between Frontex and national coast guards, naval authorities and other organizations with a coast-guard function, which is believed to set the foundations for the integration of military and civilian actors in the maritime domain (Carrera & Den Hartog 2016: 4).

7.3.4.2 Applying “integration without supranationalism”

The first conclusion from this analysis is that the EBCG has not only maintained its relative independence in the EU executive order, it has also been strengthened due to an enhanced primacy in supervisory and regulatory tasks. Furthermore, there are strong indications of interstitial features (Bátora 2013) not only in the set-up of the EBCG itself but its competences to work with other agencies in migration management, cooperate with coast guards and naval authorities, and even cooperate with border guards of third countries. The management board has remained unchanged and continues to be a bulwark for intergovernmental control of the agency. There has been little to no centralization of competences in the Commission or Parliament. The ‘integration without supranationalism’ thus has a high degree of empirical congruence.

8. Conclusion

Having conducted the empirical analysis, the congruence between the three theories can now be assessed. This requires not only an elaboration on the empirical congruence of the theory-derived predictions in comparison with one another, but also the theoretical coherence of each theory in explaining the case. After comparing the congruence between the three, the main conclusion of the thesis will be considered. This chapter follows with recommendations for further research and a brief reflection on the limitations of the study.

8.1 Congruence analysis

Neofunctionalism suggests that the refugee crisis exposed structural problems of the incomplete integration within the interrelated sectors of migration, asylum, and border management policies. This led to a bottleneck in leadership among member states. The interplay between these structural problems and the Commission's behavior as a supranational entrepreneur with the EBCG-proposal provides the most convincing explanation of the fast-track legislative preparations for the new agency. The Commission mobilized a great deal of information and ideas in the European Agenda on Migration, and although early legislative proposals promoting different varieties of relocation mechanisms were not adopted⁵, a 'window of opportunity' presented itself for the Commission to realize one of the pillars of the EAM: improved border management through a significant empowerment of Frontex into the EBCG. The activity of transnational interest groups, particularly the civil security industry, is likely to have had a moderate effect on promoting this act of integration. The 'confessions' of four meetings were found and, although the EBCG was not explicitly referenced, the frequent contact between high-level officials and the industry points to a modest empirical congruence of this prediction. Human rights organizations played less prominent of a role but were still important advocates of inserting human rights clauses into the EBCG regulation. In sum, neofunctionalism has high empirical congruence and is theoretically coherent, particularly concerning spillover and supranational entrepreneurship.

Liberal intergovernmentalism, in contrast, has low empirical congruence. Given the circumstances of the refugee crisis, member states were eager to find a common solution that did not constitute extreme distributional consequences and possessed a high degree of domestic support. This is the limited contribution of liberal intergovernmentalism, as a sharp focus on distributional consequences may have been absent without the theory. One could add that the 'prisoner's dilemma' preventing cooperation on relocation was a high-mark of intergovernmentalism during the refugee crisis (Rittberger et al. 2017), and thus forced the Commission to pave the way for a proposal with limited

⁵ The exception is the two temporary relocation mechanisms for the benefit of Italy and Greece, but attempts at permanent and mandatory relocation both failed.

distributional consequences, i.e. the EBCG regulation. This, however, only confirms that member states strongly differ on preferences on *what to do with asylum-seekers that have reached a European member-state* but not on what to do to *prevent migrants and asylum-seekers from reaching Europe*. For the latter, interdiction with improved border management has obvious support. This convergence indicates that national preferences matter, and that nation-states are not obsolete – but it does not wholly confirm the state-centrism hypothesis of liberalism intergovernmentalism. Besides this, the context of the EBCG proposal does not lend itself well to an approach that strongly emphasizes competitive states conducting inter-state bargaining with a close eye on strategic interests. Using counterfactual reasoning, one can reflect on whether the two coalitions of member states with strongest preferences, Club Med and Viségrad, were even necessary conditions for the quick approval of the EBCG regulation given the overwhelming consensus for reducing irregular immigration flows across all member states. The Council Presidencies prediction also has, absent contradictory evidence, low empirical congruence. Access to the Permanent Representations of Italy, Luxembourg and Latvia could have provided insight to what extent the three countries may have attempted to table external border management proposals or even an overhaul of Frontex. Particularly for Italy, this is interesting – was it attempted, and ultimately futile, because of the timing of the country’s presidency, i.e. July to August 2014? Even if this were the case, it would only cover the agenda-setting aspect of the issue. Finally, although the skepticism against supranational entrepreneurship is well-argued (Moravcsik 1999), this prediction has been essentially contradicted in this case. The low empirical congruence of liberal intergovernmentalism may be ascribed to two factors. First, the theory is best suited to analyze changes to the EU occurring at the highest and most competitive intergovernmental level, i.e. Treaties. As such, it lends itself less well to the study of regulations. Second, liberal intergovernmentalism is hard-pressed to explain European integration when the distributional consequences are indeterminate.

New intergovernmentalism provides greater insights on the EBCG, and this is because of its novelty as a theory informed by very recent scholarship. The EBCG case shows a high degree of deliberation and consensus in the Council working groups and inter-institutional negotiations. In particular, the attention to the inner-workings of the Council – albeit opaque – has proven to be a rich avenue for understanding the finer details of the case and the sophisticated delegation of sensitive issues and division of tasks according to competence. The ‘Frontiers’ group competently identified politically sensitive matters, which were ‘kicked up’ to the ministerial-level; technical issues requiring a different expertise-set were delegated to the working group on returns; and strategic issues were similarly delegated to other working groups. The interviews and documentary analysis revealed that cooperation within the Council can be quite multi-dimensional, which is an interesting insight. Furthermore, it confirms that member states are quite willing to cooperate even on sensitive issues, such as lifting the ‘emergency clause’ for border-guard commitments, which is a testament to the success of the working group format in depoliticizing issues (Wolff & Schout 2013; Puetter 2015). This is further

confirmation that legislative negotiations do not take the form of hard bargaining expected by liberal intergovernmentalism. ‘Integration without supranationalism’ and national preferences for strengthening agencies in the European executive order – as opposed to the centralization of competences in the Commission, Parliament or ECJ - has a high degree of congruence for the case. The weak component of new intergovernmentalism, however, is the blurring of high and low politics concept, which requires more theoretical refinement and specification. In sum, new intergovernmentalism has a modest to high empirical congruence with the case of the EBCG, notably for the combination between deliberation and consensus, and ‘integration without supranationalism’.

Table 6. Overview empirical congruence of predictions

Predictions	Empirical congruence
P1. Functional spillover	High
P2. Supranational entrepreneurship	High
P3. Transnational interest groups	Moderate
P4. State-centrism	Low
P5. Council Presidency	Low
P6. Facilitating supranational institutions	Contradicted
P7. Deliberation and consensus	High
P8. Strategic entrepreneurship	Modest
P9. Blurring of high and low politics	Indeterminate
P10. Integration without supranationalism	High

8.2 Further research

The empirical analysis of this thesis has identified a number of interesting avenues for further research. Regarding theories of integration, neofunctionalism continues to display rigor and explanatory leverage, particularly during integration following crises, as other scholars have similarly highlighted (Hodson 2013; Niemann & Speyer 2018). New intergovernmentalism has shown to have potential for studying contemporary European integration, though certain hypotheses such as the blurring of high and low politics need further theoretical refinement. Beyond these theoretical considerations, two avenues for further research have been identified: the civil security industry in the EU; and ‘agencification’ in the EU.

8.2.1 The civil security industry, European border management, and beyond

Transnational interest groups play an important role in fostering European integration according to neofunctionalism. This study has specifically considered the role of the civil security industry in border management. There has been limited scholarship on the matter (Baird 2018; Sanbar 2017). Recent publications mostly come from advocacy organizations and are immensely valuable, but nonetheless lack the empirical rigor of academic scholarship (Akkerman 2018). Two significant drivers of border management integration has been the logic of risk (Neal 2009) and securitization (Meissner 2017). As such, an important avenue of research would be to consider the degree to which the security industry actively fosters and stimulates securitization and logics of risk; and research the socialization between the security industry and EU officials more closely (Baird 2018). This thesis has identified a lack of empirical data on the influence of security industry associations on EU border management policy-making. It would be interesting to consider the lobbying strategies of security industry associations, whether there is a revolving door between European officials and these associations, and the relationship between increased European spending on border management and the profitability of security firms. Using EU transparency registers to launch timely and targeted information requests and conducting ‘insider’ interviews with the civil security industry are both potential avenues for more investigation. Advocacy groups have hailed a new era of ‘Fortress Europe’ and a military-industrial complex at the external borders (Akkerman 2018); the time is ripe for academic scholarship to research such claims.

8.2.2 Agencification and de novo bodies

The EBCG is clearly a case of ‘integration without supranationalism’ and fits within a number of discussions in the literature on agencification and the European executive order (Egeberg & Trondal 2017) and scholarship on ‘interstitial organizations’ (Bátora 2013). An important avenue for further research are case studies or large N-studies that compare agencies with one another. This could be very useful for the further conceptual refinement of de novo bodies. Are all agencies de novo bodies, and vice versa? If this is the case, the concept is clearly redundant. Specifications on what differentiates agencies from de novo bodies are necessary – this article considers interstitial features (Bátora 2013) an important characteristic, but this should be further reflected on. Additionally, how institutions with interstitial features cooperate is also important. For example, how do agencies deal with overlapping or competing competences, and are there identifiable cases of bureaucratic politics in the EU executive order? Lastly, the EBCG’s mandate to cooperate with third countries and the potential Europeanization of border management in neighboring countries is an important avenue for research.

8.3 Brief reflection on limitations

One limitation of the study is the lack of access to national officials from Permanent Representations in Brussels and officials from the Commission, Parliament, and Council. A greater access to officials for semi-structured interviews would have greatly improved the amount of evidence available to corroborate for the empirical analysis. For the liberal intergovernmentalism segment of the empirical analysis, and specifically the prediction on Council Presidencies, this is particularly unfortunate. The second limitation is access to primary sources on transnational interest groups' meetings with European officials, including more documents on the minutes of such meetings. Information requests on the transparency register of the EU could have been lodged sooner. Finally, as with most case studies, the findings of this thesis are not generalizable and this lack of external validity is a clear limitation; although certain findings may prove to be useful for theoretical refinement and others interested in researching the integration of border management and migration policies with the use of theories of integration.

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Interview guide (semi-structured interview)

1. The Commission presented a border proposals package on 15 December 2015, including a proposal for a European Border and Coast Guard. Why?
2. Can you explain the (legislative) process after the publication of the proposal?
3. What were the most contentious articles or aspects of the proposal, and for whom?
4. Were there (sharp) divisions within the Council or Council Working Group? (Group Frontiers)⁶
5. Were there any member states that were playing a significant role throughout the process, and if so, can you describe this?
6. Were there (sharp) divisions within the European Parliament, the mainstream political parties, the shadow rapporteurs on the file, or the Civil Liberties, Justice and Home Affairs (LIBE) committee?
7. How would you describe and evaluate the role of rapporteur Artis Pabriks within the entire process and negotiations, and why was he chosen for this specific case?
8. What was the role of the Commission throughout the inter-institutional negotiations?
9. How would you describe and evaluate the role of the Dutch Presidency?
10. How would you contextualize the proposal and regulation, if you had to reflect on the refugee crisis?

Interview sources are non-attributable

Interviewee A - Dutch policy official, coordinator of 'Frontiers' during EBCG negotiations

Interviewee B- Parliamentary assistant to one of the EP shadow rapporteurs on the EBCG proposal

⁶ Interviewee A received this question, whilst interviewee B was asked question six instead.

Data on transnational interest groups that held high-level meetings with the Commission

Civil security organizations that held high-level meetings with the Commission in 2014 – 2016

1. [European Organization for Security](#)
2. [Aerospace and Defense Industries Association of Europe](#)
3. [Deutsche Gesellschaft für Internationale Zusammenarbeit \(GIZ\)](#)
4. [Leonardo S.p.A](#)
5. [Rheinmetall Group](#)
6. [Friends of Europe](#)

Human rights organizations that held high-level meetings with the Commission in 2014 – 2016

1. [Terre des Hommes International Federation](#)
2. [International Commission of Jurists \(ICJ\)](#)
3. [The Smile of the Child](#)
4. [Amnesty International European Association](#)
5. [Diakonie Deutschland](#)
6. [International Catholic Migration-Commission](#)
7. [Churches' Commisison for Migrants in Europe \(CCME\)](#)
8. [Platform for International Cooperation on Undocumented Migrants \(PICUM\)](#)
9. [European Council on Refugees and Exiles \(ECRE\)](#)
10. [Platform of European Social NGOs \(Social Platform\)](#)
11. [Human Rights Watch](#)
12. [Migration Policy Institute](#)
13. [Save the Children International](#)

Table 7. High-level meetings human rights organizations with the Commission (compiled by author from EU transparency register and www.lobbyfacts.eu)

Date	European official	Entities	Subject
09/01/2015	Frans Timmermans	Amnesty International, ECRE, Social Platform, Human Rights Watch	Roundtable fundamental rights
24/02/2015	Avromopoulos	The Smile of the Child	Action on issues of unaccompanied minors
26/02/2015	Matthias Reute	Diakonie Deutschland	Migration and asylum
27/02/2015	Dianne Schmitt	Migration Policy Institute	Migration
27/02/2015	Matthias Reute	Migration Policy Institute	Discuss on upcoming Transatlantic Council on Migration
14/04/2015	Frans Timmermans	Amnesty International, Social Platform	Colloquium on fundamental rights
05/05/2015	Frans Timmermans	Amnesty International, PICUM, ECRE, Human Rights Watch	Upcoming migration agenda
29/05/2015	Dianne Schmitt	Amnesty International	Migration policy
17/06/2015	Federica Mogherini	Amnesty International	Human rights
05/10/2015	Matthias Reute	ICMC Europe	Refugee resettlement
16/11/2015	Matthias Reute	Migration Policy Institute	Scale of refugee crisis
16/11/2015	Carlo Zadra	Amnesty International	Migration policy
17/02/2016	Frans Timmermans	ICJ, TDHIF, Amnesty International, PICUM, ECRE, Social Platform, Human Rights Watch, Save the Children International	Roundtable fundamental rights
2/03/2016	Berd Martenczuk (DG Better Regulation)	Amnesty International	Migration
11/03/2016	Richard Szostak (DG Presidency)	Amnesty International	Refugee crisis
15/03/2016	Frans Timmermans	Amnesty International	Refugee crisis
24/05/2016	Matthias Reute	Migration Policy Institute	Migration policy developments