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## The responsibility-solidarity balance in EU asylum, climate, and fiscal legislation

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**Abstract:** A balance between solidarity and responsibility has long defined bargains in EU legislation. Longstanding functionalist logics continue to inform the introduction of rules formalizing member governments' responsibility to adjust national policies to meet Europe-wide goals, while longstanding political logics inform the need for solidaristic allocation of resources to attain universal consent to such rules. This paper outlines an initial conceptual framework for describing the responsibility-solidarity balance, and then tracks the twenty-first century evolution of this balance in three policy areas— asylum, climate, and fiscal policy.

**Keywords:** European Union law, solidarity, asylum, climate, fiscal policy

Despite the diversity of the European integration literature, most studies broadly share an outcome of interest—the *extent* of European integration. That is, in aiming to explain the *speed* at which integration (or disintegration) occurs—whether through treaties or legislation or accession—or the *shape* of integration—involving supranational competences differentiated across policy areas and member states—the goal tends to be to understand the European Union’s authoritative position in relation to its member states.<sup>1</sup>

The question of what drives the extent of European Union (EU) authority remains essential, particularly in the context of serial crises over the past fifteen years (see Schimmelfennig 2018; Börzel & Zürn 2021; Ferrara & Kriesi 2022). Yet this focus pays less attention to the *substantive* quality of European integration—the nature of issue-specific legislation and intergovernmental agreements. This neglect is understandable: the EU’s liberalism, with its commitment to democracy, rule of law, and markets, is essentially given. However, the EU’s ideological orientation is not the only way of understanding its substantive quality, and the focus on the extent of integration limits our understanding of the union’s evolution, for a couple of reasons.

First, if we fixate on “how much Europe,” we might not appreciate how certain outcomes also pertain to “what kind of Europe.” For example, integration theory tends to view flexibility or “national ownership” of EU policies in areas such as asylum or fiscal policy as indicators of the relative authority of the EU, or of differentiated integration (e.g., Genschel & Jachtenfuchs 2016; Zielonka 2007). Yet they can also be understood as indicating the nature of the commitment member states have made to one another in these issue areas. Such outcomes do reflect the extent of integration, but we miss something if we *only* view them as such.

Second, considering the substantive quality of EU rules offers an opportunity to bridge paradigms. Neofunctionalist and intergovernmentalist theories view EU rules and institutions as products of member states’ incentives to manage interdependence (Sandholtz & Stone Sweet 1997; Moravcsik 1998), while postfunctionalism views them as products of the increasingly contentious politics of defining the boundaries of community and identity (Hooghe & Marks 2009). There are potential gains to understanding EU rules as mechanisms with both functional *and* community-defining purposes.

This paper is an initial foray into articulating a framework for describing the substance of EU rules. Drawing on existing theory and developments in EU rules on asylum, climate transition, and fiscal policy, it highlights the balance between the principles of responsibility and solidarity in EU policy ‘regimes.’ The primary focus is on developing this conceptual framework and applying it to these three regimes, though a concluding section offers initial thoughts on explaining the over-time and cross-issue variation in the responsibility-solidarity balance.

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<sup>1</sup> In this sense, this literature continues to interrogate Hoffman’s (1966: 910) claim that, “A federation that succeeds becomes a nation; one that fails leads to secession; halfway attempts like supranational functionalism must either snowball or roll back.”

## **II. The responsibility-solidarity balance in EU policy regimes**

As the subsequent section of this paper demonstrate, EU policy regimes increasingly establish in an explicit way the mechanisms through which EU member states have obligations of responsibility and of solidarity toward one another. This section draws both on the international relations and European integration literatures to develop the concept of a responsibility-stability balance in EU policy regimes.

Both neofunctionalism and intergovernmentalism are closely related to (liberal) international relations theory's understanding of international regimes as frameworks rationally egoistic states create to help them overcome incentive problems and reap joint gains from cooperation (Krasner 1982; Keohane 1984, 1989). These regimes' norms and rules establish both rights and responsibilities for states—and perhaps subnational organizations and citizens—who are expected to comply with them. Their continued existence depends primarily on their output legitimacy—the extent to which they provide a comparative benefit to their constituents (Keohane 2011).

European Union regimes—laws and intergovernmental agreements in specific issue areas—implement rules to help member states achieve shared goals such as financial stability in the Eurozone, orderly processing of asylum applications, or an expeditious climate transition. These rules also require some or all member states, firms, or citizens to adjust their policies or actions to meet harmonized standards and achieve these goals. Because such adjustments can be costly, much of the politics of EU legislation revolves around the questions of who must adjust and how much (see among others Simmons 1994).

Responsibility in EU policy regimes, then, can be understood in terms of the obligations their rules place on their constituents to comply with rules and, to the extent necessary, to adjust their policies or behaviors in order to do so (see, among others, Abbott et al. 2000; Abbott & Snidal 2000; Aggarwal 1998). The level (low to high) of responsibility involves the extent to which European laws are precise, binding, and subject to enforcement actions by the European Commission and/or European Court of Justice—and, conversely, the extent to which they feature flexibility and safeguards (Rosendorff & Milner 2001). For example, in the Eurozone's fiscal regime, countries using the euro have had to comply with precise limits on the size of their budget deficits or risk being fined by the European Commission. In the EU's asylum regime, member states must process the asylum applications of any and all migrants who enter the EU in their territory, and are expected to follow a standardized set of procedures in doing so. While the fiscal regime has been the more effective of the two (Schimmelfennig 2018), in both cases, greater flexibility in the application of these rules has only emerged in the last decade or so.

Meanwhile, both the study and practice of building a European 'community' has emphasized the principle of solidarity, or mutual support and burden sharing among member states and

citizens.<sup>2</sup> Much research in this area has focused on the community/identity requisites of solidarity (Weiler 1995; Habermas 2012; Risse 2014; Hall 2014; Nicoli 2017) or the characteristics of individuals determining their support for transnational transfers (Kuhn et al. 2017; Vasilopoulou & Talving 2020; Basile & Olmastroni 2020). But what makes a *regime* or its rules solidaristic is the institutionalization of two related principles: indivisibility, or a belief in common fate of the regime’s members; and diffuse reciprocity, or a “rough equivalence of benefits in the aggregate and over time” (Ruggie 1992). Regimes with high levels of solidarity adopt mechanisms to ensure no member is left behind.

Solidarity is most clearly present when communities establish and sustain mechanisms to redistribute resources to those in need. The level of solidarity can be seen in the magnitude of redistribution as well as its permanent or temporary quality. For example, whereas the EU’s structural funds have been a moderate, ongoing transfer of resources to poorer regions of Europe, the newly established Social Climate Fund is designed to generously if temporarily assist less-well-off households and small businesses required to switch to low-carbon sources of energy. There is also the question of whether solidarity contributions are obligatory or voluntary. The EU’s asylum regime has made solidarity contributions, in the form of accepting transferred asylum seekers, voluntary at some points and obligatory at others.

The responsibility-solidarity balance in EU policy regimes, then, comprises the relative weight given to these two distinct but connected types of obligations: to comply and adjust, and to care and to contribute. Both conceptually and practically, they are connected in a number of ways. For one, rule-based collective action requires participating actors to contribute—but often suffers from free-rider problems. Solidaristic norms can, at least in principle, induce actors to contribute to common causes even when it is not in their narrow self-interest to do so. Second, both responsibility and solidarity can induce cooperation making participating actors better off than they would otherwise be. Responsibility rules can generate a surplus by reducing negative externalities of risky or incompatible policies, while solidarity rules can help actors avoid “chain gang” outcomes wherein the fall of one brings down everyone—or, to paraphrase Benjamin Franklin, hanging together so they don’t hang separately. Third, each is inherently political, involving distributional questions of who gets what from collective action (and who decides) and identitarian questions of who is a member of a political community.

Capturing the responsibility-solidarity balance in EU policy regimes requires observing the strength of responsibility-oriented and solidarity-oriented aspects of EU legislation individually.

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<sup>2</sup> Major declarations and laws since the Schuman Declaration (1950) have emphasized solidarity among the states and peoples of Europe. Article 222 of the Treaty on the Functioning of the European Union (2009), the Solidarity Clause, commits member states to mutual assistance in the face of threats, whether natural or man-made—an article that is the basis both for specific cases of disaster relief (such as in the wake of the 2012 earthquakes in the Emilia Romagna region of Italy) and for broader calls for mutual assistance in the face of joint challenges.

Laws<sup>3</sup> with precise obligations for constituents to adjust their behavior with little flexibility in the rules' application feature a high level of responsibility. Laws mandating a relatively generous redistribution of resources to facilitate constituents' adjustment and/or to support them in a crisis feature a high level of solidarity.

One indicator taps into both of elements of the responsibility-solidarity balance: the extent to which redistribution is conditional on rule compliance. Highly conditional solidarity is not 'real' solidarity because it demands strict, not diffuse, reciprocity. The IMF is an example an institution with high-conditionality support: governments facing default can only receive an IMF rescue package if they comply with the terms of a structural adjustment program.<sup>4</sup> During the Eurozone debt crisis, rescue packages for highly-indebted Greece, Ireland, and Portugal, among others, mirrored the IMF approach to conditionality—and thus limited solidarity. More recent developments in the asylum, climate transition, and fiscal policy regimes have loosened conditionality rules in the use of EU funds, and thus demonstrate growing levels of solidarity.

While European integration was built on Robert Schuman's vision of de facto solidarity through concrete achievements, both intergovernmental agreements and EU legislation have historically privileged responsibility. In early decades of European integration, the costs of adjustment were relatively low compared to the gains from Europeanization—and thus the 'bite' of responsibility was moderate. Yet the tilt toward responsibility remained even as EU rules reached further behind the border beginning in the 1980s and 1990s. For example, the Eurozone's fiscal regime was, in its first few decades, weighted almost entirely toward responsibility, with governments required to meet specific deficit and debt targets with fines for violators—and, in the Maastricht Treaty, a formal prohibition on intergovernmental rescues. The asylum regime featured a similar imbalance, with the responsibility to process and resettle asylum seekers falling entirely on countries in which migrants first arrived—and, initially, little to no assistance to border countries such as Greece or Italy that were often the port of entry. By contrast, the aforementioned Social Climate Fund gives the emerging climate transition regime a more even balance between responsibility and solidarity elements.

### **The responsibility-solidarity balance in the asylum regime**

The Common European Asylum System (CEAS) is the European Union's framework for managing irregular migration.<sup>5</sup> The CEAS's centerpiece is the Dublin regime—named after the

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<sup>3</sup> EU legislation—regulations, directives, decisions, etc. adopted through the ordinary legislative procedure—is the primary focus here, though some EU policy regimes (e.g., the fiscal policy regime) also comprise intergovernmental agreements.

<sup>4</sup> Cases of low-conditionality international redistribution are rare, but not altogether absent. In the 2000s, the IMF, World Bank, and some sovereign creditors wrote off the debts of poor-country governments without imposing formal conditions (after decades of highly conditional debt relief).

<sup>5</sup> The CEAS features a number of related instruments: the [Qualification Directive](#), which defines when people are entitled to refugee status (based on the [UN Refugee Convention](#)) or subsidiary protection status, and what rights they have); the [Eurodac Regulation](#), which sets up a database of fingerprints of asylum seekers and people who

city where the original convention was signed in June 1990—whose rules address which member state is responsible for processing any given asylum application. A workable framework for managing the responsibility to receive and process asylum applications is needed for a variety of reasons: the potential chaos of migrants traversing the Schengen border-free zone; the bottlenecks persisting in countries in which most irregular migrants enter and apply for asylum; and the difficulty of distributing asylum seekers once their applications are processed. Over time, various solidarity measures have been introduced to try to relieve the burdens border countries like Italy and Greece experience, especially during peak periods of irregular migration.

The Dublin convention's rules came into force among the EU15 by January 1998, with the broader outlines of the CEAS beginning to take shape in the Amsterdam treaty (1999). Subsequent revisions of the Dublin regime took the form of EU regulations, first Dublin II (2003) and then Dublin III, the latter of which came into force in 2013, nearly five years after the Commission proposed amendments.<sup>6</sup>

Dublin III's primary goal was to establish which member states are responsible for processing asylum applications and resettling those meeting the criteria for refugee status. The default determinant of responsibility is country of entry: the member state in which migrants first enter EU territory is responsible for housing asylum seekers and processing their applications. If such individuals thereafter migrated across internal EU borders, they were expected to be sent back to the country of entry for at least one year, or until the application process is complete.

The shock of the migrant crisis of the mid-2010s forced a reassessment of the rules of the Dublin regime. Member states along the southern border—especially Greece, Italy, Malta, and Spain—experienced intense migratory pressure as the predominant countries of entry. Under these conditions, the Dublin's rules placing the entire burden of responsibility on these border countries were unsustainable, inducing a range of responses in 2015. Germany attempted to show solidarity unilaterally by exercising the regime's "sovereignty clause" and declaring itself willing to be responsible for Syrian asylum seekers—with the unintended consequence of exacerbating the sense of chaos as many migrants traveled across internal borders to try to get to Germany. In the Council, member states adopted two Decisions to introduce obligatory solidarity by resettling asylum seekers more equitably across the union and thus to relieve pressure on the border states.<sup>7</sup> Several central European countries responded, "*Wir schaffen*

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cross the external border without authorization; the [Asylum Procedures Directive](#), which sets out the procedural rules governing asylum applications, such as personal interviews and appeals; the [Reception Conditions Directive](#), which sets out standards on the living conditions of asylum-seekers, such as rules on housing and welfare; the [Asylum Agency Regulation](#), which set up an EU agency (EASO) to support Member States' processing of asylum applications; and a variety of other legislation involving [visas](#), [Schengen border controls](#) (and [Frontex Regulation](#)), [irregular migration](#), and legal migration. On the broader CEAS, see Peers 2020.

<sup>6</sup> Ireland opted out of many of these laws beyond asylum law; Denmark is party to the Schengen and Dublin rules.

<sup>7</sup> Decisions 2015/1523 and 2015/1601. These Decisions were adopted by qualified majority in the Council, with the Czech Republic, Hungary, Romania, and Slovakia in opposition.

*das nicht,*” opposing these decisions and refusing to comply with them. Denmark demanded and received the right to opt out of the decision.

In 2016, the European Commission proposed a set of reforms to the CEAS, including a revision to the Dublin regime (Dublin IV) that would have retained the basic responsibility arrangement but balanced it with a more permanent system for solidaristic relocation of asylum seekers in future periods of migratory pressure. This reform attained a fair degree of consent, particularly in the European Parliament, but ran into insuperable opposition in the Council, where several central European countries rejected the mandatory refugee relocation along the lines of the 2015 Decisions.<sup>8</sup> Intergovernmental negotiations continued, but by the June 2018 summit it was clear that the proposed Dublin IV would not be adopted.

In September 2020, the Commission revived its efforts to reform the CEAS, releasing the Proposal for an Asylum and Migration Management Regulation (hereafter “the Proposal”), which aimed to clarify the rules on member state responsibility for asylum applications—and essentially replace the existing Dublin Regulation. The Proposal aimed to strike a new balance between the principles of responsibility and solidarity that it has sought officially since the 2015 European Agenda on Migration, and in practice since European countries began discussion on coordinating asylum policies back in the 1980s. This rebalancing involved broadening and reordering both the criteria for responsibility for asylum applicants and the mechanisms through which member states could show solidarity toward hard-pressed border countries.

The 2016 reforms had reinforced the responsibility of the member states on whose territory a migrant entered to process any asylum application, and removed the one-year limit on this responsibility—i.e., the country of entry was indefinitely responsible for the applicant. By contrast, the 2020 proposal brought more flexibility with a three-year period of responsibility and, more significantly, a new hierarchy of criteria to determine responsibility:

1. *Family ties*: If an asylum applicant already has family members—in particular, the parents of an unaccompanied minor—in a given member state, that state becomes responsible for the new applicant. The Proposal expanded the definition of “family” from the nuclear family (spouse and minor children) to the nuclear family plus siblings of a resident refugee.
2. *Prior residence*: If a member state granted a visa or residence permit to an applicant within the three years prior to the asylum application, or if the applicant received a diploma from a university based in that country, it becomes responsible for that applicant.
3. *Entry*: As in the existing Dublin regulation, if an asylum seeker arrives on EU territory in a given member state, it becomes responsible for that applicant.

This reordering of responsibility criteria was intended to reduce migrant pressure on countries with the largest number of entries—particularly those on the EU’s southern border—by prioritizing family or prior residence criteria in the determination of responsibility.

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<sup>8</sup> Hungary challenged this redistribution plan in the ECJ, which decided that it was in fact legal under EU law.

Second, the Proposal affirmed the principle of solidarity to correct for uneven burdens of responsibility, but changed the definition of what contributions could constitute solidarity. Rather than attempt to resuscitate a mechanism to mandate reallocation of refugees, the Proposal identified a series of mandatory but flexible “solidarity contributions,” including:

1. contributing resources for the sake of capacity building in the country of relocation and/or for search and rescue operations, with member states assessed according to a formula based equally on GDP and population;
2. “return sponsorship”—i.e., Member States helping materially support the repatriation of unsuccessful applicants;
3. voluntarily accepting relocation of refugees.<sup>9</sup>

Rather than being required to take in a preset number of asylum seekers, as in the 2015 Decisions, member states would “own” the shaping of their solidarity contributions by developing (required) individual Solidarity Response Plans.

These mechanisms for gathering solidarity contributions were compulsory, but their level would be sensitive to conditions—i.e., namely, spikes in arrivals of irregular migrants. In such situations, the Commission would assess the level of need and coordinate the collection and distribution of solidarity contributions. Should member states’ proposed contributions be misaligned with the needs of states experiencing migratory pressure, the Commission would convene a Solidarity Forum to allow member states to discuss the adjustment of their contributions accordingly.

This Commission proposal remains in the legislative “train,” in a process of review and revision by the Council and the European Parliament, with an agreement among these three institutions to complete the Dublin and broader CEAS reforms by February 2024.<sup>10</sup> As this legislative proposal has trundled along, the EU and its member states have continued the external pragmatism represented in the more deterrence-oriented elements of the Dublin regimes (such as return sponsorship) and the broader CEAS. Following their 2016 agreement with Turkey to house and process migrants headed toward Europe in exchange for European aid, the EU and/or its member states have established centers for processing asylum applications in North African countries, deployed national and EU (FRONTEX) forces to deter and intercept migrant vessels in the Mediterranean, and threatened trade sanctions against countries that do not accept repatriation of their nationals whose asylum applications were denied.<sup>11</sup> The apparent goal of such external measures is to reduce the levels of both responsibility and solidarity required within the EU’s asylum regime, especially as the ‘push’ factors for migration intensify.

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<sup>9</sup> There would be a positive inducement for countries to take in refugees: €10,000 for each adult, funded by the EU budget.

<sup>10</sup> See <https://www.europarl.europa.eu/legislative-train/theme-promoting-our-european-way-of-life/file-asylum-and-migration-management-regulation>.

<sup>11</sup> Central and western European countries’ embrace of Ukrainian refugees is a notable exception to this external pragmatism on irregular migration.



### **The responsibility-solidarity balance in the climate transition regime**

Russia's invasion of Ukraine in February 2022, which severed western Europe's close energy ties with Russia, gave fresh urgency to the European Union's emerging regime for climate transition. This shock came three years after the EU adopted the European Green Deal (EGD) framework, and one year after it had adopted the Fit for 55 legislative agenda to guide Europe's transition toward an economy decoupled from greenhouse gas emissions. This agenda built on an existing responsibility framework containing a variety of policy initiatives to promote a transition to low-carbon energy, with the EU's Emissions Trading System (ETS) at its center. After the Gilets Jaunes protests in France in 2019 had demonstrated the anger felt by less-well-off constituents at being asked to bear the costs of climate measures, the EU included in its Fit for 55 agenda a solidarity measure, the Social Climate Fund, to ensure the burdens of responsibility for the EU-led transition are shared fairly and do not worsen existing inequalities.

As in other areas of policy, the European Union has seen a slow but steady growth over time in its environmental competences. After the environment was first identified as an area of common concern at the European Council in Paris in 1972, member states pledged closer cooperation in the Single European Act and then placed the environment under the European Communities pillar in the Maastricht Treaty. By the mid-1990s, member states were not only exploring EU environmental regulations within Europe but also coordinating to promote the drafting and ratification of the Kyoto Protocol.

The EU's Emissions Trading System was established in 2005, following a directive passed in 2003 (Directive 2003/87/EC). The ETS is a "cap-and-trade" arrangement that puts a limit on carbon emissions in a given sector and then creates a market in which affected actors (typically firms) buy and sell permits to emit carbon. Like other emissions trading systems, the ETS uses the market mechanism both to raise revenues (from the sale of permits) and to impose responsibility according to the polluter-pays principle, with the most heavily-polluting firms bearing the costs of buying permits to emit CO<sub>2</sub>. In principle, using such a market to put a price on carbon is effective both in raising revenues from the initial sale of permits and in ensuring an efficient allocation of permits among those with the lowest and highest costs to switching from carbon-intensive energy. In practice, according to a 2022 report by WWF EU, Europe's ETS has been less binding on polluting firms than intended, and thus less effective than advertised with both goals.<sup>12</sup>

The period between the adoption of the Lisbon Treaty (TFEU) in 2009 and the Paris climate agreement (2015) led to the emergence of a new EU climate transition regime that built on the ETS. The TFEU gave the EU joint competence on climate and energy policy, and the Commission

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<sup>12</sup> The WWF EU [report](#) suggests the EU has given away, rather than sold, €98.5bn in carbon permits during 2013-2021—which is "in direct contradiction with the polluter pays principle." The giveaways were more than the revenues brought in by the ETS for sectors that did have to pay (€88.5bn). According to WWF EU, "the free permits did not come with climate conditions attached, such as increasing energy efficiency, and some polluters were also able to make billions in windfall profits by selling the permits they did not use."

established DG Climate in 2010.<sup>13</sup> In the years after the adoption of the Lisbon treaty, the EU used multilateral climate change negotiations to develop internal consensus on a plan for a European climate transition, which ultimately led to the Commission’s framework for a [European Green Deal](#) in 2019. The European Green Deal aims to fulfill European promises made in the Paris climate agreement, centering on three goals: no net emissions by 2050, with a 55 percent decrease by 2035; economic growth decoupled from resource use; and “no person and no place left behind.” As such, the framework explicitly attached the solidarity principle to a variety of policy initiatives, including extension of the ETS, that established new responsibilities for governments, economic sectors, firms, and citizens to reduce their carbon emissions.<sup>14</sup>

[Fit for 55](#) is the legislative agenda developed by the Commission in 2021 to enact the goals of the European Green Deal, broadly endorsed by European Council in June 2022. The extension of the ETS to all carbon-intensive sectors is a key part of this agenda, as it aims to “keep the overall ambition of 61% of emissions reductions by 2030 in the sectors covered by the EU ETS.”<sup>15</sup> The plan is to include and strengthen the frameworks for two high-emissions sectors, shipping and aviation, and to set up a new, separate carbon market—known as ETS II—for buildings and road transport (BRT). While shipping and aviation are major carbon polluters, the ETS extension to these sectors is consistent with its longstanding emphasis on emissions reductions by large firms in sectors such as manufacturing, energy, and chemicals. The proposal to create an ETS for buildings and road transport, by contrast, was the EU’s first move toward using carbon markets to impose responsibility for emissions reductions directly on citizens and small enterprises.

The Commission in July 2021 proposed creation of a balancing solidarity mechanism, the Social Climate Fund, to subsidize the costs of transition to cleaner and more energy efficient automobiles, homes, and buildings seen under ETS II. The regulation would, as depicted in the explanatory memo, “tackle the social and distributional challenges from the green transition necessary to combat climate change and the incentivize the measures necessary to alleviate the social consequences of the emissions trading for the sectors of buildings and road transport.” In other words, in recognizing the unequal impact of pricing carbon in the BRT sectors across

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<sup>13</sup> In Titles XX and XXI, the TFEU identified the constitutional basis of EU joint action on the environment and energy respectively, with specific articles establishing goals and bases for policymaking and collective action. Article 91(1)(d) and Article 194(1)(c) establish the basis for joint policy on transport and the promotion of energy efficiency and the adoption of renewable energy.

<sup>14</sup> In addition to the ETS expansion, the European Green Deal featured a number of legislative initiatives: the Effort-Sharing Regulation, which sets emissions reductions targets for all states, weighted by GDP per capita; the Regulation on Land Use, Forestry, and Agriculture, which sets national targets for CO<sub>2</sub> removals via carbon sinks; the Energy Efficiency Directive, which sets EU-level targets for overall reduction in energy use, to be distributed across member states; the Auto fuel economy and aviation standards, which apply a variety of measures to increase energy efficiency these sectors; the Energy Taxation Directive (revised), which aims to align national taxes on energy; and the Carbon Border Adjustment Mechanism, which will price imports in terms of carbon intensity to ensure European producers are not at competitive disadvantage vis-à-vis firms in countries that do not price carbon. See Commission [press release](#) and Council [page](#).

<sup>15</sup> See <https://www.consilium.europa.eu/en/press/press-releases/2022/06/29/fit-for-55-council-reaches-general-approaches-relating-to-emissions-reductions-and-removals-and-their-social-impacts/>

citizens, enterprises, regions, and countries, it aimed to balance these actors' responsibility to participate in the EU's energy-and-climate transition with solidarity in the form of subsidies to facilitate this transition for those least able to afford it.

The SCF, which, like ETS II, was adopted in principle by the Council and the European Parliament in December 2022, establishes a robust if temporary solidarity mechanism. It is expected to begin disbursing €69 billion in 2026, one year before the extension of the ETS to buildings and road transport.<sup>16</sup> Most SCF funds would be raised from the revenues generated by ETS II, though member states are expected to offer their own contributions on top of the SCF funds. The distribution of these funds would be allocated to member states according to a formula based on, among other things, the state's total population, GNI per capita, total CO2 emissions by households, and levels of poverty risk.

Like with the latest (proposed) reforms of the Dublin regime, the SCF involves member states' national ownership of their "Social Climate Plans," marrying a responsibility to distribute SCF funds wisely with a degree of flexibility in how to do so. These plans are expected to outline a detailed set of measures to subsidize investments in upgrading private buildings and vehicles as well as income support to cushion the effects of carbon pricing for their most vulnerable "households, micro-enterprises, and transport users." While member states devise their own plans, the Commission will offer guidance to ensure member states implement appropriate targets for emission reductions in buildings and road transport. Once submitted, the Commission will review these plans to determine their suitability, disbursing funds to national governments from the SCF initially to implement the proposed plans and thereafter if and when they meet milestones both for emissions reductions and support for vulnerable citizens, households, and micro-enterprises. The Commission will also use these reviews to ensure SCF monies are used properly and that fraud or corruption in their use is detected.

The joint passage of ETS II and the SCF in December 2022 marked a significant increase in both the responsibility and solidarity aspects of the EU's rapidly developing climate transition regime. The ETS II will not simply extend the coverage of the carbon markets, but rather will quite literally bring home the costs of the EU's cap-and-trade system, which to date citizens have only felt indirectly via firms passing on compliance costs to consumers.<sup>17</sup> Whether citizens and small businesses will view the solidarity of the SCF—as well as the NGEU, which mandates that 37 percent of national plans for NGEU funds be oriented toward the climate transition—to be sufficient for them to accept their costs of adjustment remains to be seen. Also unknown is whether unilateral actions such as Germany's in summer 2022 to subsidize their citizens' and businesses' energy costs in the wake of Russia's invasion of Ukraine will undercut their essential contributions to the broader EU initiatives.

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<sup>16</sup> See <https://www.europarl.europa.eu/news/en/press-room/20221212IPR64528/deal-on-establishing-the-social-climate-fund-to-support-the-energy-transition>

<sup>17</sup> Through the adoption of the Carbon Border Adjustment Mechanism, also agreed in principle in December 2022, the EU also aims to impose responsibility extraterritorially by imposing tariffs on goods imported from countries that do not also put a price on carbon—in essence, punishing countries free riding on EU climate transition efforts and thereby protecting European businesses from unfair competition.

### **The responsibility-solidarity balance on fiscal policy**

From its start in the Maastricht Treaty (TEU), the regime to govern the EU's single currency zone has been imbalanced. Institutionally, there is an imbalance between a supranational monetary regime—with authority delegated to the European Central Bank—and an intergovernmental fiscal regime—in which member states coordinate, but ultimately retain national control over, tax and spending decisions.<sup>18</sup> The responsibility-solidarity balance has been similarly skewed, dominated by responsibility-oriented rules to limit the policy externalities of fiscal free riding—i.e., governments engaging in unsustainable borrowing with the implicit promise of a bailout by other Eurozone members. The solidarity mechanisms such a regime might include—automatic fiscal transfers to countries in economic or financial distress (a 'transfer union') or mutualized debt obligations (such as Eurobonds)—have been almost entirely absent.<sup>19</sup> The Eurozone debt crisis of the 2010s did induce new solidarity (and responsibility) mechanisms, but rescues were conditional on adoption of stringent austerity measures. Only with a fully exogenous shock, the Covid-19 pandemic, did a more equal responsibility-solidarity balance emerge, with a relaxation of EU fiscal strictures and agreement on a (temporary) joint borrowing program in the NGEU.

The TEU contained both a provisional architecture for the EMU and the first foray into rules for fiscal coordination. The treaty prescribed market discipline for countries using the euro, including articles forbidding both monetary financing of national budget deficits and intergovernmental bailouts—the latter of which might give governments an incentive to engage in fiscal free riding. The TEU also articulated precise maximum levels for budget deficits (3%) and public debt (60%)—two of the convergence criteria for countries aiming to adopt the euro—and created an “excessive deficit procedure” (EDP) to monitor and if necessary punish eurozone members that repeatedly exceeded the deficit target.

Five years later, countries planning to adopt the euro agreed to the Stability and Growth Pact (SGP), which drew on both the TEU and a 1995 German Finance Ministry proposal for a “stability treaty” to strengthen the EU's fiscal rules. The SGP formalized the 3% Maastricht ceiling for budget deficits, which facilitated monitoring and peer review. Through its “corrective arm” the SGP increased budgetary consultation with and monitoring by the Commission, and formalized the excessive deficit procedure to warn and, if necessary, fine member states that breached deficit limits. The SGP's “preventive arm,” for its part, was primarily advisory, entreating member governments to aim for balanced budgets over the medium term—thereby including a bit of flexibility regarding deficits with reference to the economic cycle. Jacques Delors, president of the European Commission from 1985 to 1995, proposed a plan for both increased EU economic coordination and additional tools to spur growth, but “this was not

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<sup>18</sup> See among others Gros 2012; Moravcsik 2012; Delors 2013; Hall 2012; Schimmelfennig 2014; Buti & Carnot 2012.

<sup>19</sup> The redistributive elements of the regular European Union—most notably, for farmers and poorer regions—are negotiated intergovernmentally in each seven-year Multiannual Financial Framework and are not disbursed automatically throughout the economic cycle.

accepted. Instead, it was deemed sufficient to merely add the word ‘growth’ to the name of the Stability Pact...In reality, this was purely and simply a budgetary stability pact: no economic coordination; no instruments to stimulate, cooperate, or regulate” (Delors 2013, 175).

In the years after the euro was introduced in 1999, several countries—including Germany and France—experienced economic stagnation and struggled to comply with the terms of the SGP. In March 2005, the Commission and member states agreed to soften the application of the excessive deficit procedure, moving the SGP away from *ex post* punitive measures and promoting more *ex ante* coordination and consultation regarding national budgets. This reform weakened the responsibility-oriented rules of the regime somewhat by shifting the Commission from an enforcer to a consultant role, but did not fundamentally change the responsibility-solidarity balance—because solidarity provisions remained essentially absent.

The theory underlying the pre-2009 fiscal rules was that a supranational fiscal authority to match the ECB’s monetary authority was unnecessary (or undesirable), and that a combination of market discipline and enforceable rules would ensure all eurozone governments converge toward fiscal rectitude. The onset of the Eurozone debt crisis, which began in earnest in late 2009 when Greece revealed the shakiness of its public finances, severely tested this theory. The debt crisis induced Eurozone members to adopt new rules enhancing responsibility and introduced, for the first time, solidarity mechanisms to the regime. Yet the main post-2009 reforms to the regime—the “six-pack,” “two-pack,” and Fiscal Compact—doubled down on the prevailing theory’s core logic.

In 2011-12, EU and eurozone members deepened responsibility by pursuing new rules to intensify fiscal coordination and strengthen EU institutions’ oversight of national budgeting (see Buti & Carnot 2012). In late 2011 the entire EU membership adopted the six-pack legislation, a set of reforms of the SGP reinforcing surveillance of member states’ expenditures and debt levels (as well as more general macroeconomic imbalances), following an earlier measure to intensify Commission involvement in national budgeting.<sup>20</sup> At the same time, members of the Eurozone adopted the two-pack, reforms synchronizing the adoption of national budgets and requiring governments to submit national budgets to the Commission for approval *before* national parliaments vote on them. EU members simultaneously negotiated an international treaty, the Fiscal Compact, which encouraged signatories to adopt an array of national-level fiscal rules and required them to adopt national legislation and/or constitutional amendments enshrining a “debt brake” akin to the one adopted by Germany in 2009.<sup>21</sup> The compact enhanced the EU’s capacity to punish fiscal profligacy with fines, requiring a qualified majority of members to vote *against* punishment rather than for it—a change that would make the sort of deferral of punishment Germany and France had earlier engineered much more difficult.

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<sup>20</sup> Extending monitoring to current account imbalances acknowledges the problematic nature of the ‘excessive’ surpluses of countries like Germany and the Netherlands, which required deficits elsewhere to balance them out.

<sup>21</sup> Two EU members, the United Kingdom and the Czech Republic, did not sign the Fiscal Compact in 2012—though the Czech Republic later did so in 2014.

Overall, the fiscal rules adopted during the debt crisis reasserted the rationale of the TEU and SGP to promote, or now *require*, convergence toward fiscal orthodoxy, especially in the eurozone but also the EU as a whole. They reaffirmed the initial deficit and debt targets (3% and 60%) and strengthened the excessive deficit procedure, even as they intensified EU involvement in national budgeting processes—which Schimmelfennig (2014: 325) called “*ex ante* control over national budgets.”

The 2011-12 period also introduced solidarity measures for the first time. While a transfer union and mutualized debt remained off the table, EU members formally rescinded the TEU’s “no bailout clause” by permitting intergovernmental rescues of governments facing imminent default on their public debt and tolerating ECB measures to recapitalize systemically important banks and, in the words of Mario Draghi, “do whatever it takes” to save the euro. Members of the Eurozone created the European Financial Stability Facility (EFSF) and then the permanent European Stability Mechanism (ESM) to deter speculative attacks on government bonds and, if necessary, serve as a lender of last resort. Through the ESM, Germany and the wealthier and more financially stable countries pledged billions of euros to a fund to rescue Greece, Ireland, Portugal, and other vulnerable countries caught in the crisis.

However, the ESM—essentially, a European IMF—offered temporary and highly conditional solidarity, and forced tough adjustment measures on recipients. Rescued governments essentially lost their fiscal sovereignty within the context of their bailout packages, forced to consult with and adopt austerity measures prescribed by the “troika” (the EU, IMF, and ECB) or face the loss of loans to stave off default. In terms of policy, they were required to raise taxes and slash government spending—and thus accept economic stagnation and high unemployment. Indeed, the EU-imposed austerity on Greece was sufficiently stringent that the IMF—not known for its soft touch—threatened to withhold cooperation with the Commission if it did not loosen its terms.

The Eurozone debt crisis, then, brought a deepening of the fiscal regime with strengthened responsibility rules and qualified solidarity mechanisms. Of the governments requiring bailouts only Greece’s truly engaged in fiscal free riding; in other cases, rescues were needed to stabilize governments forced to bail out national banking systems (Ireland, Spain) or whose finances were harmed by persistent economic stagnation (Portugal). Yet the six- and two-packs and Fiscal Compact were squarely aimed at preventing fiscal free riding, and the ESM-based bailout packages imposed a strict reciprocity: austerity for rescue funds.

By the mid-2010s, as Greece slowly and uncertainly emerged from its bailout program, the migrant and Brexit crises pushed the Eurozone debt crisis to the margins of Europe’s agenda. Yet the onset of the Covid-19 pandemic returned the EU/Eurozone’s fiscal rules to the fore, as governments implemented emergency spending measures in 2020-21 to prevent the total collapse of their economies. It is in this context that a fundamental shift in the responsibility-solidarity balance emerged.

On the responsibility side, member states and the Commission agreed to suspend application of the SGP and other constraints to give member states the fiscal breathing room to adopt needed measures. In November 2022, the Commission proposed a more flexible set of fiscal rules in which the formal deficit and debt targets remained, but national governments could, in consultation with the Commission, adopt their own national plans to reduce deficits and debt within the economic cycle and to protect public investments in the climate transition.<sup>22</sup> In March 2023, the Council broadly accepted these reforms, shifting the regime away from rigid supranational rules toward national ownership of their own plans.<sup>23</sup>

The pandemic also helped push forward an existing proposal to deepen and stabilize the Eurozone via the Budgetary Instrument for Convergence and Competitiveness, a mechanism to support structural reforms of member countries' economies with common funds—and with none of the required austerity measures of ESM bailouts. And with the advent of the NGEU in July 2020, member states agreed for the first time to allow the EU to borrow money (€750 billion) to distribute among the member states to help them both recover from the pandemic and push forward their climate transitions. The NGEU is a temporary spending mechanism and member states' receipt of funds is not unconditional—they must continue to respect the rule of law, a condition that might jeopardize Poland and Hungary's access to NGEU funds. Nevertheless, a fiscal regime that had previously been devoid of solidarity has in recent years become more balanced.

### **Initial conclusions**

As noted, the goal of this paper is simply to establish and apply a conceptual framework for describing the responsibility-solidarity balance in EU policy regimes. With that proviso in mind, this conclusion will briefly summarize trends across the three regimes and identify a few pathways of interest in explaining the observed variation.

The clearest trend across the three cases is an over-time shift from rules highly tilted toward responsibility to a more even balance. After the legislative activity of the last few years, levels of both responsibility and solidarity are comparatively high in the climate transition regime and comparatively low in the asylum regime, with the Eurozone fiscal regime falling in between. While mechanisms for EU-level redistribution have emerged in all three cases, a model of (Commission-supervised) national ownership—in which member states develop their own plans for responsible policies and/or solidarity contributions—has also brought a degree of flexibility and easing of conditionality.<sup>24</sup>

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<sup>22</sup> See [www.euronews.com/my-europe/2022/11/09/brussels-proposes-new-eu-fiscal-rules-to-turn-the-page-on-austerity](https://www.euronews.com/my-europe/2022/11/09/brussels-proposes-new-eu-fiscal-rules-to-turn-the-page-on-austerity)

<sup>23</sup> [www.reuters.com/world/europe/eu-converges-principles-new-debt-rules-no-deal-yet-details-2023-03-14/](https://www.reuters.com/world/europe/eu-converges-principles-new-debt-rules-no-deal-yet-details-2023-03-14/)

<sup>24</sup> This national-ownership model is similar to that of the global climate regime, though this global regime lacks an authority comparable to the Commission to oversee compliance and redistribute funds.

To account for this variation, we can first note that shocks originating outside the EU have exposed weaknesses in existing EU regimes and presented a functional rationale for strengthening them (Schimmelfennig 2018). Indeed, EU member states have strong incentives to address a gathering array of outside-in threats—geopolitical, ideological, climatological, or other—together, and to adjust responsibility and solidarity-oriented rules (or their enforcement) to maintain unity.<sup>25</sup>

Nevertheless, distributive conflicts remain. Actors with higher costs of adjustment and/or lower capacities to adjust retain incentives to water down responsibility-oriented rules and, if that is not possible, to not comply with them (see Börzel 2002). Meanwhile, net suppliers and demanders of solidarity disagree on the appropriate level of redistribution and conditionality attached to it. The NGEU may temporarily ease both of these elements of distributive conflict in the climate transition and fiscal regimes, though less so the asylum regime because, in this latter case, neither adjustment nor redistribution is really a question of money. Alternatively, stronger rightwing populist parties could intensify distributive conflicts, especially but not only in the asylum regime, as they object to EU authority and transnational redistribution, at least on the giving side (see Börzel & Zurn 2021).

The differential exposure of European countries to exogenous shocks may also affect outcomes on the responsibility-solidarity balance. Ferrara & Kriesi (2022) argue that the spatial differentiation of these shocks—whether they affect all member states equally or some more than others—shapes the logic of the EU response. We can think about this differentiation from a somewhat different angle: to what extent do suppliers of solidarity, particularly in northern Europe, express concerns about moral hazard? Such concerns—and highly conditional solidarity—were prominent during the debt crisis, and can be interpreted as indicating a low level of transnational trust. Some degree of trust is a precondition for diffuse reciprocity, and thus for minimally conditional solidarity. If trust is low, the suppliers of solidarity may view demanders’ struggles, even in the face of exogenous shocks, as willful noncompliance—rather than, say, difficulties with the state capacity—and may thus want to use EU institutions to enforce strict conditionality.<sup>26</sup> The role of the Commission in overseeing national ownership plans should be more contentious if and when levels of transnational trust are low.

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<sup>25</sup> For example, the collapse of European grain prices amid a glut of Ukrainian imports recently produced an EU response that maintained responsibility (adherence to single market rules) but offered solidarity (financial aid) to the central European farmers most harmed by falling prices.

<sup>26</sup> This point draws on debates in the literature on compliance with international rules between those viewing levels of compliance being driven primarily by state capacity (Chayes & Chayes 1993) versus those who view it as a function of enforcement (Downs et al. 1996).



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