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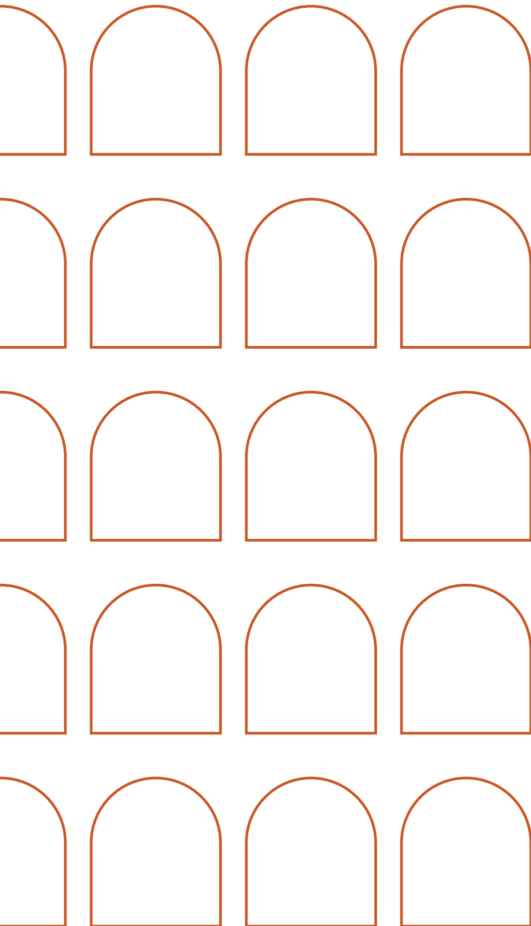

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Integrating Diversity in the European Union (InDivEU)

WORKING PAPER

Differentiated integration and core state powers: the EU budget and Justice and Home Affairs

Markus Jachtenfuchs, Philipp Genschel,
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European University Institute
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RSC Working Paper 2022/47

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Integrating Diversity in the European Union (InDivEU) is a Horizon 2020 funded research project aimed at contributing concretely to the current debate on the 'Future of Europe' by assessing, developing and testing a range of models and scenarios for different levels of integration among EU member states. InDivEU begins from the assumption that managing heterogeneity and deep diversity is a continuous and growing challenge in the evolution of the EU and the dynamic of European integration.

The objective of InDivEU is to maximize the knowledge of Differentiated Integration (DI) on the basis of a theoretically robust conceptual foundations accompanied by an innovative and integrated analytical framework, and to provide Europe's policy makers with a knowledge hub on DI. InDivEU combines rigorous academic research with the capacity to translate research findings into policy design and advice.

InDivEU comprises a consortium of 14 partner institutions coordinated by the Robert Schuman Centre at the European University Institute, where the project is hosted by the European Governance and Politics Programme (EGPP). The scientific coordinators of InDivEU are Brigid Laffan (Robert Schuman Centre) and Frank Schimmelfennig (ETH Zürich).

For more information: http://indiveu.eui.eu/

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Integrating
Diversity in the
European Union

Abstract

This paper studies two areas of Core State Powers (CSP), i.e. the EU budget and Justice and Home Affairs. The two cases have the aim to reconstruct how Differentiated Integration (DI) has developed over time in these two specific domains. While the aim is the same for both cases, the way the cases are structured is substantially different. This is due to various reasons. First, the politics of the EU budget go back to the early days of the EU, while JHA is a post-Maastricht feature. This implies that the budget case study concentrates on a much longer time span. Second, DI in the budget interests several member states, while in JHA it is a phenomenon circumscribed to fewer members. Finally, the politics of the budget are decided through intergovernmental negotiations, while JHA is a rather supranationalised policy that relies a lot on secondary legislation and EU executive bodies such as EU agencies.

Keywords

Differentiated integration, European Union, core state powers, EU budget, Justice and Home Affairs

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Introductory Note to the Case Studies Report

This deliverable contains the third and second case studies pursued as part of WP 5. They focus on two areas of Core State Powers (CSP), i.e. the EU budget (Case Study 3) and Justice and Home Affairs (Case Study 4). The two cases have the aim to reconstruct how Differentiated Integration (DI) has developed over time in these two specific domains. While the aim is the same for both cases, the way the cases are structured is substantially different. This is due to various reasons. First, the politics of the EU budget go back to the early days of the EU, while JHA is a post-Maastricht feature. This implies that the budget case study concentrates on a much longer time span. Second, DI in the budget interests several member states, while in JHA it is a phenomenon circumscribed to fewer members. Finally, the politics of the budget are decided through intergovernmental negotiations, while JHA is a rather supranationalised policy that relies a lot on secondary legislation and EU executive bodies such as EU agencies.

CASE STUDY 3: DIFFERENTIATED INTEGRATION AND THE POLITICS OF THE EU BUDGET

Introduction

In the past decade several scholarly contributions have analysed Differentiated Integration (DI) across time and policy areas (Adler-Nissen 2009; Chebel d'Appollonia 2019, 2019; Genschel and Jachtenfuchs 2016; Leuffen, Rittberger, and Schimmelfennig 2013; Schimmelfennig and Winzen 2014). Most of the existing literature agrees that DI is a key (and long-lasting) feature of core state powers (CSP) (Genschel and Jachtenfuchs 2016, 2018; Schimmelfennig and Winzen 2020; Winzen 2020) including fiscal, internal and defense policies. In line with previous accounts, Work Package 5´s case studies have shown how DI, is indeed present, at different degrees, in all the above policy areas. This case study completes the picture by analysing an important, and yet understudied, aspect of DI, that is the differentiation of the EU budget. Governmental revenue and expenditure is a political issue that is very close to national sovereignty and is an area in which member states are reluctant to delegate authority to the EU level (Lindner 2006). However, at least on the face of it, the EU budget is not differentiated at all, because all member states contribute to it. On closer inspection, through this study we show that contributions have been differentiated for a long time, as some member states get a partial dispense from the usual rules (rebate) or get a special compensation, usually temporary, that others don't get (lump-sum reduction).

In analogy with Schimmelfennig and Winzen's distinction between instrumental and constitutional DI, we detect, on the one hand, Instrumental differentiation (corrections to compensate capacity deficits) in the form of transitional arrangements for new member states. On the other hand, we find sovereignty-based (constitutional) differentiation (corrections to compensate national 'overpayments') in the form of quasi-permanent rebates for UK and other net-contributors (Germany, Netherlands, Austria and Sweden) and DI-based corrections for policy opt-outs (e.g. Denmark Ireland and the UK in Justice and Home Affairs).

Throughout this case study we fill an important empirical gap, by identifying main sources and patterns of DI in the EU budget, starting from the early days of the Union and concluding with the most recent Multiannual Financial Framework (MFF), approved in December 2020. By tracing the history of DI in EU budgetary politics, we show how important it is to look at material differentiation (who pays for what), as well and to look beyond binaries (contributes/does not contribute-participates/does not participate).

As the main focus of Work Package 5 has been, so far[1], to disentangle the relationship between differential formal rules and material states participation in core state policies, the case will serve as a starting point to apply our perspective not only to specific policies, but to EU public resources as a whole.

Differentiated Integration in the EU budget: a note on concepts

Before reconstructing the case study, for the sake of clarity it is important to acknowledge the presence, according to existing literature, of different kinds of budgetary differentiation. A recent report redacted by the High level group on own resources (2016), commonly known as the "Monti Report", identifies two main forms of DI within the EU budget.

On the revenue side, DI is exemplified by permanent rebates and/or temporary refunds in the form of ad-hoc lump-sum corrections to member states´ GNI or VAT based contributions. Since the introduction of the UK rebate in 1985, the main concern of several member states, especially

1 Please see previous deliverables for further reference.

those identifying themselves as “net contributors”(Le Cacheux 2004) has been to claim refunds (Le Cacheux 2010) and, eventually, to threat to veto the financial perspective otherwise. Moreover, some states enjoying policy-level exemptions in the treaties (e.g. Ireland and Denmark in justice and home affairs) receive an annual lump-sum compensation for their non-participation(Darvas 2019).

On the expenditure side, a different kind of DI, bound to specific policy areas and deriving from policy makers´ desire to finance policies beyond the—rather limited — EU budget. This form of DI manifests itself through the flourishing of externally (or privately) financed funds and a galaxy of extra-budgetary instruments (Crowe 2017). From the establishment of the European Investment Bank in the 50s, to the Guarantee fund for external action in 1994, from the 2012 European Stability Mechanism to the 2015 EU Facility for Refugees in Turkey to (just to name a few), this budgetary differentiation represents an attempt to create new ways to finance and eventually expand EU resources to support both internal and external policies[2]. Extra-budget, in fact, does not necessarily mean differentiation among contributors- even though it can. As the WP5 case study on Schengen shows, for example, some funds used to finance justice and home affairs are differentiated, as Denmark often does not participate in their financing. Moreover, only Eurozone members finance the European Stability Mechanism[3].

Among a plethora of conceptualizations (Holzinger and Schimmelfennig 2012; Stubb 1996), the most common definition of DI is the “differential validity of formal EU rules across countries” (Schimmelfennig and Winzen 2014, 356). In line with this understanding of DI, the focus of this case study is the first kind of budgetary differentiation i.e. rebates and lump-sum corrections to the EU revenue. These corrections represent a deviation from common EU rules—in this case in form of reimbursements—granted to only a few EU members vis-à-vis the majority of them, in order to overcome gridlock. The latter, in spite of its great policy relevance, goes beyond the focus of this paper as it does not relate to states´ political ability to negotiate exemptions but, rather, to differentiated ways to finance policies beyond the EU budget.

In the next section, a short overview of the history of the EU budget will be presented. After that, the case study on budgetary DI will be reconstructed more in detail.

Financing the EU budget: from national contributions to “own resources”

1958- 1970: financing through national contributions and the introduction of agricultural levies

The first budgetary procedure EEC-Euratom was established in 1958. The Euratom and European Economic Community (EEC) budgets had to be in balance and their procedures are the basis for the budget procedure that exists to this day: the Commission proposed an annual budget, the Assembly was consulted, and the Council decided (Article 171 Euratom; Article 199 EEC)[4].

With the launch of the first budgetary procedure, also the first EEC expenditure policy was launched, the European Social Fund (ESF), alongside administrative expenditure. Both lines were financed through member states´ contributions according to the breakdown as of Article 200 of the EEC Treaty, displayed in Figure 1.

2 For a detailed illustration of the budgetary galaxy, see the Monty Report, Annex IV p. 82

3 According to WP5 approach, differential participation in resources consists of material differentiation, vis-a-vis „formal“ differentiation. We take into account the differentiation of EU budgetary instruments in the data collection for the EUDIFF-RES Dataset

4 Annually each institution sent in estimates of their future financial needs during the first part of the year. The Commission proposed the next year’s budget by September. The Council decided by a qualified majority vote (QMV) of its members by October. The Assembly had a month to propose changes. The Council then made a final decision by QMV (Art. 203.4 EEC Treaty).

Table 1. Member states´ Contributions Share

Member State	Administrative Expenditure (%)	Social Fund (%)
Belgium	7.9	8.8
Germany	28	32
France	28	32
Italy	28	20
Luxembourg	0.2	0.2
Netherlands	7.9	7
	100	100

Source: Article 200 of the EEC Treaty

Article 201 of the EEC Treaty had given the Commission the task to study the conditions under which the financial contributions of Member States provided for in Article 200 may be replaced by other resources of the Community itself, in particular, by revenue accruing from the common customs tariff (once the latter has been introduced). In turn, the treaty envisaged the abolition of custom duties between Member States, the abolition of quantitative restrictions between Member States and the establishment of a common customs tariff vis-à-vis third countries. The progressive introduction of the common customs tariff was regulated by Chapter 1, Section 1 of the Treaty, according to which the amount of common duties should be negotiated among member states. According to the treaty, the process should be concluded within a transitional period of 12 years[5].

In 1962 the Common Agricultural policy emerged as a new expenditure. At that time it was implemented, ex Art. 40.4 EEC Treaty, through the European Agricultural Guidance and Guarantee Fund (EAGGF), established through Council Regulation 25 (1962). For the first multiannual funding period the revenue of the Fund consisted of financial contributions from Member States calculated for the first part according to the scale laid down in Article 200 (1) of the Treaty (see Figure 1) and for the second part in proportion to net imports from third countries effected by each Member State (Council Regulation No 25, Art 7). The proportion of net imports was set at 10% for 1963-1964 and at 20% for 1964-1965. These measures applied to the markets in cereals, pig meat, eggs and poultry meat from 1 July 1962 and to the market in milk and milk products from 1 November 1962 (ibid. Art 8).

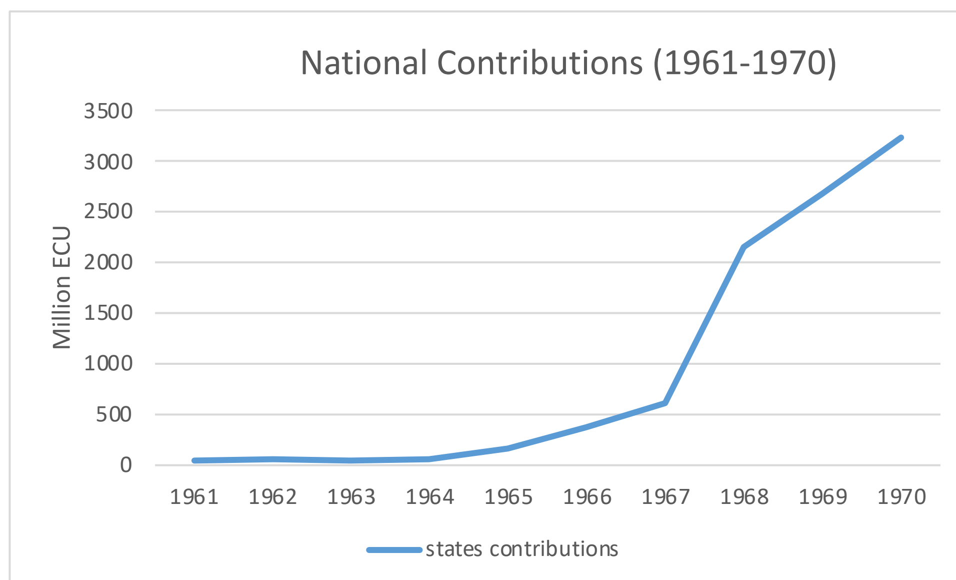
In 1964, after the agricultural levies introduced by Regulation 25 became applicable (Héritier et al. 2019, 81), the EAGGF was split into two sections, the Guarantee Section and the Guidance Section, which were governed by different rules (Council Regulation 17 1964). The guarantee section included expenditure financed by the fund relating to refunds on exports to third countries and to intervention on the domestic market, while the guidance section included expenditure financed by the fund resulting from common measures undertaken in order to attain the objectives set out in article 39 (1) (a) of the Treaty, including structural adjustments made necessary by the development of the common market. As showed in Table 2 below, the Guidance Section is split from the Guarantee section from 1968 onward.

In summary, throughout the 60´s the main source of budget financing were member states´ contributions, plus a percentage of income derived from agricultural levies on net imports since 1964. However, the external tariff at the time was still “owned” by the collecting Member State (Benedetto 2019, 14). This system lasted until 1970, when the system of own resources was introduced.

5 All customs duties and restrictions were officially lifted in 1968 (von der Groeben 1968).

Figure 1 shows the EU Budget from 1961 to 1970. Table 2 shows the evolution of EU expenditure´s from 1958 to 1970.

Figure 1. National Contributions from 1961 to 1970



Source: Annual EU Budgets

Table 2. EU expenditure´s from 1958 to 1970

	1958	**1959**	**1960**	**1961**	**1962**	**1963**	**1964**	**1965**	**1966**	**1967**	**1968**	**1969**	**1970**
General Budget (Million European Common Currency)													
EAGGF Guarantee								28.7	50.7	340.0	1259.7	1668.6	3108.1
Structural funds of which[6]				8.60	11.3	4.60	7.20	4.60	22.1	81.10	58.50	70.80	95.40
EAGGF Guidance											34	51.3	58.4
(ERDF)[7]													
ESF											24.5	19.5	37
Research[8]											73.4	59.2	63.4
External Action									0.9	0.8	1	1	1.4
Administration	7.3	18.1	21.2	25.4	30.2	35.2	39.6	43.3	50.9	53.7	94.7	104.3	115.3
Repayment & other									0.6	0.5	0.60	0.90	1.60
Total	7.3	18.1	21.2	34	41.5	39.8	46.8	76.6	125.2	476.1	1546.40	1975.6	3480.6

Source: Adapted from the community budget: the facts in figures (1993)

6 Only Social Fund until 1968.
7 Established in 1975.
8 Research policy was initially based on the Euratom Treaty (and therefore confined at the outset to the nuclear field), but since extended to many other fields.

The system of own resources: from 1970 to nowadays

The Community´s budgetary system changed considerably with the 1970 Luxembourg treaty. After lengthy negotiations culminated in the “empty chairs crisis”(Ludlow 1999), through this treaty the member states agreed to introduce, over the 70s, a system of “own resources” to finance the Community budget instead of member states´ contributions. They were composed by “Traditional Own Resources” (TOR), i.e. agricultural duties, sugar levies and custom duties. The system was then formalized by Council Decision 70/243/ECSC (1970). Levies and duties were collected by member states on behalf of the EU and directly transferred to the EU budget, minus a discount of 25 percent remaining with member states to cover the cost of revenue collection (Schratzenstaller 2014).

In parallel, they accepted the French proposal that, starting from 1975, compulsory expenditure (CE) ‘necessarily resulting from the Treaty or from acts adopted in accordance therewith’ (where the Council had the last word) would be distinguished from other administrative, ‘non-compulsory’ expenditure over which the Assembly had the final say (Coreper Internal Note 1974, quoted in Héritier et al. 2019). Finally, discharge of Community budget was now to be granted by both the Council and the European Parliament.

In 1975, the Treaty of Brussels further strengthened the Assembly’s budgetary powers (the EP secured the right to reject the Community budget and to grant discharge to the Commission in respect of implementation of the budget) and provided for the establishment of a Court of Auditors (European Parliament 1975).

Table 3 Shows the EU revenue since the establishment of own resources until 1978

Table 3. EU Expenditure´s from 1958 to 1970

Own Resource	**1971**	**1972**	**1973**	**1974**	**1975**	**1976**	**1977**	**1978**
General Budget(Million European Common Currency)								
Agricultural Levies	713.8	799.5	510.3	330.1	590.1	1163.7	1778.5	2278.9
Customs duties	582.3	957.3	1986.3	2737.6	3151	4064.5	3927.2	4390.9
(VAT)								
(Fourth Resource)								
Miscellaneous	1033.2	1360.7	2417.7	2075.7	2644	2956.5	2969.4	5783

Source: Adapted from the community budget: the facts in figures (1993)

In 1979, a new “own resource” was added, based on Member states’ contributions from the value added tax (VAT). Table 4 Shows the EU revenue since 1979 to 1988.

Table 4. EU revenue from 1979 to 1988

Own Resource	**1979**	**1980**	**1981**	**1982**	**1983**	**1984**	**1985**	**1986**	**1987**
General Budget(Million European Common Currency)									
Agricultural Levies	2143.5	2002.3	1747.4	2227.8	2433.9	2950	2179.1	2287	3097.8
Customs duties	5189.1	5905.7	6392.4	6815.3	7234.6	7623.5	8310.1	8173	8936.5
(VAT)	4737.7	7258.5	9187.8	12000.5	13691	14565.9	15218.9	22223.4	23463.5
(Fourth Resource)									
Miscellaneous	2821.2	1256.8	1590.4	1038.5	2369.7	943	2377	983.8	285.5

Source: Adapted from the community budget: the facts in figures (1993)

In 1988, the new Own Resources Decision 88/376/EEC set appropriations for payments by a global ceiling expressed as a percentage of member states' total gross national product (GNP), increasing from 1.15% for 1988 to 1.20% for 1992. The new category of revenue "the fourth resource" was introduced, based on Member States' GNP "in order to match each Member State's payments more closely to its ability to pay" (European Commission DG Budget 2014, 34). It was calculated by applying to a base, made up of the sum of the Member States' gross national product at market prices, a rate to be determined during the budgetary procedure in the light of the yield of all the other categories of own resources.

Table 5 Shows the EU revenue since 1988 to 1999.

Table 5. EU Revenue from 1988 to 1999

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
General Budget (Million €)												
Agricultural Levies	20605.8	2397.7	1875	2486.6	1987.8	1929.9	2074.1	1944.6	1821.5	1925.3	1955.1	21151.7
Customs duties	9310.2	10312.9	10285.1	11475.4	11292.9	11055.6	11178	12508.6	11762.2	12247	12155.6	11705.9
(VAT)	23927.6	26293.4	27440.1	31406.2	34659.3	34489.9	33254.5	39183.2	33962.9	34222.5	33118	31163.4
(Fourth Resource)	4445.8	4519.00	94.9	7468.3	8322.2	16517.9	17682.2	14191.2	23549.1	26898.2	35020.5	37509.8
Miscellaneous	1554	2376.8	6773.3	3412.9	3450.1	1679.5	1813.3	7249.5	10179.4	5254.7	2280.5	4372.7

Source: Adapted from the community budget: the facts in figures (2000)

In 2000, GNP was replaced by the concept of Gross National Income (GNI).

Until the latest budget approval (2020), own resources have been composed of duties and levies, VAT added-value and GNI-based contributions (for a detailed account see Benedetto 2019). To the total own resources (traditional plus VAT and GNI-based contributions), correction mechanisms (i.e. rebates and reimbursements, see below) must be subtracted. TOR represent about 18% of the overall budget while the rest is made of VAT and GNI-based own resources. As the latter are not directly linked to the VAT payments of European consumers but represent a payment obligation of the member states, they are "purely statistical construct, calculated from harmonized data on aggregate national consumption, paid out of general tax revenue, and transferred to the EU in monthly installments"(Genschel and Jachtenfuchs 2009, 8) . Consequently, it has been argued that "EU 'financial autonomy' means no more than member states complying with the obligation they have set for themselves to finance the EU budget each year within the limits of the MFF agreed ceiling (Cipriani 2014, 26).

On 2 May 2018, the Commission made proposals to simplify the VAT-based own resource and to introduce a basket of new own resources (European Commission 2018a). According to the proposal, they should be made up of: 20% of the revenues from the Emissions Trading System; A 3% call rate applied to the new Common Consolidated Corporate Tax Base (to be phased in once the necessary legislation has been adopted); A national contribution calculated on the amount of non-recycled plastic packaging waste in each Member State (EUR 0.80 per kilo). These new own resources are expected to raise the share of overall EU revenues to 12% in the future, thereby reducing the share of national contributions from over 80% to 71% by 2027 (Schratzenstaller 2018).

With the latest Own Resources Decision approved in December 2020, the application of a uniform call rate to the weight of plastic packaging waste generated in each Member State that is not recycled, was officially introduced as a new own resource (Council Decision 2020/2053 2020 Art. 2). Moreover, the Decision states (in the preamble) that the Union will, in the course of the multiannual financial framework for the period 2021-2027, work towards the introduction of other own resources, which may include a Financial Transaction Tax.

Table 6 summarises the sources of EU revenue.

Table 6. Evolution of EU revenue

Period	Source of revenue
1958-1970	National Contributions
1971-1979	TOR
1980-1987	TOR, VAT
1988-2020	TOR, VAT, GNI
2021- 2027	TOR, VAT, GNI, Plastic Tax (Financial transaction Tax)

Figure 2 shows the EU Revenue composition from 1971 to 1999 and Figure 3 shows the EU Revenue composition from 2000 to 2019. Finally, Figure 4 the overall development from 1971 to 2019.

Figure 2. EU revenue composition, 1971-1999

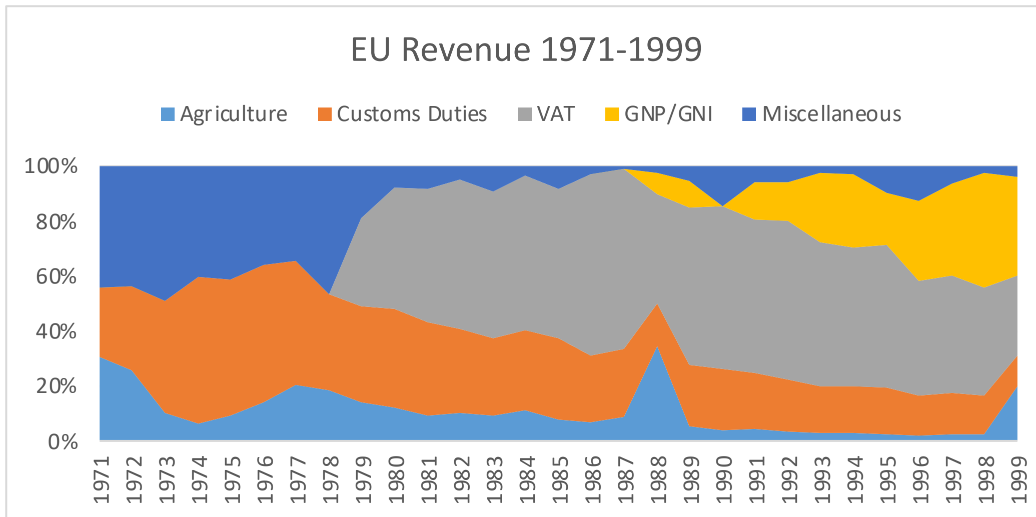


Figure 3. EU Revenue Composition 2000-2019

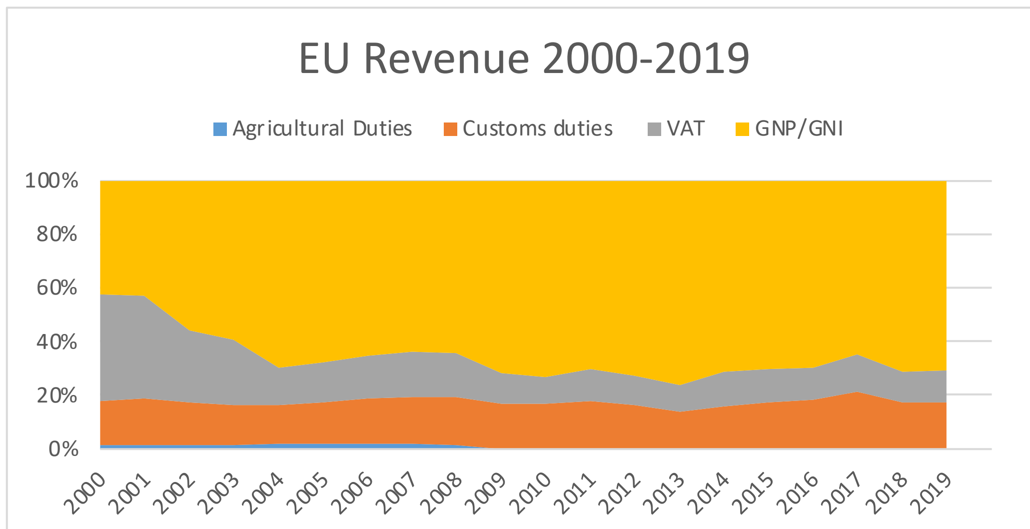
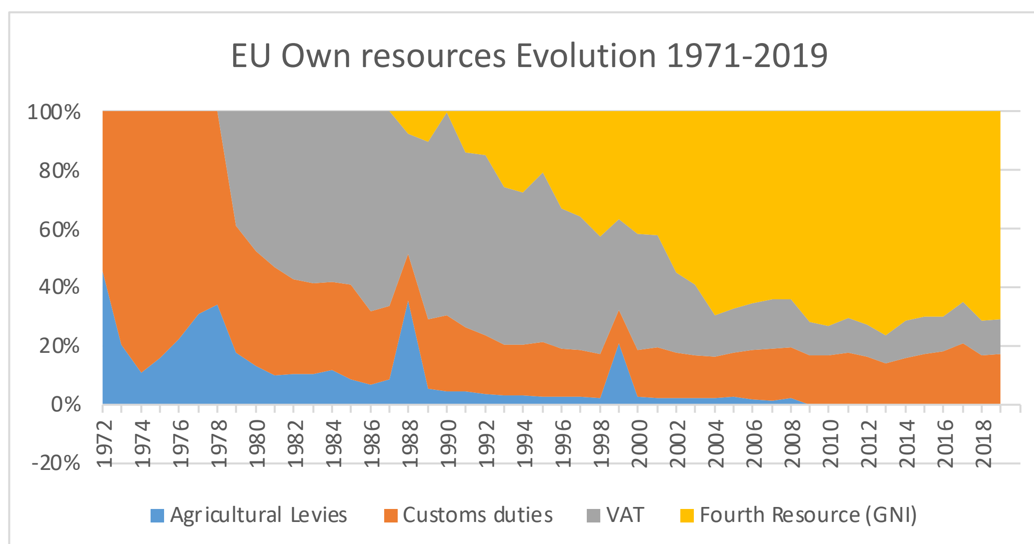


Figure 4. EU Own Resources Evolution 1971-2019



The evolution of Budgetary DI (1958- 2020)

The "Pre-history" of Differentiation in the EU Budget: the conflict over the CAP

According to Strasser, until the first enlargement there had not been any dispute regarding the destination of the Community´s expenditure (Strasser 1992, 164). In fact, the introduction of differentiation in the budget as a result of member states´ opposition to the negotiated arrengements is traditionally identified with the enlargement to the UK in 1973, and the subsequent establishment of a rebate in favour of the country in the mid-80s.

However, it should be noted that other conflicts among member states took place in the early days of the European Community. In particular, during the "empty chair crisis" the conflict between France (the CAP´s "champion") and the other members resulted in lengthy conflicts leading, for a limited period of time, to the introduction of ad hoc corrections in favour of Italy.

As explained in the above short history of the budget, the main new expenditure voice between the EEC establishment and the treaty of Luxembourg was the Common Agricultural Policy, established in 1962. As reported by Ludlow (1999), the negotiation over the CAP had been highly contentious due to the longlasting benefits enjoyed by France vis-à-vis the other member states. Italy in particular, during the first multiannual perspective (1962-1965) found itself in a difficult situation: in fact, in 1964 the country:

> "Ceased to be a net exporter of agricultural produce and became instead a major importer. Under the existing CAP rules - which placed the cost of subsidising European farmers overwhelmingly on the shoulders of those countries which imported their food from outside the Community, this shift in its agricultural trade balance made Italy the single largest net contributor to the EEC" (Ludlow 1999, 237).

For these reasons, during the 1964 negotiations over cereal prices Italy called for a major reassessment of the manner in which the CAP was financed. What Italy managed to obtain, at the end of the negotiations, was "a temporary cap on their contributions to the Community and the promise that the CAP regulations for horticultural produce - of major interest to Italy - would be reviewed and strengthened" (Ludlow 1999, 240). Specifically, the Council, gathered in Brussels on 15 December 1964, agreed that, "for Italy to have a more equitable share in contributions to and aid

from the European Agricultural Guidance and Guarantee Fund (EAGGF) Italy's financial contribution to the Fund for 1965/66 should be limited to 18 %, and for 1966/67 to 22 %, under the previous scale the ceiling for Italy was 28 %(Council of Ministers 1964, 5). One year later, the European Commission referred to this decision as a "Decision with a political nature and a temporary character" (European Commission 1965) whose cost would be distributed the among the other member states.

The exceptional arrangement in favour of Italy just described was a rather isolated event, it is reasonable to consider it as the first form of DI in the EU budget, as it consists of an exemption in favour of one country vis-à-vis common rules. We have to wait for the UK accession, in the early 70s, for DI in the budget to become a highly relevant issue at the core of European integration.

Introducing "instrumental DI" in the budget: temporary corrections to Community own-resources in the first enlargement round

In 1973 the UK, Ireland and Denmark entered the European Economic Community. At the time, as explained above, own resources had just been established, and the new Member States had to respect the legislative framework in this regard. However, their payments were phased-in to reach the total amounts due in 1978. Specifically, the Treaty of accession (Art 127-132) provided for a transitional period in which the own Resources due by new members was limited to the following extent: 45.0% in 1973, 56.0% in 1974, 67.5% in 1975, 79.5% in 1976 , 92.0% in 1977. According to the Treaty, until 31 December 1979, that part of the Communities' budget which was not covered as a result of applying the above percentages (ex Art. 130 and 131) would be incorporated into the amount apportioned for the original Member States. For the United Kingdom a first correction was agreed in 1975 (see next section). This temporary support to accession countries resemble closely to the notion of instrumental DI as defined in Schimmelfennig and Winzen (2014).

The 11 year conflict on the UK rebate (1973-1984)

The origins of the Rebate system: the UK accession and conflicts over net balances

The actual history of permanent DI in the EU Budget starts with the UK accession in 1973. At the time, the main problem with this resided in the fact that the UK had "little to gain and much to pay" (Taylor 1982). This was mainly produced by two factors: on the one hand, the UK had a small agricultural sector, whereas most Community spending went on agriculture (about 70% in 1984-1985). On the other hand, the system of financing of the Community budget had as its main source of revenue an own resource related to Member States' VAT bases, alongside customs duties. In the UK, the VAT base in comparison with gross national product (GNP) was proportionally higher than in other Member States. In addition, the UK was more open than other Member States to trade with non-EEC countries. According to D´Alfonso, "the combined effect of all these factors was a structurally negative budgetary balance for the UK, which at the time was among the less well-off Member States, with a per capita income lower than the EEC average" (D´Alfonso 2016, 13). At the time of accession, aware of these risks, the British conservative government led by Edward Heath negotiated a rather long, 7 year transition period (Articles 127 to 132 of the Treaty of Accession, see previous section), during which time British contributions would gradually converge towards the full amount (Lindner 2006, 117). Once the deal had been struck, the Heath´s government started pushing, without much success, for a change in the common spending policies given their disadvantaged situation vis-à-vis the EU budget structure.

The ensuing government, led by the Labour Prime Minister Harold Wilson, inserted at the top of its agenda the re-negotiation of the UK accession. A few years later, on 11 March 1975 the first European Council, meeting in Dublin, eventually sought to accommodate the UK´s requests by adopting a corrective mechanism, together with the introduction of the Community's regional policy, and market access for New Zealand dairy products (Miller 2015). Although Wilson declared that that the "renegotiation" had been completed, the correction mechanism was never applied (Lindner 2006, 120).

Notably, it was Margaret Thatcher the one succeeding in securing the historical rebate. Since the early days of her mandate she used the question of British contributions as an instrument for improving her standing in domestic politics (Lindner 2006). In 1979, at the Dublin Summit, she refused to accept a EC proposal based on a ECU 350 million refund and asked for ECU 1 billion and a permanent solution, famously claiming "we want our money back" (Thatcher 1993, 79). By using Britain´s blocking power over the decisions on agricultural prices (Moravcsik 2013), negotiations went on until European Foreign ministers agreed on 30 May 1980 ("so called "May mandate") on a formula for a reduction of British contributions in 1980 and 1981 in the form of ad hoc shadow spending programmes of 1.175 billion ECU for 1980 and 1.41 billion for 1981. After that, they agreed on special measures on 26 October 1982 in respect of 1982 and on 19 June 1983 in respect of 1983, and on 26 June 1984 in respect of 1984 (Strasser 1992, 167).

The 1984 Fontainebleau Council

The lengthy "eleven years conflict" (Strasser 1992, 166) over British net contributions, summarised in Table 7, dominated the EU budgetary politics scene from the UK accession until a rather permanent solution was reached, eventually, through the 1984 Fontainebleau Council (Lindner 2006, 115). In this venue the UK accepted an increase in the VAT call rate from 1.0 to 1.4 percent from 1986, and the Community's enlargement to Portugal and Spain (Benedetto 2017) in exchange of the formalisation of the principle that any member state bearing an excessive budgetary burden in relation to its relative prosperity may benefit at the appropriate time from a correction (Cipriani 2014). The UK rebate system, in place from 1985 onward, provided a reimbursement of 66% of the UK´s budgetary imbalance (the difference between payments and receipts and amounting). In practice, the UK gained a financial return equal to two-thirds of the size of its net contribution (Benedetto 2019). All Member States apart from the UK financed its rebate, and the distribution key for financing was based on each country's share of the EU's GNI. Table 8 below shows the development of UK rebate since 1985, while Figure 4 provides an illustration of it.

Table 7. Overview of Decisions on the Issue of British Net-Contributions

Year	EC Decision	Content of the decision	Prime Minister in charge
1973	Treaty of accession	7 year transition period for British contributions	Edward Heath
1975	Financial mechanism (Dublin Summit)	Potential reductions of British contributions	Harold Wilson
1980	May mandate	Correction payments to UK	Margaret Thatcher
1982	Renewal May mandate	Ad hoc prorogation of correction payments to UK	Margaret Thatcher
1984	Fontainebleau Agreement	UK rebate	Margaret Thatcher

Source: Adapted from Lindner (2006, 115)

The introduction of differentiation in favour of the UK represented an important shift in EU budgetary politics. Historically, and showed in the case of Italy and of new members entering together with the UK, the approach of the Commission had been to help disadvantaged states by redirecting spending towards them. However, in the case of the UK, Thatcher refused additional EU spending in favour of the UK but she insisted on a rebate. This system will prove, in time, to be rather "sticky", as the UK managed to keep the rebate in place until 2019, year of its official departure from the EU. In fact, since the UK rebate was included in the Own Resources Decision (that governs the financing of the common budget), and unanimity of the Member States is required to change this Decision, The UK rebate has thus become de facto permanent (D´Alfonso 2016).

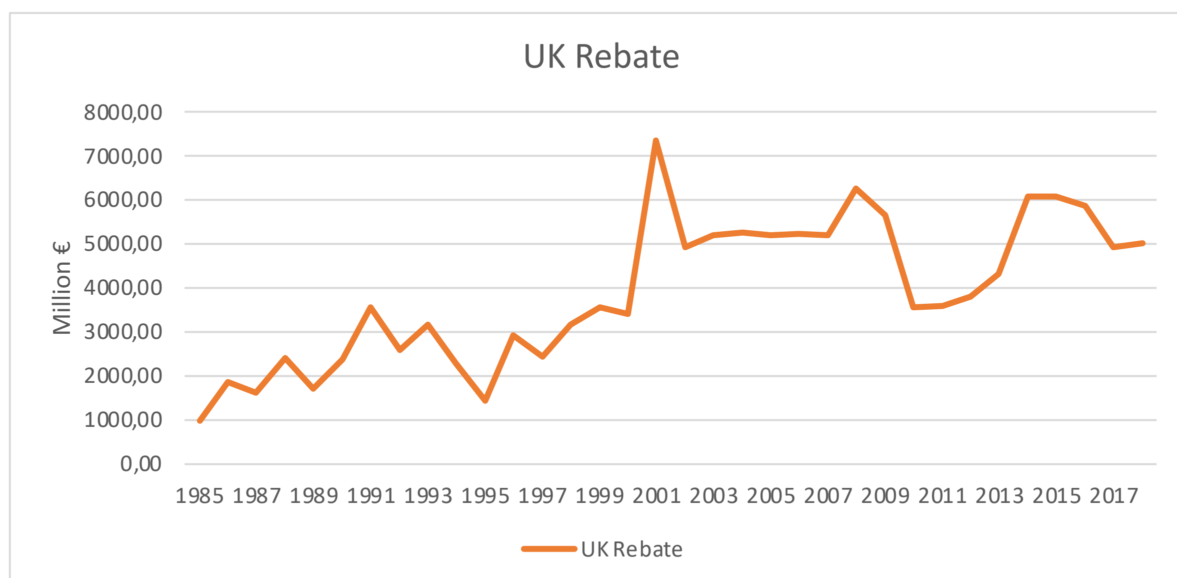
Table 8. Evolution of the UK Rebate 1985-2018

Year	Gross national contribution (GNC) Million ECU (until 1999); Million € since 2000	UK Rebate	Rebate as % Gross National Contributions	Final national contribution
1985	4188.10	981.4	23%	3206.70
1986	4472.30	1871.1	42%	2601.20
1987	4857.30	1631	34%	3226.30
1988	5230.60	2407.3	46%	2823.30
1989	5570.20	1723.4	31%	3846.80
1990	6543.00	2375.3	36%	4167.70
1991	5831.20	3562.6	61%	2268.60
1992	6874.30	2580.2	38%	4294.10
1993	8289.20	3155.8	38%	5133.40
1994	6135.10	2294.9	37%	3840.20
1995	8022.10	1449.3	18%	6572.80
1996	8440.70	2913.8	35%	5526.90
1997	8315.60	2431.3	29%	5884.30
1998	12799.10	3153.5	25%	9645.60
1999	11881.70	3576.6	30%	8305.10
2000	14103.40	3420.8	24%	10682.60
2001	11977.00	7342.5	61%	4634.50
2002	13019.20	4933.5	38%	8085.70
2003	13056.70	5184.9	40%	7871.80
2004	14650.90	5272.1	36%	9378.80
2005	14815.90	5185.8	35%	9630.10
2006	15052.30	5221.4	35%	9830.90
2007	15963.20	5188.9	33%	10774.30
2008	13870.90	6252	45%	7618.90
2009	12922.40	5657.7	44%	7264.70
2010	15626.80	3562.7	23%	12064.10
2011	14780.30	3595.9	24%	11184.40
2012	17185.80	3803.6	22%	13382.20
2013	18757.30	4329.5	23%	14427.80
2014	17457.50	6066.3	35%	11391.20
2015	20599.70	6083.65	30%	14516.06
2016	15251.45	5870.18	38%	9381.27
2017	12367.80	4937.61	40%	7430.19
2018	15323.63	5026.51	33%	10297.13

Source: Adapted from D´Alfonso (2016), EU expenditure and Revenue[9]

9 https://ec.europa.eu/budget/graphs/revenue_expediture.html

Figure 5. UK Rebate 1985-2018



Budget DI beyond the UK: temporary and permanent corrections (1984-2020)

After the UK secured the rebate in 1984, on the basis of the Fontainebleau principle some member states argued that their EU budgetary burden was excessive and asked for reductions in their contributions, including to their financing of the UK rebate itself. These demands have led to further budgetary DI through a system of ad hoc both permanent and temporary corrections. The next sections will overview the development of the DI arrangements approved over time. (Schimmelfennig and Winzen 2020). Moreover, new enlargement rounds provided for temporary refunds to entry member states.

Germany´s "special arrangement"

As a result of the measures in favour of the UK, German net contributions were on the rise, as constantly stressed by German civil servants throughout the negotiations (Laffan 1997). For example, German net contributions were calculated to rise in 1980 from some MEUA (million EUAs) 1200 to nearly 1650 MEUA (Jenkins 1980). Due to this "German problem"(Laffan 1997, 54), although German kept supporting the significant increase in EU spending throughout the 80s, already in Fontainebleau the country had managed to obtained a reduction on the UK rebate. Since 1984, Germany was able to enforce a special agreement which limited the German share in the financing of the correction mechanism in favour of the UK. This "rebate on the rebate" initially (and eventually, permanently) amounted to one third of the originally calculated German share of the compensation mechanism (Council Decision 88/376/EEC 1988 Art 5; Council Decision 94/728/EC 1994 Art 5). Similarly to the UK rebate, the German arrangement was never abolished until the UK Rebate became obsolete as a consequence of Brexit. Germany still enjoys, however, a lump-sum reduction on its GNI-based contributions.

The second and third enlargements: Greece, Spain and Portugal (1981-1985)

Between 1981 and 1985, three new members joined the Community, Greece, Spain and Portugal. All three Member States benefited from transitional measures in relation to the own resources based on VAT or GNP payments (applied for the Member States that did not have the VAT bases in compliance with the Sixth Council Directive). Although they were obliged to pay these own resources in full from the first day of accession, they were immediately refunded by the percentages agreed in relevant articles of the Accession Treaties (European Commission DG Budget 2014).

Specifically, In 1981, with the entry of Greece, Art. 127 of the accession Treaty stated that the Community should refund to the Hellenic Republic during the month followingits availability to the Commission proportion of the VAT-based contributions provided by Greece, in accordance with the following procedure: 70% in 1981, 50% in1982, 30% in1983, 20% in1984, 10% in1985.

In 1985, with the accession of Spain and Portugal, The Treaty of Accession, Art. 187, provided that "The Community shall refund to the Kingdom of Spain, as an item of expenditure under the general budget of the European Communities, during the month following its availability to the Commission, a proportion of the amount of payments under own resources accruing from value added tax in accordance with the following procedure: 87 % in 1986, 70 % in 1987, 55 % in 1988, 40 % in 1989, 25 % in 1990, 5 % in 1991.

Similarly, Art. 374 stated that "The Community shall refund to the Portuguese Republic, as an item of expenditure under the general budget of the European Communities, during the month following its availability to the Commission, a proportion of the amount of payments under own resources accruing from value added tax or from financial contributions based on the gross national product in accordance with the following procedure: 87 % in 1986, 70 % in 1987, 55 % in 1988, 40 % in 1989, 25 % in 1990, 5 % in 1991.

Both corrections, however, were not to influence the two countries´ contribution to the UK Rebate: according to the Treaty:

> "The percentage of this graduated refund shall not apply to the amount corresponding to the share to be borne by Spain [Portugal] in financing the deduction provided for in Article 3 (3) (b) and (c) of the Council Decision of 7 May 1985 on the Communities' system of own resources, in favour of the United Kingdom."

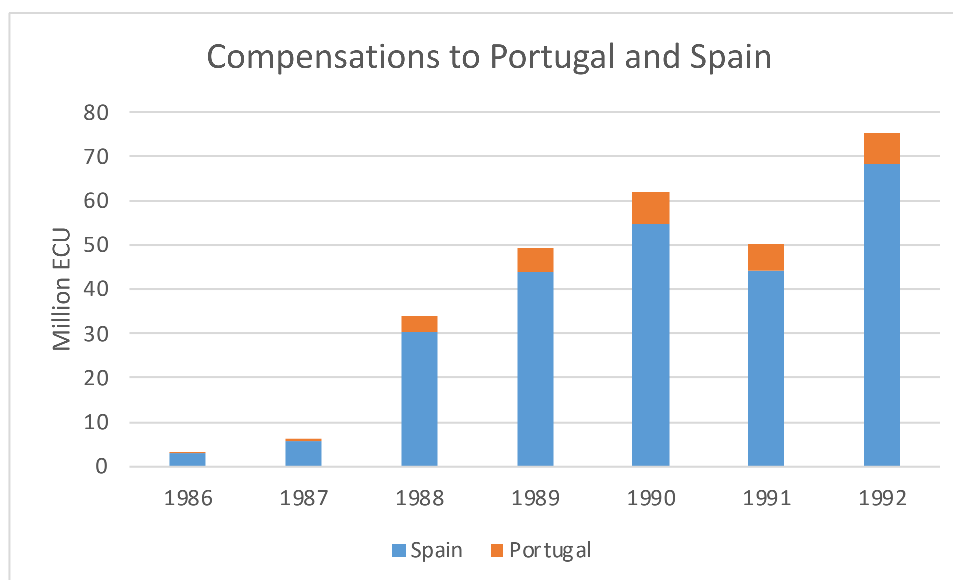
In addition Council Regulation (EEC) No 2051 /88 of 24 June 1988 on the granting of financial compensation to the Kingdom of Spain and the Portuguese Republic following the depreciation of certain stocks of agricultural products. Until 1992, the two countries received yearly compensations on top of that granted by the Treaty. Table 9 below shows the amount of refunds received.

Refunds are summarised in Table 9 and Figure 6.

Table 9. Refunds to Spain and Portugal (Million ECU)

	Refunds to Spain and Portugal (Million ECU)						
	1986	1987	1988	1989	1990	1991	1992
Spain	3.017714	5.692956	30.35685	43.80205	54.87767	44.33195	68.16422
Portugal	0.301383	0.663842	3.492162	5.675014	6.978529	5.820671	6.954931

Figure 6. Compensations to Portugal and Spain



The fourth enlargement: new net contributors

During the enlargement negotiations with Norway, Austria, Finland and Sweden, the budget was a decisive factor. In view of their relative prosperity, the applicant countries would contribute more to the Community budget than they might expect to receive by way of expenditure (European Commission DG Budget 2014). At the time, temporary compensatory payments were granted to cushion any problems caused by acceptance of the acquis communautaire (European Parliament 1999). In particular, the new members feared problems relating to the agricultural sector as they had agricultural price and support levels higher than those of the Union. As the Union insisted that acceding countries should adopt common agricultural prices immediately on accession, in view of the common market (European Commission 1994), the Treaty introduced degressive compensation over four years, with the overall aim of supporting the budgetary efforts of the applicant countries in favour of their agricultural sectors following the fall in prices. All the applicant countries were allowed this compensation (European Commission DG Budget 2014). Furthermore, it was agreed that the Community budget would cover the financial commitments entered into by the applicant countries under the agreement establishing the European Economic Area (EEA). A new Heading 7 was also added to accommodate the compensation to be received by the new Member States from 1995 to 1998 in accordance with the Act of Accession.

For Austria, Art 80 of the Accession Treaty stated that:

On the first working day of each month the Community shall pay the Republic of Austria, as an item of expenditure under the general budget of the European Communities, one twelfth of the following amounts:

- ECU 583 million in 1995,
- ECU 106 million in 1996,
- ECU 71 million in 1997,
- ECU 35 million in 1998.

For Finland, Art. 109 stated that:

On the first working day of each month the Community shall pay the Republic of Finland, as an item of expenditure under the general budget of the European Communities, one twelfth of the following amounts:

- ECU 476 million in 1995,
- ECU 163 million in 1996,
- ECU 65 million in 1997,
- ECU 33 million in 1998.

Finally, for Sweden, Article 134:

On the first working day of each month the Community shall pay the Kingdom of Sweden, as an item of expenditure under the general budget of the European Communities, one twelfth of the following amounts:

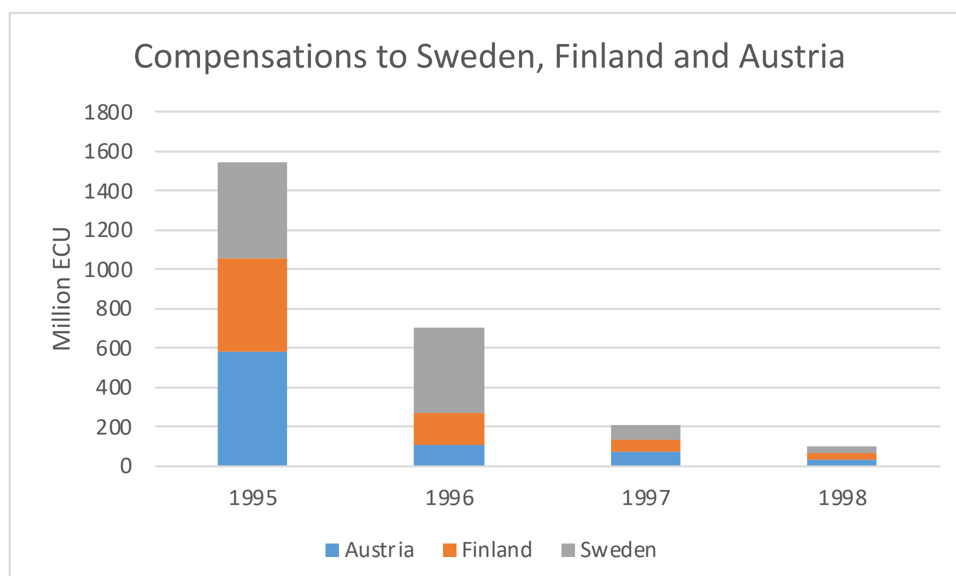
- ECU 488 million in 1995,
- ECU 432 million in 1996,
- ECU 76 million in 1997,
- ECU 31 million in 1998.

Refunds are summarised in Table 10 and Figure 7.

Table 10. Yearly Compensations (Million ECU) to Austria Finland and Sweden

	Yearly Compensations (Million ECU)			
	1995	1996	1997	1998
Austria	583	106	71	35
Finland	476	163	65	33
Sweden	488	432	76	31

Figure 7. Compensations to Sweden, Finland and Austria



he 1999 Berlin Council: DI for Austria, Sweden and the Netherlands

Demands for a “fair return” did not limit to the UK and a special correction to the “German problem”: in time, it spread to all net contributor members. At the Berlin summit (spring 1999), these countries called for a redistribution of the financial burden of the “British cheque”, with France assuming a bigger share and Germany, Austria, the Netherlands and Sweden a little less than before (Le Cacheux 2005). In its Conclusions, the European Council decided that

> “The financing of the UK abatement by other Member States will be modified to allow Austria, Germany, the Netherlands and Sweden to see a reduction in their financing share to 25% of the normal share. The adjustment of the financing shares will take place through an adjustment of the GNP bases. These modifications will be implemented already during the first year of application of the new Own Resources Decision on the basis of the figures for the previous year,” (European Council 1999).

The result of the above decision was a one-fourth reduction for Austria, Germany, the Netherlands and Sweden on the financing of the UK rebate. The reduction had to be supported by the other member states, i.e. they must increase their payments (Council Decision 2000/597/EC 2000 Art 5). As a consequence, since then France, Italy and Spain have regularly had to contribute the largest share to financing the UK’s rebate (Becker 2019).

The 2002 Copenhagen Agreement and the Eastern Enlargement

Following the decision of the Copenhagen Summit, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia would join the EU on 1 May 2004.

The Copenhagen agreement acknowledged the financial needs of new Member States, since they were all expected to enjoy the status of net beneficiary with regard to the EU budget from the very beginning, while respecting the ceilings established in the financial framework for enlargement. On the revenue side, some of the new members enjoyed temporary compensations (European Commission DG Budget 2014, 71).

Specifically, Article 29 of the Accession Treaty stated that:

> On the first working day of each month the Community shall pay the Czech Republic, Cyprus, Malta and Slovenia, as an item of expenditure under the general budget of the European Communities, one eighth in 2004, as of the date of accession, and one twelfth in 2005 and 2006 of the following amounts of temporary budgetary compensation, (EUR million, 1999 prices).

- Czech Republic | 125,4 | 178,0 | 85,1 |
- Cyprus | 68,9 | 119,2 | 112,3 |
- Malta | 37,8 | 65,6 | 62,9 |
- Slovenia | 29,5 | 66,4 | 35,5 |

In turn, Article 30 stated that:

> On the first working day of each month the Community shall pay the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, as an item of expenditure under the general budget of the European Communities, one eighth in 2004, as of the date of accession, and one twelfth in 2005 and 2006 of the following amounts of a special lump-sum cash-flow facility, (EUR million, 1999 prices).

- Czech Republic | 174,7 | 91,55 | 91,55 |
- Estonia | 15,8 | 2,9 | 2,9 |
- Cyprus | 27,7 | 5,05 | 5,05 |
- Latvia | 19,5 | 3,4 | 3,4 |
- Lithuania | 34,8 | 6,3 | 6,3 |
- Hungary | 155,3 | 27,95 | 27,95 |
- Malta | 12,2 | 27,15 | 27,15 |
- Poland | 442,8 | 550,0 | 450,0 |
- Slovenia | 65,4 | 17,85 | 17,85 |
- Slovakia | 63,2 | 11,35 | 11,35 |

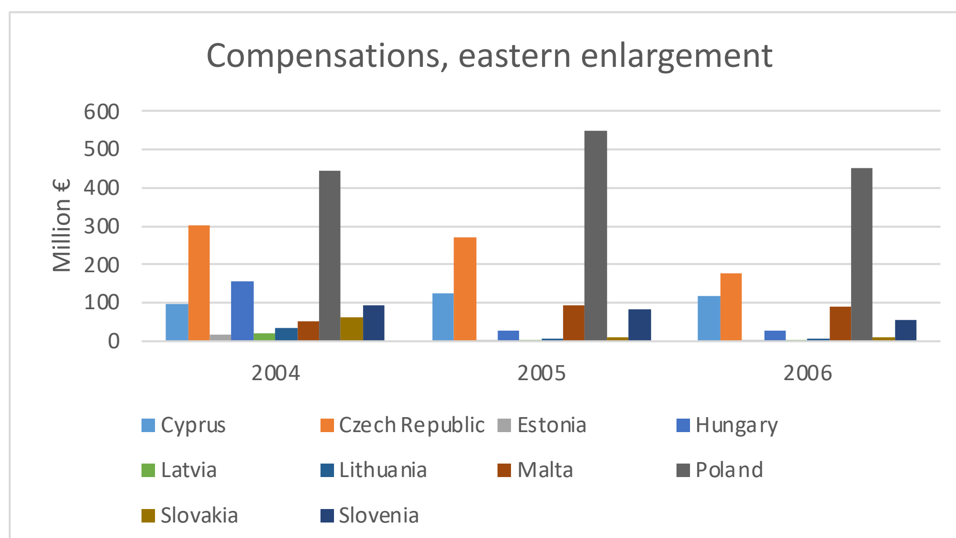
Few years later, Romania and Bulgaria entered the EU too, but no temporary budgetary compensation was envisaged, “since it was clear that neither Bulgaria nor Romania were at risk of seeing their budgetary situation vis-à-vis the EU budget deteriorate after accession in comparison with the situation in 2006”(European Commission DG Budget 2014).

Compensations are summarized in Table 11 and Figure 8.

Table 11. Compensations, Eastern Enlargement

	Yearly Compensations (Million ECU)		
	2004	2005	2006
Cyprus	96.6	124.25	117.35
Czech Republic	300.1	269.55	176.65
Estonia	15.8	2.9	2.9
Hungary	155.3	27.95	27.95
Latvia	19.5	3.4	3.4
Lithuania	34.8	6.3	6.3
Malta	50	92.75	90.05
Poland	442.8	550	450
Slovakia	63.2	11.35	11.35
Slovenia	94.9	84.25	53.35

Figure 8. Compensations, Eastern enlargement



The 2005 Brussels Council: a reduction to the UK rebate and new VAT and GNI-based based exemptions

2005 was an important year for the history of rebates. Ahead of the European Council summit taking place in Brussels, British Prime Minister Tony Blair said he was willing to reduce the UK rebate, but only in the context of a wider review of the EU budget, including a reform of the Common Agricultural Policy (CAP) (Wintour and Henley 2005).

Negotiations between the UK and the other member states ended on December 17th, 2005, when PM Blair agreed to Britain giving up about £7bn of the rebate negotiated by Margaret Thatcher 20 years earlier as part of a broad deal to "pay the bill" for Europe's enlargement to the east. Moreover, Blair gave up his demands about cutting the CAP in order to appease French President Chirac´s defense of CAP. The Financial Perspective approved on December 19th, stated that:

> "Starting in 2013 at the latest, the UK shall fully participate in the financing of enlargement costs for countries which have acceded after 30 April 2004 except for CAP market expenditure. To this end the UK budgetary mechanism shall be adjusted by progressively reducing the total allocated expenditure. During the period 2007-2013 the additional contribution from the UK shall not be higher than 10.5 billion euro, in comparison with the application of the current Own Resources Decision. In case of future enlargement the additional contribution referred to above will be adjusted accordingly," (Council presidency 2005).

This decision basically excluded from the calculation most enlargement-related expenditure so as to let the UK contribute to the financing of the enlargements that the country itself had strongly supported. The objective was to address what was widely perceived as an unfair effect of the rebate, since the mechanism would have resulted in the UK contributing little to the costs of enlargement (D´Alfonso 2016, 16).

As to additional measures, the conclusions (later embedded in the 2007 Own Resources Decision) agreed to grant a temporary reduced rate of call of the VAT resource for Austria (fixed at 0,225 %), for Germany (at 0,15 %) and for the Netherlands and Sweden (at 0,10 %) instead of the agreed 0.3% of the value-added tax collected in the member states (Council Decision 2007/436/EC 2007 Art. 2.4)[10]. In addition, over the same period, lump-sum reductions were granted to the Netherlands and Sweden to their GNI-based contributions (respectively, €605 million and €150 million a year in constant 2004 prices).

Tables 12 and Figure 9 show the amounts of corrections deriving from VAT reduction and yearly lump-sum reductions.

Table 12. VAT-Based Lump-sum and GNI-Based corrections, 2007-2019

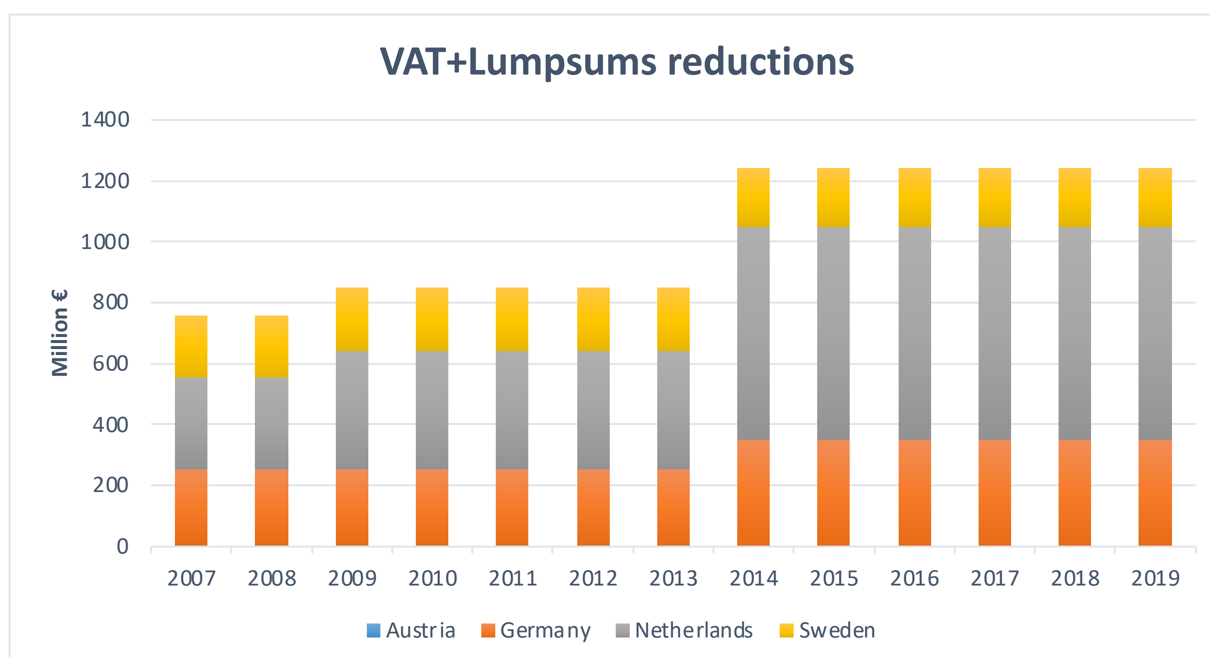
		VAT reduction by country (Yearly Average)[11]				Lump-sum reduction on GNI contribution by country (yearly amount)		
Year	**Own Resource Decision**	**Austria**	**Germany**	**Netherlands**	**Sweden**	**Netherlands**	**Sweden**	**Denmark**
2007	2007/436/EC Euratom	4.427038	248.0506	301.2447	101.1277			
2008	2007/436/EC Euratom	4.427038	248.0506	301.2447	101.1277			
2009	2007/436/EC Euratom	4.427038	248.0506	301.2447	101.1277			
2010	2007/436/EC Euratom	4.427038	248.0506	301.2447	101.1277	624.3848	148.7002	0
2011	2007/436/EC Euratom	4.427038	248.0506	301.2447	101.1277	612.1472	148.4905	0
2012	2007/436/EC Euratom	4.427038	248.0506	301.2447	101.1277	624.9896	138.3333	0
2013	2007/436/EC Euratom	4.427038	248.0506	301.2447	101.1277	638.7983	144.4819	0
2014	2014/335/EU, Euratom		349.3698	294.0046	99.81995	653.3645	142.9137	0
2015	2014/335/EU, Euratom		349.3698	294.0046	99.34121	0	0	0
2016	2014/335/EU, Euratom		349.3698	294.0046	99.34121	0	0	0
2017	2014/335/EU, Euratom		349.3698	294.0046	99.34121	709.3339	159.9192	122.1038
2018	2014/335/EU, Euratom		349.3698	294.0046	99.34121	705.6445	165.0451	120.2748
2019	2014/335/EU, Euratom		349.3698	294.0046	99.34121	703.807	160.8392	120.393

Source: EU expenditure and Revenue

10 The term „temporary“ is used when the own resource decision indicates that the provision is limited to the specified MFF.

11 EU Commission reports reductions only for the first two years of each multiannual financial framework.

Figure 9. VAT and Lump-Sum Reductions: a Cross-Country comparison (2007-2019)



Policy-specific compensations deriving from Justice and Home Affairs opt-outs

Since 2006[12] Denmark, Ireland and the United Kingdom have been exempted from financing specific parts of security and citizenship policies, for which they have an opt-out in the Amsterdam Treaty, with the exception of the related administrative costs (Darvas 2019). On average over 2014-2018, Denmark received €10 million annually, Ireland €6 million and the UK €75 million. According to the Monti report (2016), the impact of the opting-out clauses is calculated annually: the share of opted-out countries is financed by the remaining Member States and reimbursed to them by the Commission at the end of the year (High-level group on own resource 2016, 66). Table 4 lists UK, Denmark and Ireland compensations since 2006. Amounts are reported in Table 13.

Table 13. JHA Compensations

	Compensation (Million EUR)		
Year, Country	**Denmark**	**Ireland**	**UK**
2006	0.187749	0.056566	0.774291
2007	1.229796	0.189552	2.363755
2008	0.736958	0.494277	5.133271
2009	0.523079	2.346208	24.17519
2010	4.137533	2.728823	34.42014
2011	3.315728	2.086916	27.14974
2012	3.24219	3.225605	47.49852
2013	3.915012	2.994074	41.91455
2014	5.768733	3.315511	49.58675
2015	3.10687	2.64039	44.13205
2016	7.727918	5.604986	74.28014
2017	18.75598	9.005469	105.5081
2018	15.33652	8.058567	102.4676
2019	19.56832	8.144668	116.6714

Source: EU expenditure and Revenue

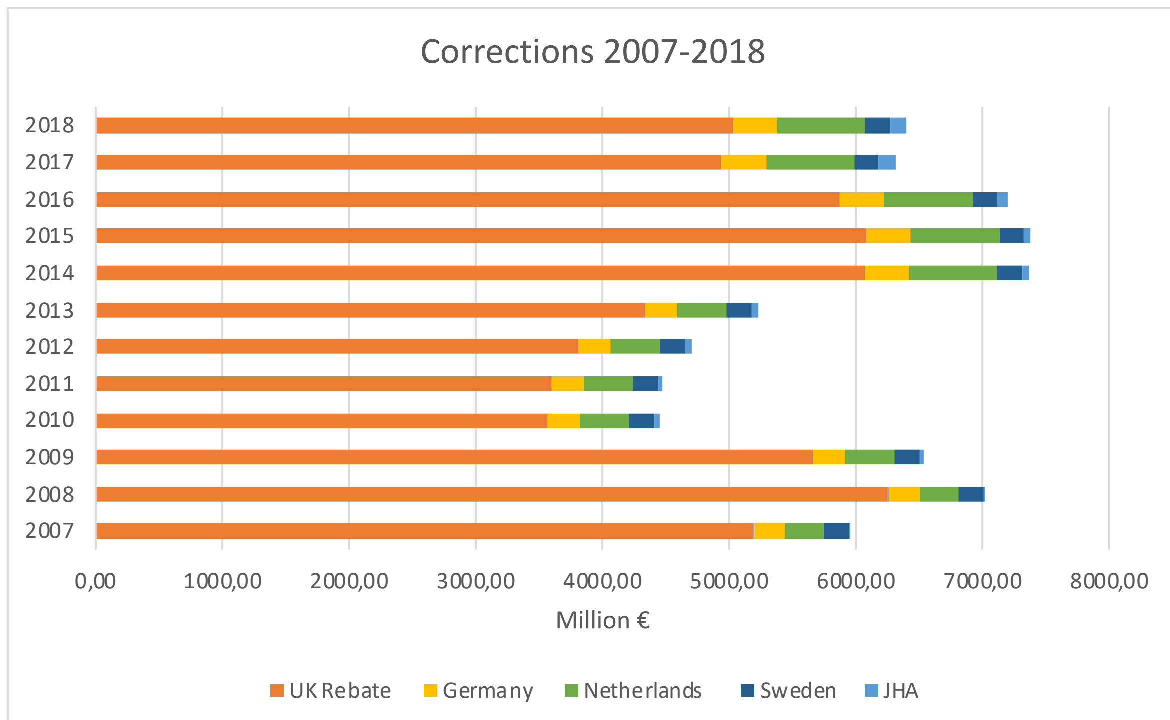
12 There is no compensation reported before this date.

The 2013 Brussels Council

The European Council of 7 and 8 February 2013 concluded that the existing correction mechanism in favour of the United Kingdom was to continue to apply. Moreover, it agreed on a number of temporary correction mechanisms: annual lump sums reductions in the GNI-based were approved for Denmark, Netherlands, Sweden and Austria. These temporary correction mechanisms, agreed for the Multiannual Financial Framework 2014-2020, included a reduced VAT call rate for Germany, the Netherlands and Sweden (0.15% instead of 0.3%) and annual lump-sum reductions (in constant 2011 prices) to GNI-based contributions for the Netherlands (€695 million), Sweden (€185 million) and Denmark (€130 million). In addition, a decreasing annual lump-sum reduction was granted to Austria during the first three years of the new MFF (€30 million in 2014, €20 million in 2015 and €10 million in 2016). The lump-sum reductions had no impact on the UK rebate, since they were granted after the calculation and financing of the rebate. Unlike the UK rebate, the lump-sum reductions were financed by all Member States, including those benefiting from the reductions (D´Alfonso 2016). Among the usual countries receiving refunds, Denmark represented a "new entry", resulting from Prime Minister Thorning-Schmidt´s threat to veto the budget if her country was not granted a rebate like Sweden and the Netherlands in the 2014-2020 MFF (Jacobsen 2015).

Figure 10 summarises the breakdown of money spent on correction mechanisms for net contributors as of the two latest MFF. On average, the sum of all corrections amounts to about 1% of the overall yearly revenue, as displayed in Figure 11. Finally, Figure 12 compares the UK rebate to the other corrections.

Figure 10. Correction Mechanisms[13]



Source: EU budget documents, own illustration

13 Denmark and Austria do not appear as too small. Data on corrections is available since the 2007 MFF

Figure 11. Total Revenue and Correction Mechanisms

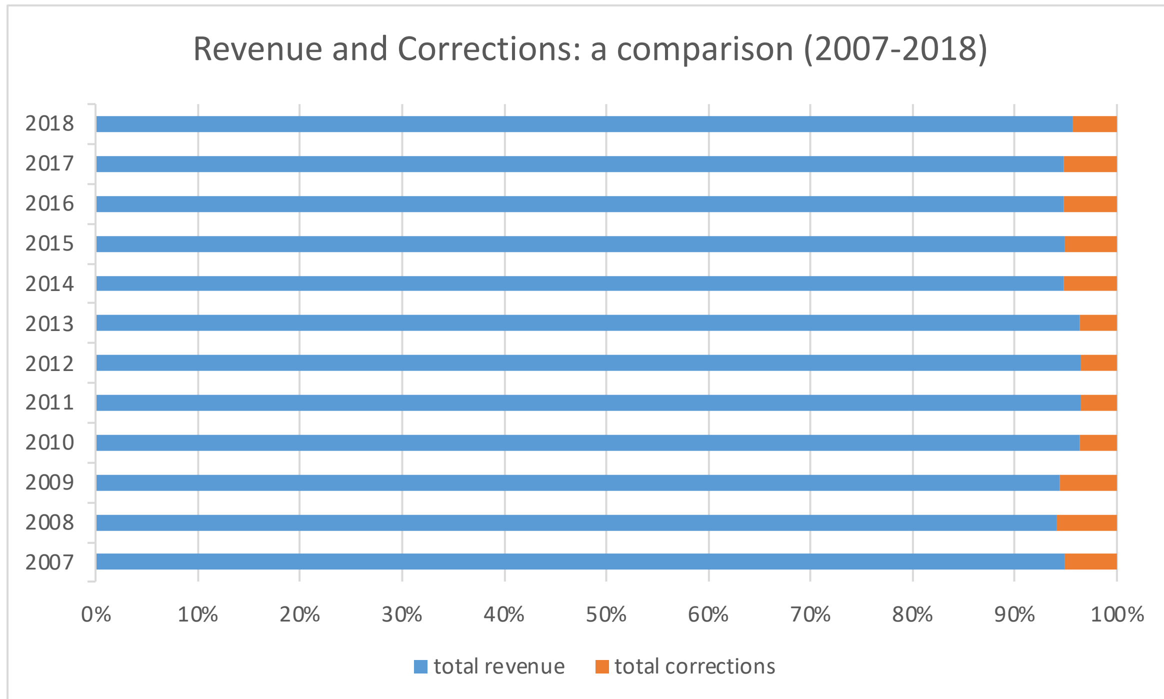
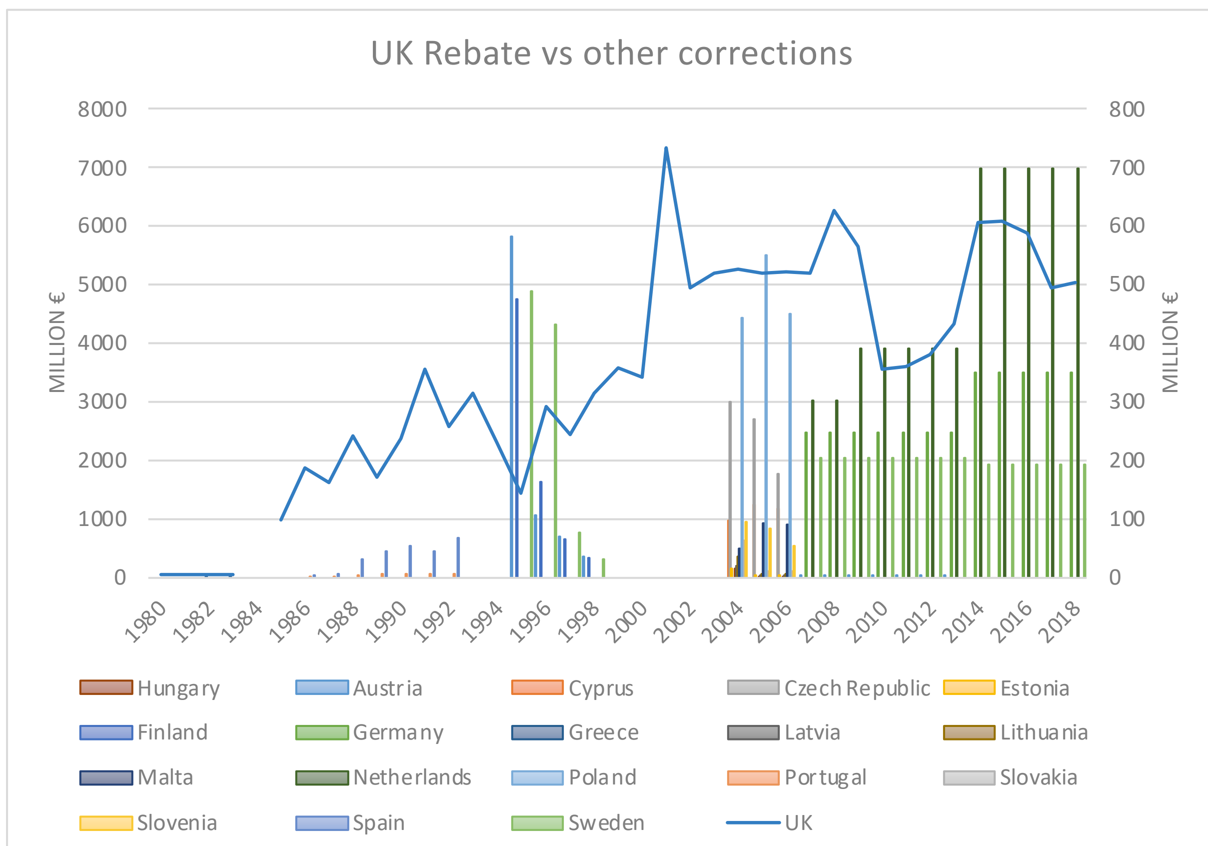


Figure 12. UK Rebate and Other Corrections



Recent Developments- the 2021-2027 Multiannual financial Framework and new own resources

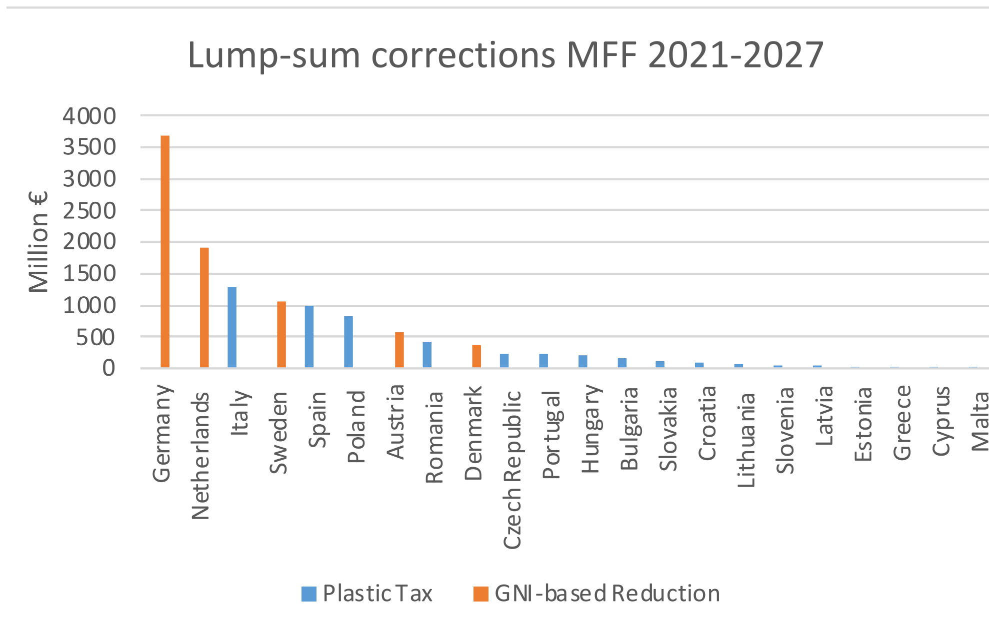
The approval of the 2021-2027 MFF was considerably complicated by the outbreak of the COVID-91 Pandemic. On top of that, negotiations were blocked due to Hungary and Poland´s opposition to a mechanism protecting the EU budget in case of 'rule of law' deficiencies in Member States (D´Alfonso 2020).

After lengthy negotiations throughout 2020, the Council approved a new Own Resources Decision very recently, on 14 December 2020, and regulation 2020/2093, laying down the multiannual financial framework on 17 December.

The new Own Resources Decision introduces. The application of a uniform call rate to the weight of plastic packaging waste generated in each Member State that is not recycled. The uniform call rate shall be EUR 0,80 per kilogram (Council Decision 2020/2053 2020 Art. 2). On top of this new tax, an annual lump sum reduction for certain Member States is provided. Specifically, reductions amount to EUR 22 million for Bulgaria, EUR 32,1876 million for Czechia, EUR 4 million for Estonia, EUR 33 million for Greece, EUR 142 million for Spain, EUR 13 million for Croatia, EUR 184,0480 million for Italy, EUR 3 million for Cyprus, EUR 6 million for Latvia, EUR 9 million for Lithuania, EUR 30 million for Hungary, EUR 1,4159 million for Malta, EUR 117 million for Poland, EUR 31,3220 million for Portugal, EUR 60 million for Romania, EUR 6,2797 million for Slovenia and EUR 17 million for Slovakia (Council Decision 2020/2053 2020 Art. 2.2).

As to annual GNI contributions, temporary gross reductions for the period 2021-2027 are granted as follows: EUR 565 million for Austria, EUR 377 million for Denmark, EUR 3671 million for Germany, EUR 1921 million for the Netherlands and EUR 1069 million for Sweden. These gross reductions are financed by all Member States (Council Decision 2020/2053 2020 Art. 2.4). Figure 13 summarises the latest correction mechanisms.

Figure 13. Corrections 2021-2017



Analysis and Discussion

Figure 14 reconstructs the development of different kinds of budgetary DI over time, while, Table 14 summarizes the kind of Di, when it was agreed and who were the beneficiaries.

Figure 14. Evolution of Types of Budgetary DI

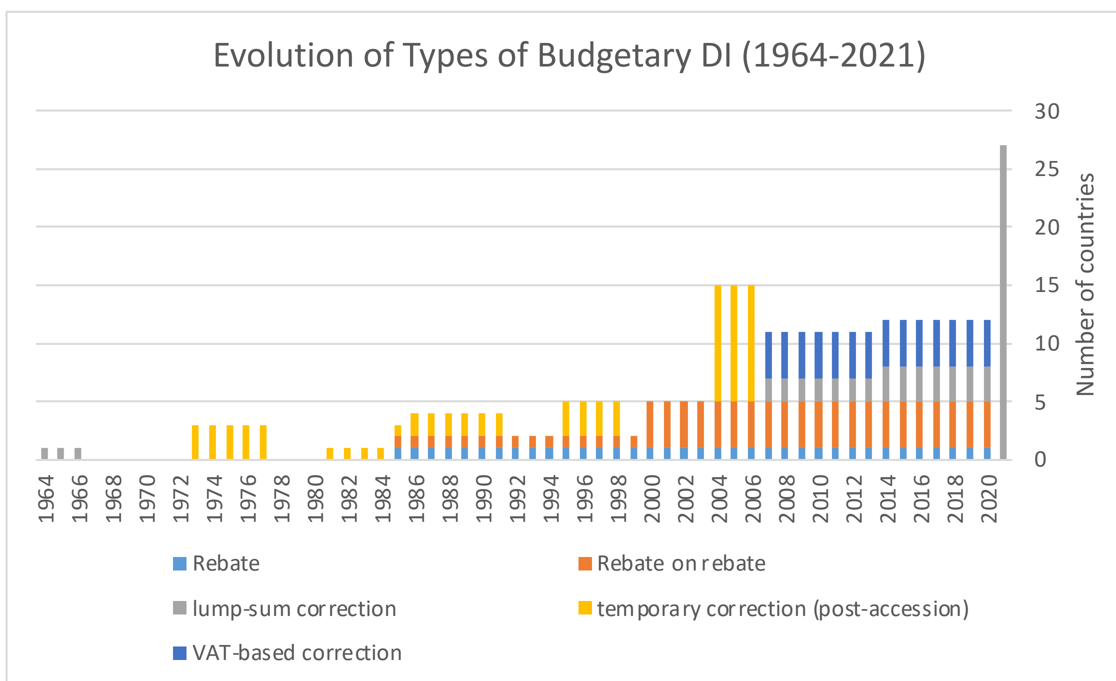


Table 14. The Evolution of Budget DI in Brief

Council Conclusions	Decision	Post-accession correction	Rebate	Rebate on rebate	VAT-based correction	Lump-sum correction
Brussels Council (1964)	Decisions by the Council of Ministers on 15 December 1964 on common cereal prices for the EEC					Italy paying 18% and 22% the instead of 28% for the EAGGF
Brussels, 22 January 1972	UK, Ireland, Denmark; Norway Accession Treaty	Transitional period Art 127-132: Own Resources due by new members phased out between 1973 and 1977				
	Greece Accession Treaty, 1979	Refund to Greece Republic between 1981 and 1985				
Fontainebleau Council (1984), Brussels Council (1988)	88/376/EEC, Euratom: Council Decision of 24 June 1988 on the system of the Communities' own resources		UK (66% rebate) DE (75%) Rebate on UK rebate			

Brussels, 1985	Spain and Portugal Accession Treaty	VAT- based refunds until 1988, plus agricurltural refunds until 1991				
Edinburgh Council (1992)	94/728/EC, Euratom: Council Decision of 31 October 1994 on the system of the European Communities' own resources		UK (66% rebate) DE (75%) Rebate on UK rebate			
Brussels, 1994	Austria, Finland, Sweden Accession Treaties	Compensations from 1995 to 1998				
Berlin Council (1999)	2000/597/EC, Euratom: Council Decision of 29 September 2000 on the system of the European Communities' own resources		UK (66% rebate) DE, NL, AT, SE (75%) Rebate on UK rebate			
Brussels Council (2005)	2007/436/EC, Euratom: Council Decision of 7 June 2007 on the system of the European Communities' own resources		UK (66% rebate)[14], DE, NL, AT, SE (75%) Rebate on UK rebate		VAT Reductions for AT, DE, NL, SE	Lump-sum reductions to NL and SE on their GNI-based contributions
Brussels Council (2013)	2014/335/EU, Euratom: Council Decision of 26 May 2014 on the system of own resources of the European Union		UK (66% rebate)[15] DE, NL, AT, SE (75%) Rebate on UK rebate		VAT Reductions for AT, DE, NL, SE, DK	Decreasing annual lump-sum reduction to Austria
Brussels European Council Special meeting (17, 18, 19, 20 and 21 July 2020)	Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom				Annual lump sum reduction for un-recycled plastic tax. Lump-sum Reduction on GNI-based contribution	

Source: Own illustration based on primary and secondary sources

14 Minus financing mechanism for the enlargement.

15 Minus financing mechanism for the enlargement.

The case study just presented reveals three main trends which can be summarized as follows:

From redistributive spending to DI of budgetary contributions

The initial problem in the 1950s-70s were discrepancies in wealth/ development across member states (MS). There are two approaches to addressing this problem: the poor pay less into the common pot and/ or receive larger payments from that pot. Both approaches were used. On the one hand, Italy paid less into the ESF (relative to its population size) and received temporary reductions of its contributions in the 1960s. On the other hand, the UK, Denmark and Ireland received a transition period after entry, during which their own resources payments were reduced.

However, the general approach was to address inequality by increasing EU redistributive spending – by integrating Mediterranean agricultural products into the scope of the CAP (to address the first problem) and by creating the regional fund in reaction to the entry of (poor) UK and IRL. In short, the dominant response to wealth inequality was more and more redistributive EU spending – larger budget etc. The implication of this approach was that the rich MS would pay more and that net-contributions would be unbalanced as a matter of policy. This approach finally came to an end with the Fontainebleau agreement. Even though UK was poor at the time, PM Thatcher didn't want more EU spending for the UK but, to the contrary, a cap on EU spending and a rebate for the UK contribution. This completely changed the debate.

After the UK rebate the most pressing problem became the discrepancies in the member states' net-contributions to the budget. This was not a problem of the poor (who had negative net-contributions anyways) but of the rich (who made positive net-contributions). The result were a) tighter caps on general spending (the budget was taken over by the ministers of finance – agriculture, etc. lost control), b) a general reduction of redistributive spending (Eastern enlargement did not come with a large increase in regional funds (Streeck and Elsässer 2016) yet Eastern enlargement triggered the increase in the number of MS receiving a rebate from two [UK, D] to five [UK, D, NL, AT, S]), c) a focus on stable spending programs (like agriculture) rather than volatile ones (R&D), and d) rebates/ lumpsums for the rich.

These trends are borne out in ideal-typical fashion by the (failed) MFF negotiations in February 2020 (shortly before the Covid pandemic took off). Most importantly from a DI perspective, the rebates were retained even though the UK, whose rebate had provided the anchor for the system of abatement for the other MS, was no longer a member. In other words, the system of abatements had liberated itself from its original cause. Also, the system was democratized – almost every MS now receives a (small) lump-sum, i.e. DI is the norm rather than the exception. It should be noted, however, that most of the envisaged provisions are expressly limited to the period of the MFF under negotiation. This may suggest the existence of a learning process: as the UK rebates (and the rebates on rebates) show, vague and non-time-bound provisions benefitting few members in a system working by unanimity make policy change almost impossible. In comparison, temporary measures bound to the multiannual financial framework, especially in view of phasing out corrections entirely, seem more promising.

"From poor to rich"

In the 1960s and 1970s the concern was that poor member states should not pay too much. Over time, the problem became that the rich should not pay too much.

Related is the drift from principles of equality (as enshrined in the Fontainebleau principle) to bargaining power. As an expert on the EU budget we interviewed suggested, there is no procedure for calling for a rebate but rebates are decided in rather free-floating intergovernmental debate. This increases the leverage of net-payers who can more credibly threaten to veto a budget/MFF than net-recipients.

From temporary (instrumental) to permanent (constitutional) DI

As anticipated in the introduction, major trends of differentiation in the process of EU integration can be divided into two main kinds (Schimmelfennig and Winzen 2014, 355). On the one hand, ‘Instrumental differentiation’ has its origins in the enlargement rounds of the EU (‘widening’). It is motivated by efficiency and distributional concerns. Usually after an enlargement old Member States exclude new ones temporarily from policy areas and/or they grant new Members temporary exemptions to give them more time to adapt to EU rules and market pressures. Instrumental differentiation has three features: it is transitional, it has to do with the extension of market freedoms, and it is typical for the relatively poor southern and eastern states. On the other hand, ‘constitutional differentiation’ is motivated by concerns about national sovereignty and identity, translated into resistance to supranational centralization.

In the context of the EU budget, some analogies are possible. From the case study emerges that, on the one hand, all enlargement rounds (apart from Bulgaria and Romania) were accompanied by some kind of differentiation in the form of temporary money reductions or reimbursements. These reduction were usually bound to the initial costs of adapting to the internal market. The transitional and instrumental features of these exemptions make them resemble to what Schimmelfennig and Winzen label “instrumental Differentiation”. On the other hand, we might see the exemptions granted to the UK, Germany, Netherlands, Austria and Sweden as a form of “constitutional” DI, as they derive from political, rather than instrumental considerations, and they have they been nearly impossible to eliminate once introduced.

Conclusions

While DI is traditionally moved by vertical differences between member states, In the case of the budget, it is the pursuit of horizontal equity among member states that brings to the negotiation of differentiated arrangements for specific countries (Genschel and Jachtenfuchs 2016).

In the pursuit of such equity, different principles seem to have guided the discourse on sovereignty DI in budgetary affairs at different points of its historical evolution. At first, member states and the Commission attempted to pursue a genuine own resource principle, according to which the EU budget is a supranational capacity independent of the member states. Under this principle, budgetary DI makes little sense because the member states are not (in theory) directly involved in funding the EU budget and, hence, there can be neither sovereignty nor instrumental reasons for DI. This principle, however, was largely an ideology that animated much of the discussion on the 1970 own resource decision, the direct elections of the EP, etc. In fact, the funding of the EU budget was always based on national contributions. This contribution-based funding mode suggested an intergovernmental perspective on the budget which considered national governments as payers and beneficiaries and compared their relative position.

With the UK’s entry, the Fontainebleau principle was introduced: according to this (intergovernmental) principle the net balance of a Member State should rise (fall) with its relative prosperity (poverty): Rich member states should pay for poor member states. While formally established only in 1984, this principle guided the compensation for Italy in the 1960s and the UK rebate discussion in the 1970s. Given the relative poverty of these countries, full contributions appeared unfair, and perhaps also inefficient, because they prevented these countries from investing in convergence with the rest of Europe.

Finally, the “Juste retour” principle emerged, after the UK obtained its rebate, according to which national net-contributions should be close to balance. More specifically, it implies that rich member states have to be protected from high net-contributions in order to keep them interested in the EU and integration. While this principle was never formally adopted in the treaties, it dominated the Own Resources Decisions for decades, and seemed to guide much of the debate on secondary (rebate on the rebate) compensation for Germany, and later also other member states. Today, it seems to have crowded out the Fontainebleau principle to a large extent.

Regardless the principle, the total volume of compensations seems to be overall quite small (1 percent of annual revenue), where the only compensation of significant size seems to have been the British rebate (figures 10, 11 and 12). This may suggests that DI is not just about material benefits for the government (saving money) but also about political symbolism for domestic mass politics. This is also in line with both Denmark´s insistence in 2013 to get the same benefit as Sweden and with the broad scope of lump-sum compensation for the new plastic waste own resource 2021. Sums are negligible, but everybody gets them.

Finally, these compensations take place through two main instruments i.e. either through a reduction of contributions (for instance through a reduced VAT call rate) or/and through a lump-sum compensation payment. Sometimes, member states get both at the same time (for instance Austria). It might be worth asking whether the difference between these DI instruments is relevant politically and in policy terms, and which factors govern the choice of instrument.

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CASE STUDY 4: DIFFERENTIATED INTEGRATION IN JUSTICE AND HOME AFFAIRS

Introduction

As part of WP5, a new conceptualisation of Core State Powers has been provided, based on the distinction between what actor(s) regulate(s) a policy area and, in turn, who owns the resources necessary to implement it. In the latest deliverable, a preliminary analysis of the new EDUDIFF-RES dataset has shown how legal, or "formal" Differentiated Integration (DI) may differ from "material" DI[16]. Especially in the area of Justice and Home Affairs (JHA), it seems that opting-outs states are keen to contribute with staff and money to the exercise of different policies such as border management through Frontex and police cooperation through Europol. In this case study, we zoom-into JHA in order to disentangle the differences between formal opt-outs and material contributions in one specific area of core state powers over time.

In particular, the present case study seeks to map how national and supranational public resources are mobilized in this sovereignty-sensitive policy field. After an overview of formal DI in the Schengen regime, the paper examines who regulates the mobilisation of financial, human or technical resources (intergovernmental, joint or supranational regulation) and which countries (EU member states, opt-out countries and associated countries) are involved. The term "Regulation" refers to who decides upon the utilisation of such resources. Specifically, resources can be regulated, respectively:

- by the members states **(Intergovernmental)**
- by the institution itself/ by the EU **(Supranational)**
- by the member states and the EU/the institution **(Joint)**

The case study also contains detailed data on who has the ownership over the mobilised resources (national, co-owned or supranational resources) and which countries contribute to it. It allows us to map whether non-EU member states and EU opt-out countries participate in the regulation or the contribution of resources. The term "**Ownership**" refers to who is the owner of the resources. Specifically, resources can be owned, respectively:

- by the member states **(National)**
- by the institution itself/ by the EU **(Supranational)**
- by the member states and the EU/the institution **(Co-owned)**

Data includes both operational as well as financial support measures in the field of JHA that involve the mobilisation of public resources (money, people and equipment) for public purposes and cover areas related to asylum, borders and policing. European Border and Coast Guard Agency (Frontex), the European Asylum Support Office (EASO) and The European Union Agency for Law Enforcement Cooperation (Europol) provide reports on the number and days of staff and equipment deployed per year and member state for operational support. These figures offer a detailed insight into the composition of resources and the contribution of member states, opt-out countries and Schengen associated countries.

16 Please refer to Deliverable D.5.4.

The differentiated Integration of Schengen

The establishment of "Schengenland", the abolition of internal border controls in the EU, is not only "one of the major and most visible achievements of European integration" (Carrera 2019, 1), but also a prime example of the integration of CSP and differentiated integration. The UK and Ireland negotiated opt-outs from the common borders regime, new member states are subject to temporary exemption clauses, while non-member states like Norway, Iceland and Switzerland joined in. Hence, the Schengen regime itself combines internal, external and temporary differentiation (Rittberger, Leuffen, and Schimmelfennig 2014, 4).

Schengen was established as a form of international cooperation outside of the legal framework of the EC in 1985 by a minority of member states (Benelux countries, Germany and France). By forging ahead and creating a 'laboratory for European integration', the integrationist Schengen states sought to convince the laggards, which at that time were not willing to participate, to join the border-free area at a later point. The Schengen Implementation Agreement of 1990, which established the flanking measures that compensate for the abolition of internal border checks, included club goods, excludable network goods and public goods. The former two typically fuel strong centripetal dynamics. In fact, despite the sovereignty-sensitive nature of JHA, horizontal differentiation decreased over time and the Schengen Regime grew quickly beyond the borders of the EC. Eventually, it was fully incorporated into the EU acquis. However, the benefits of joining a club-good were not sufficient to change the ideational cost-benefit calculations of the most sceptical EC member states, notably the UK. They objected the multi-speed vision of Schengen, which suggests that differentiation is only temporarily and will eventually converge to a uniform 'ever closer union'. The permanent nature of DI in this area became evident when the UK and Ireland negotiated opt-outs from the border-free Schengen zone and its flanking policies, when it was incorporated into the framework of the EU with the Amsterdam Treaty (Cullen 1995; Jensen and Slapin 2010, 22; Koenig 2015).

According to Rittberger et al. (2014, 18f.) "internal differentiation" is best explained by post-functionalist dynamics, which highlights the politicized nature of the 'Schengen' policies and hence the constraining power of Euro-scepticism for the course of integration. The integration of core state powers, such as border controls, migration and policing are identity- and sovereignty sensitive policies that carry a high potential for domestic politicisation. When balancing between collective problem solving and national autonomy, member states calculate both economic and ideational costs and benefits of a European integration step. As core state powers are highly politicised, ideational costs might dominate and carry a greater weight and "the importance of economic interests, as sole determinants of state preferences, is likely to decline" (Jachtenfuchs and Kasack 2017, 604). Hence, postfunctionalism expects "to see a downward pressure on the level and scope of integration (Marks and Hooghe 2009, 21) Likewise, the likelihood for internal differentiation increases as "euro-sceptic member states, which garner strong identity concerns, tend to seek opt-outs from the integration of core state powers" (Rittberger, Leuffen, and Schimmelfennig 2014, 10).

The negative integration step that abolished internal borders, necessitated positive integration steps (Gehring 1998) to flank the Schengen regime through measures in the area of asylum, visa, borders and migration, such as the Dublin Rules and the establishment of Frontex to strengthen the common external borders.

These Schengen related measures show a high degree of external and internal differentiation. Clearly, differentiated integration often follows logic of path dependency because it puts "states on two different paths, however, sunk costs and endogenous interdependence may propel states onto divergent integration trajectories and increase the costs of changing path" (Schimmelfennig

and Winzen 2019, 1180). The Danish opt-out, for instance, obliges Denmark to opt in to measures ‘building upon Schengen’ but prevents it from participating in other measures not immediately related to the Schengen border regime. However, in certain instances, Denmark nevertheless wanted to join; In the case of Europol, Denmark recently accepted to be bound by the decisions and the authority of the agency, contributing human and financial resources, while not having any voting rights on the matter in the management board. Hence, we observe that the differentiation with regard to the regulation of a policy and its financial and human resources does not inevitably match with the actual contribution and therefore the ownership over those resources mobilised for a public purpose. The British and Irish opt-outs are more flexible and allow an opt-in in certain cases. Hence, going beyond the broader treaty based opt-outs, internal differentiation at the policy level does not necessarily follow the patterns of the formal Schengen opt-out of Ireland and the UK. The latter for instance sought to opt in certain JHA measures, even accepting an observer status without voting rights in the management board of agencies, while contributing voluntarily to the human resources and technical equipment as in the case of Frontex. Surprisingly, the opt-out countries opted into many measures that involve the mobilization of national resources or the establishment of supranational resources.

Before examining patterns of differentiation in the regulation and mobilisation of resources in the Schengen regime and its related policies, the next section provides a brief overview over the formal opt-outs applying to the UK, Ireland and Denmark enjoy.

UK & Ireland´s selective opt-ins

By the time when the Schengen acquis was integrated into the Amsterdam treaty, the UK and Ireland were the only EU member states that had not joined the border regime. In the case of the United Kingdom, ideational costs in terms of national security, sovereignty and identity concerns were (and still are) dominating the decision-making process, because the “symbolism of Britain still being in charge of its borders was deemed essential in British domestic politics” (Gamble 2010, 106). In particular, the British expressed their unease to lift borders not only for EC citizens, but also for third country nationals, which, according to the British interpretation, do not fall under the free movement of persons (Nanz 1995, 31, 45).Hence, due to the public’s comparatively strong national identity and strong concerns regarding immigration, giving up control over its national borders was not up for debate (Gamble 2010, 105; Rittberger, Leuffen, and Schimmelfennig 2014, 18)[17].

Besides that, the UK perceived to be less dependent on finding an agreement, because as an ‘island state’ with a naturally isolated geographic location, it does not share any land borders with any other EC member state but Ireland (Cullen 1995, 84; Rittberger, Leuffen, and Schimmelfennig 2014, 18). Hence, a common argument was, that by joining Schengen, it would lose its comparative advantage regarding border policies that are inherent in being an ‘island nation’, because the latter, as argued, facilitates border checks as they are limited to only a few entrance points at sea and air ports (Cullen 1995, 84f.; Gaisbauer 2013, 191; Wiener 2000, 5). With the Republic of Ireland, the only country the UK shares a land border with, it shares a Common Travel Area, which enabled a borderless crossing between the Republic of Ireland and Northern Ireland. If the Republic of Ireland decided to join the Schengen agreement unilaterally, this would imply the reintroduction of border checks between Ireland and UK. As a consequence, Ireland would have not only threatened the Common Travel Area with the UK, but also the still very instable peace process at its borders. The Irish decision not to join an EU-wide passport union was probably the “most involuntary opt-out” (Sion 2004, 13), because the cost-benefits calculations would have otherwise mostly likely pointed

17 That the perceived security threat inherent in abolishing internal border controls dominated the British decision-making process, and outweighed economic benefits is subsumed very clearly in the ‘Bruges Speech’ in 1988 of then Prime Minister Margaret Thatcher: “of course, we want to make it easier for goods to pass through frontiers. Of course, we must make it easier for people to travel throughout the Community. But it is a matter of plain common sense that we cannot totally abolish frontier controls if we are also to protect our citizens from crime and stop the movement of drugs, of terrorists and of illegal immigrants” (Thatcher 1988).

towards joining Schengen: “The Irish, until recently, have been enthusiastic members, seeing European integration as a way to build state capacity, using European cohesion funds to strengthen Irish identity and the Irish economy. Ireland was seen as strongly pro- European, and one of the main beneficiaries from the EU” (Gamble 2010, 99). Hence, because Ireland was already member of another club, the common travel area with the UK that refused to join the EC-project, Ireland was not capable to join the passport union. For functional reasons, it was bound to the decision of the UK (Cullen 1995, 87f.; Kölliker 2001, 144, 2003, 79; Rittberger, Leuffen, and Schimmelfennig 2014, 14).

Both the UK and Ireland negotiated opt-outs in an “à la Carte” fashion. First, their opt-out regarding border controls allows them to uphold their common travel area, which means that they can check any person entering their territories from other member states (Peers 2011, 74). Second, the opt-out enshrined in the ‘Title V Protocol’[18], initially attached to the Amsterdam Treaty and later extended by the Treaty of Lisbon, applies to immigration, asylum and civil law, and since Lisbon also includes criminal law and policing. Both countries have the option to opt-in by announcing their participation three months after the initial proposal is introduced by the Commission. If the Council finds itself unable to reach an agreement due to the position of either the UK or Ireland, they can decide to exclude the blocking state and continue the negotiations without them. The UK and Ireland can still decide to enter the agreement after it has been adopted by the rest of the member states (Peers 2011, 74). Third, the Schengen Protocol stipulates that the UK and Ireland have the option to opt-into parts of the Schengen related measures on a case-by-case basis, if all other member states in the Council approve their participation unanimously (Peers 2011, 79f.). Hence, within those limitations, both opt-out countries received the permission to ‘cherry-pick’: they can choose those measures that suit their interests best, while abstaining from those that increase their economic or ideational costs. The ability to choose ‘the best of both worlds’, as Tony Blair famously described the UK’s selective participation, increased the differentiation of differentiated integration within the Schengen Regime and changed the character of differentiation to one of Multi-menu Differentiation, meaning that the participating states vary from policy to policy, rather than a multi-tier integration. Contrary to the UK’s reading of the Schengen Protocol, the Court ruled[19] that ‘cherry-picking’ is limited to criminal law and policing provisions of Schengen and controls of irregular migration. Excluded are areas that relate to visas, border controls or the freedom to travel, when they are “sufficiently linked to the control of external borders” (Peers 2011, 81). Hence, internal differentiation is not necessarily caused by the UK’s unwillingness to participate but rather by the Court and the Council’s unwillingness to consent to the British participation: the UK found itself excluded from Frontex, measures on biometric passports and access to the data from the visa information system (Costello and Hancox 2014, 7).

Denmark: a de-facto obligation to opt-in

Denmark, on the contrary, is member of Schengen, but negotiated an opt-out that exempts it from certain areas of JHA. The Danish opt-out derives not from a general disapproval to cooperate on JHA matters, but rather its opposition to move JHA matters from the intergovernmental third pillar to the supranational first pillar with the Treaty of Amsterdam (Peers 2011, 85). Legislation falling under the scope of JHA is not binding for Denmark, unless they are building upon Schengen. In that case, Denmark has six months to decide and communicate whether it wants to apply the measure within its national law. De-facto, however, Denmark is obliged to do so as otherwise, the member states and Denmark ‘will consider appropriate measures to be taken’[20], without any specifications what these measures would entail. However, according to Peers (2016b, 34), these measures had never been applied, as Denmark has consistently implemented all necessary measures building upon Schengen. Hence, Denmark is bound to Schengen related measures by intergovernmental

18 Since the Treaty of Lisbon referred to as ‘the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice’.

19 Case 77/05 - United Kingdom v Council, 2007 ECR I-11459

20 Protocol on the position of Denmark, Article 5(2) (OJ 1997 C 340/102), later Article 4(2) (OJ 2008 C 115/300 and OJ 2012 C 326/299).

agreements, which it concludes with the other member states that participate in a measure after the adoption. Besides the de-facto obligation to opt-in to certain Schengen-related measures, the Danish opt-outs are much more rigid than those of the 'Island states' (Koenig 2015): unlike the latter, Denmark has a full opt-out and therefore not the option to opt-in. The attempt by the Danish government to make the Danish opt-outs more flexible, similar to the British and Irish model, failed when the Danish citizens voted against this option in a referendum ([21]) (Peers 2011, 85ff.). Denmark is exempted from most legislation on asylum and migration (Peers 2011, 312), Civil Cooperation (Peers 2011, 618), and Criminal Law and Policing and Security regulations adopted after the Lisbon Treaty unless they are building upon the Schengen acquis (Peers 2011, 674, 878).

Operational support measures

Frontex, EASO and Europol are decentralised EU Agencies, which are established to offer operational support to member states in the area of JHA. These agencies are governed by a management board that consists of representatives of the member states and the Commission. Hence, the resources employed by the agencies are regulated jointly. As the human and technical resources stem from both the national and supranational level, bust most of the funding comes from the common EU budget, we talk of supranational resources, except from Europol (see below).

Both internal and external differentiation in the regulation of resources are observable. Interestingly, most member states enjoying an opt-out, as well as Schengen associated countries, joined or sought to join the agencies, even though it involves the commitment of financial, human or technical resources. If full membership was not possible, they accepted to participate with no or limited voting rights in the management board, but contributing or even committing to contribute financial or human resources. Striking is Denmark in the case of Europol. Since 2017, Denmark is bound by the decisions and the authority of the agency just like the other full members, but does not have any voting right in the management board. Similarly, the UK and Ireland made a request to join Frontex (Smith 2006), which was rejected by the Council and the Commission. Under observer status, it does not have any voting rights in the management board, but it contributes to the operations by sending human resources and technical equipment.

Table 15. Regulation and Commitment of Associated and Opt-out Countries

Regulation **Commitment**	**No voting rights (Observer status)**	**Limited voting rights**	**Full voting rights**
Not bound; no contribution	Denmark in EASO		
Cooperation; voluntary contribution	Schengen Associated Countries in EASO; Frontex and Ireland in the UK		
Bound by the authority of the agency; contribution	Denmark in Europol (post Lisbon)	UK and IRE In EASO Schengen Associated Countries in Frontex	Denmark in Frontex

21 See for further details section 2.1.

The following sub-chapters outline in detail how the mobilisation of resources is regulated and whose resources are mobilised in different areas of JHA.

Europol: EU Agency for Law Enforcement Cooperation

The EU's law enforcement body Europol, headquartered in The Hague, was set up initially as the European Drugs Unit in 1995, preceded by the European Policy Office Convention in 1999 and reformed to an EU Agency in 2009. In 1995, "member states were not ready to transfer authority to a supranational entity. Europol was therefore created as an intergovernmental body, outside the Community legal framework" (Groenleer 2009, 284) by an international Convention, which came into effect in October 1998 after it was ratified by the national parliaments (Peers 2007). In 1999 it became operational and assumed the work of the European Drugs Unit, "which since 1994 had been in operation without any formal constitution or powers" (House of Commons 2008, 12). Amendments to the Convention necessitated the agreement of additional protocols, which again required the ratification according to national rules, mostly of the national parliaments (Peers 2007). Given the time-consuming procedure to amend the powers and broaden the scope of Europol, the Convention was replaced by a Council Decision (2009/371/JHA) in 2009 and was converted into an agency of the EU (Groenleer 2009, 279ff.; House of Commons 2008, 12f.; Tebaldi and Calaresu 2013, 7).

The Agency's key task is to support the EU member states in their fight against serious and organised forms of cross-border crime such as terrorism, drug trafficking, cybercrime and trafficking in human beings, by facilitating and improving information exchange and cooperation between the competent national authorities in the area of law enforcement. It does so by producing evidence through gathering and analysing information that is subsequently made available to policy authorities in the member states. Hence, Europol does not hold any executive powers, as "the application of coercive measures shall be the exclusive responsibility of the competent national authorities."(Article 88(3) TFEU). However, it can participate in joint investigation teams and request national authorities to begin investigations in a certain matter.

Regulation

Until 2009, Europol´s management board consisted of one representative of each Member State and was chaired by the country holding the Council Presidency. The Commission was represented on the board as well, however, without voting right, as "member states have been reluctant to grant the European Commission a role with regard to Europol" (Groenleer 2009, 300). Either the JHA Council or the management board decided on implementing measures by unanimity. The Council appointed Europol's Director unanimously (Groenleer 2009, 283; Peers 2007). Hence, the regulation of Europol was intergovernmental. Given that the participating countries in Europol corresponded with the then 15 EU member states, Europol was neither internally nor externally differentiated.

With the Council Decision of 6 April 2009 establishing the European Police Office (Europol), Europol become a fully-fledged EU agency. Through this reform, the representative of the European Commission gained voting rights on the Management Board. Additionally, qualified majority voting in the Council and two-thirds majority voting in the management board with regard to implementing measures replaced unanimity in both the Council and the Management Board (EUROPOL 2016, 35ff.; Groenleer 2009, 384; Peers 2007). Hence, when the Council Decision replaced the intergovernmental Europol Convention, Europol became jointly regulated by the national and supranational level. In spite of this change, Internal differentiation did not occur until quite recently. In fact, to align the framework of Europol with the requirements of the Treaty of Lisbon, that abolishes the pillar structure and puts police cooperation under the "community method", a new regulation (2016/794) for Europol was proposed. As Denmark is exempted from JHA cooperation when QMV applies, this change forced

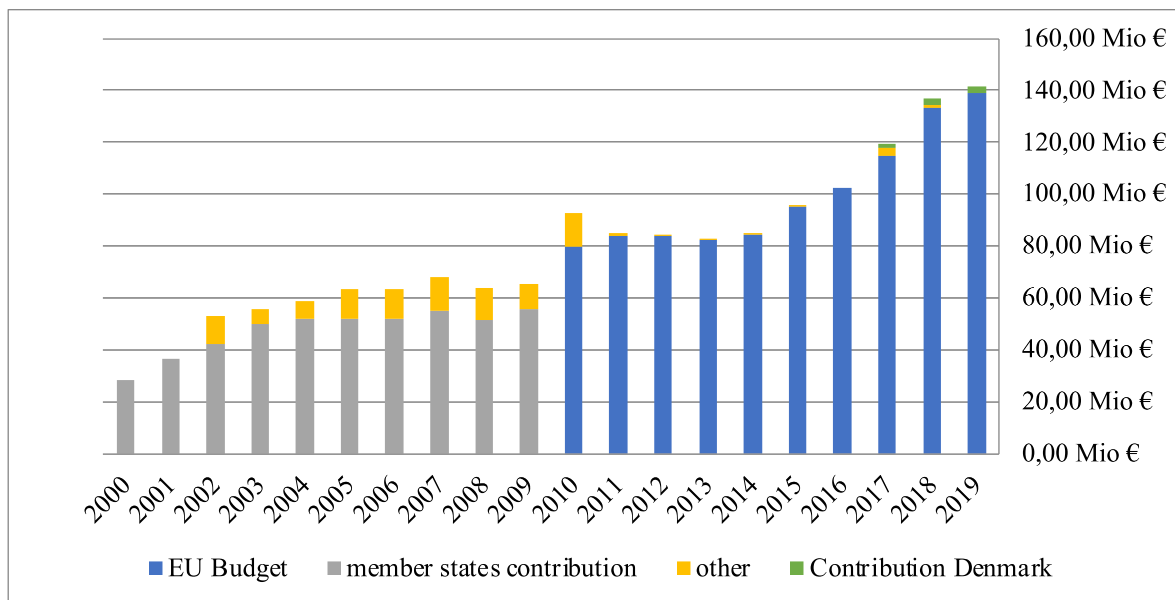
Denmark out of Europol. In spite of the Danish government´s attempt to convert the full opt-out from EU cooperation on JHA into an opt-out similar to that held by the UK and Ireland, Denmark had to give up its Europol membership as 53% Danish electorate refused to approve this change through a referendum held in 2015 (House of Lords 2018; Ibolya 2015; Lessing 2017, 9). Lessing (2017, 9) observes that "Politicization seems to have outweighed interdependence, pushing for a limited loss of sovereign rights in a policy area traditionally considered as a core competence of the nation-state". As a backup strategy, Denmark sought to negotiate an Operational and Strategic Cooperation Agreement with Europol[22], which still allows close cooperation with the agency and access to its information system (EurActiv 2017; House of Lords 2018). However, in the management board, "Denmark's status is reduced to that of a third country, depriving its government of any decision-making rights in the governing bodies of Europol" (Lessing 2017, 9). At the same time "as opposed to the other third countries, the cooperation agreement with Denmark is legally binding and subject to the remit of the CJEU" (von Ondarza and Borrett 2018, 19). Moreover, Denmark has to transpose certain EU provisions into national law, namely article 28 to 48 of the new Europol regulation, the Directive 2016/680 on the protection of personal data (von Ondarza and Borrett 2018, 19). Therefore, since 2017, the regulation of Europol is internally differentiated.

Resources[23]

Budget

The Europol budget grew steadily since 2000 starting with 28.45 Mio EUR and rising to 138,49 Mio EUR in 2019. The 'other' category plotted in black below includes mostly revenues from proceeds of taxation of Europol staff, interests and outstanding balances of member states arising from the financial year t-2 (two years prior).

Figure 15. Europol Budget 2000-2019

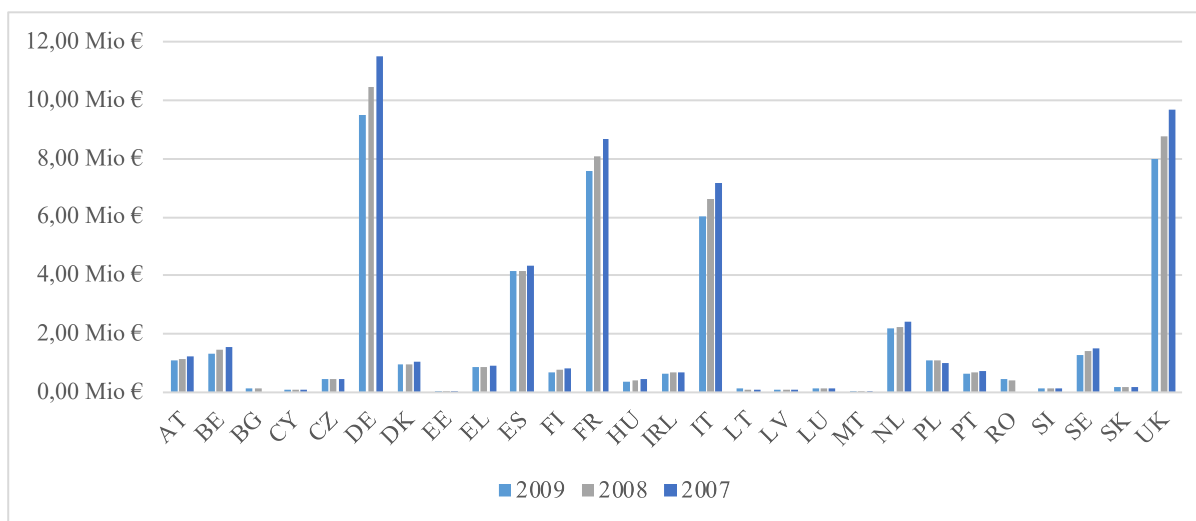


22 Agreement on Operational and Strategic Cooperation between the Kingdom of Denmark and the European Police Office (EUR-POL), 2017. Online: https://www.europol.europa.eu/publications-documents/agreement-operational-and-strategic- cooperation-between-kingdom-of-denmark-and-europol

23 Data on Europol financial and human resources was compiled from Europol Consolidated Annual Activity Reports (https://www.europol.europa.eu/publications-documents/consolidated-annual-activity-reports-caar; https://www.europol.europa.eu/activities-services/main-reports?rt[]=285) and Budget Reports (https://www.europol.europa.eu/publications-documents/europol-budget).

Until 2009, Europol was funded through member states contributions based on a GDP key and, hence, not via the Community budget. After 9/11, the Commission sought to equip Europol with addition funding from the Community budget for certain anti-terrorist activities, which would have "an effect on the intergovernmental status of Europol, as it would make Europol responsible to the Commission and the Parliament" (Groenleer 2009, 289). Member states were wary to lose influence on the office's priorities vis-à-vis the interests of the Commission and Parliament. Consequently, member states rejected the proposal. Also, "in the view of the member states, or at least their police chiefs, any money spent on Europol would not be spent on national police forces, which made Europol a competitor for scarce resources" (Groenleer 2009, 288). Figure 2 below plots the contributions of member states to the Europol Budget based on a GDP key. Accordingly, the largest net contributors to the Europol budget were Germany, the UK, France and Italy.

Figure 16. Europol: contribution of member states to the budget 2007-2009



As indicated in Figure 1 above, since 2010 the Europol budget is no longer financed by member states directly but from the general budget of the EU. Hence, with the Council Decision the Europol budget is now supranational (Dorn 2009, 284; House of Commons 2008, 27). Accordingly, the European Parliament is part of the budgetary authority as well. Since the exit of Denmark from Europol in 2017 and the subsequent operational agreement, Denmark is obliged to contribute each year to the Europol budget directly according to its national GDP (House of Lords 2018; von Ondarza and Borrett 2018, 3). Hence, formerly purely intergovernmental, the budget is now largely supranational with a small intergovernmental contribution of Denmark. Since Denmark is contributing, the internal differentiation of regulation is not mirrored in the ownership of financial resources.However, I have Denmark as receives a compensation for its JHA opt out since 2006[24].

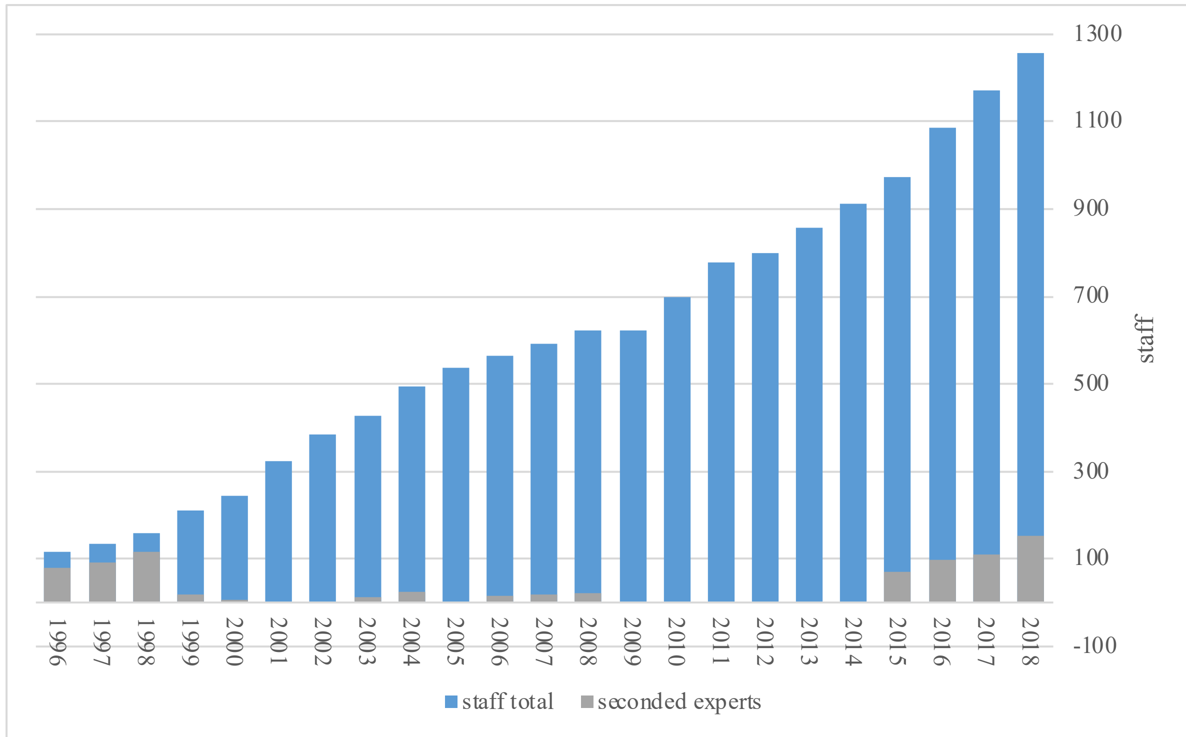
Human Resources

Before the Europol Convention in 1999, the staff of the European Drugs Unit consisted mostly of seconded national experts and liaison officers (see Figure 3 below). Hence, the Director had no influence on the selection of staff (Groenleer 2009, 289). Since 1999, besides seconded national experts and liaison officers, the staff of Europol compromises 'in-house' personnel such as specialists and analysts. Member states as well as cooperating non-EU member states are obliged to establish a national Europol unit (ENU) and assign at least one liaison officer of the competent national authorities to Europol, where every member state has its own office (EUROPOL 2019). Europol does not have any mandate over the liaison officers, which "ensure that the interests of law enforcement

24 At present, we are seeking to understand what exactly this compensation covers.

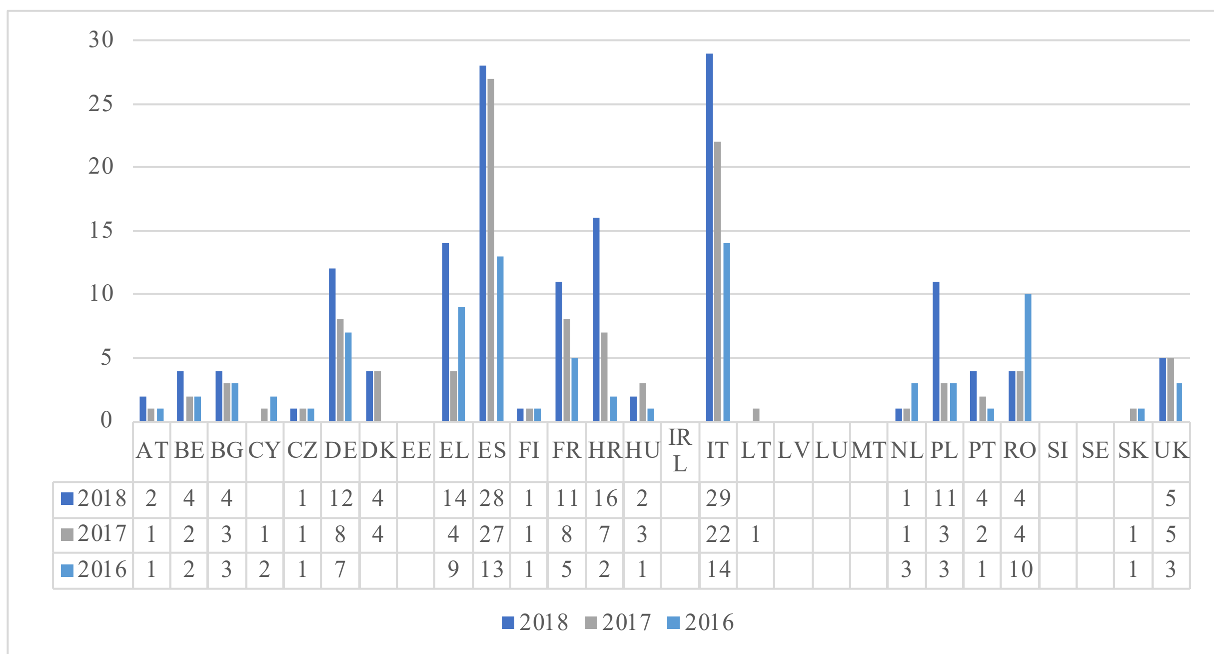
agencies in the EU Member States and non-EU partners are represented in Europol's headquarters" (EUROPOL 2019). Seconded national experts in contrast are not meant to act as a link between Europol and national authorities but are seconded to support the activities of Europol by contributing their expertise in a particular field. They are paid by the national authority, but receive subsistence allowances from Europol.

Figure 17. Europol Staff[25]



Striking are the high numbers of national experts seconded by Italy and Spain to Europol. Also Denmark, even though it cannot participate in Europol as a full-member, continues to second national experts to Europol (see Figure 4 below).

Figure 18. Europol: Seconded National Experts by Member State 2016-2018



	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IRL	IT	LT	LV	LU	MT	NL	PL	PT	RO	SI	SE	SK	UK
2018	2	4	4		1	12	4		14	28	1	11	16	2		29					1	11	4	4				5
2017	1	2	3	1	1	8	4		4	27	1	8	7	3		22	1				1	3	2	4			1	5
2016	1	2	3	2	1	7			9	13	1	5	2	1		14					3	3	1	10			1	3

25 There is no data available on the number of national experts seconded to Europol from 2009-2014.

Conclusion: from intergovernmental regulation of national resources to joint regulation of co-owned resources

Until 2009, Europol belonged to the category of intergovernmental regulation of national resources. Since the Council Decision, Europol can be categorised as a joint regulation of co-owned resources (see table 2 below). Due to the Danish exit from Europol in 2017, the regulation of Europol is internally differentiated. While Danish policy-makers sought to participate in Europol for functional reasons deriving from policy interdependence, the rejection of the government's plan and the following internal differentiation can be best explained by the postfunctionalist hypothesis. However, the citizens' 'No' was linked to the broader Danish opt-out regime, and not specifically to the participation in Europol. In the end, functional arguments incentivized the Danish policy-makers to enter a cooperation agreement with Europol. Unlike cooperation of Europol with other third countries, the cooperation agreement with Denmark is legally binding and Denmark must transpose certain regulations into national law. Additionally, Denmark is obliged to contribute to the budget of Europol. The internal differentiation is reflected in the ownership, as Denmark not only pays through the common budget, but also through additional national quotas. Denmark accepted such a stark asymmetry between regulation and commitment of resources, in order to participate in Europol after all illustrates the importance of functional independence in areas that touch upon internal security.

Table 16. Europol: Modes of Mobilisation and Differentiation

		Regulation	**Resources**
Europol	Modes of Mobilisation	Intergovernmental regulation (until 2009) Joint regulation (since 2009)	National Co-owned
	Differentiation	Before 2017: no differentiation Since 2017: internal: DK exited (participates based on binding agreement; no voting rights)	No differentiation: all ms (including DK) contribute

Frontex: the European Border and Coast Guard Agency

Frontex, established by Regulation 2007/2004 and operational since 2005, is an EU Agency, headquartered in Warsaw and tasked to provide operational and technical assistance to EU Member States in the area of border protection of the external borders of the Schengen area. The Frontex regulation was amended in 2007 by the Regulation 863/2007. It established a Rapid Border Intervention Team (RABITs), in order to provide 'rapid operational assistance for a limited period to a Member State facing a situation of urgent and exceptional pressure' (ibid). The composition of the Border Guard Teams is decided by the management board by two-third majority. Member states decide which border guards they will make available for the RABITs and for how long (European Commission 2007; Peers 2011, 218f.). In response to the Schengen Crisis in 2015, the agency was reformed and renamed to European Border and Coast Guard in 2016 (Gotev 2016). Another amendment was decided upon in 2019 (Regulation 2019/1896).

Regulation

Frontex is governed by a management board, which adopts an annual work programme and therefore defines the strategic direction of the Agency, and an Executive Director. The management board is composed of one representative and one alternate of each Schengen member state, mostly the heads of national border authorities, and two representative of the European Commission. Frontex is characterised by both internal and external differentiation. The Frontex Regulation applies to all member states but the UK and Ireland, which have consequently no vote in the management board. Interestingly, however, internal differentiation is not caused by the unwillingness of the UK and Ireland to participate, but rather by the other member states' decision to exclude them from the Frontex Regulation (Adler-Nissen 2009, 72; Peers 2011, 217, 159). However, the security dimension of Frontex fits the UK's national security agenda, as the agency is seen as "a significant opportunity to demonstrate a tangible UK commitment to supporting EU efforts to strengthen external frontier security and respond to illegal migration" (House of Lords 2008, 33). Hence, the UK objected its exclusion. However, the Court of Justice confirmed, that "the UK cannot expect to participate in border control/enforcement measures which are framed as 'Schengen-building' without adopting the underlying rules on border crossings first" (Costello and Hancox 2014, 2). Thus, UK and Ireland may participate in the meetings of the management board, but do not have voting rights. Interestingly, in the case of Frontex, the associated Schengen states Norway, Switzerland, Iceland and Liechtenstein do have limited voting rights (Peers, Guild, and Tomkin 2012, 148). They can vote on (or even veto) activities to be carried out at their external borders or in close proximity (Peers, Guild, and Tomkin 2012, 148) and list of other decisions related to e.g. training activities or risks analysis. The Danish position is different. According to Article 4 of the Protocol (No 22) on the position of Denmark, annexed to the TEU and the TFEU, Denmark can decide within a period of six months after the Council has decided on a Regulation whether it will implement it in its national law, meaning that Denmark will be bound by the measures as a matter of public international law. Peers (2011, 160) states "that Denmark has consistently applied this option [to opt-in] to measures concerning border controls (and visas)." Denmark also concluded an international agreement with the participating member states of Frontex and is therefore a full member of the management board.

In the case of Frontex, member states and the EU Commission govern Frontex jointly. Due to the exclusion of UK and Ireland and the limited voting rights of the associated member states, Frontex is internally and externally differentiated with regard to its regulation.

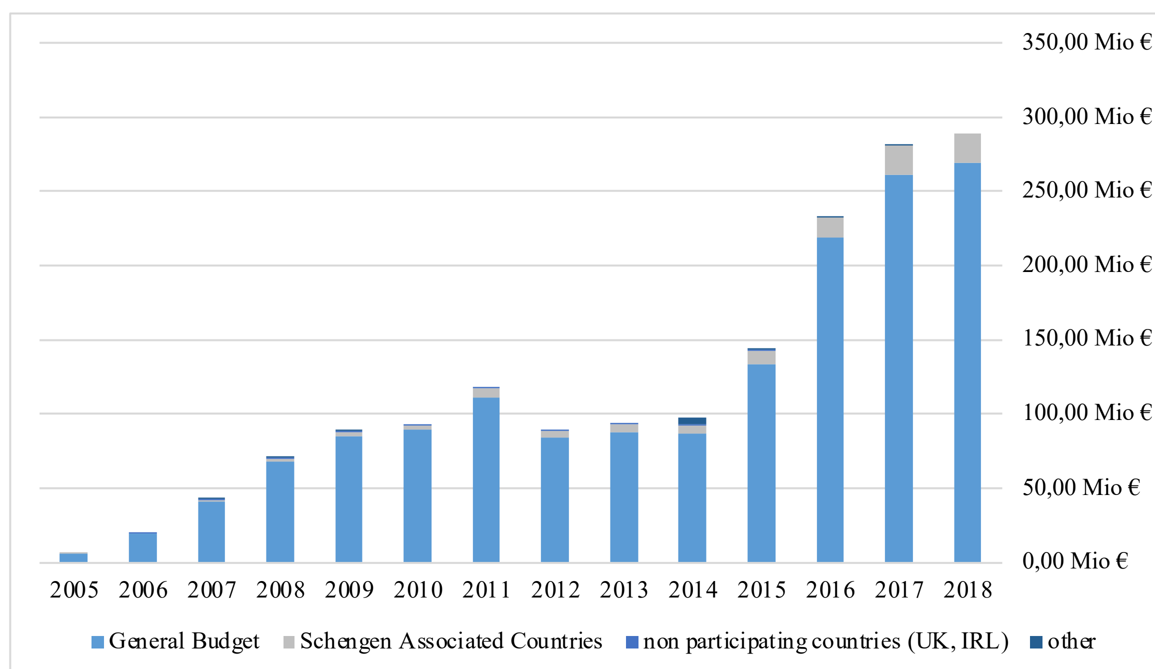
Resources[26]

Budget

Since the Agency's establishment in 2005, the budget grew rapidly from 6 Mio. EUR in 2005 and 88 Mio. EUR in 2009 to 142 Mio. EUR in 2015 (European Commission 2010; Trauner 2016, 317). The reform of 2015 foresees to increase the budget to 322 Mio. EUR in 2020 (see figure 5).

26 Data on Frontex financial, human and technical resources were compiled from Annual Reports on the operational resources (https://frontex.europa.eu/about-frontex/key-documents/?category=ebcgt-tep-report&year) and budget reports (https://frontex.europa.eu/about-frontex/key-documents/?category=budget).

Figure 19. Frontex Budget 2005-2018



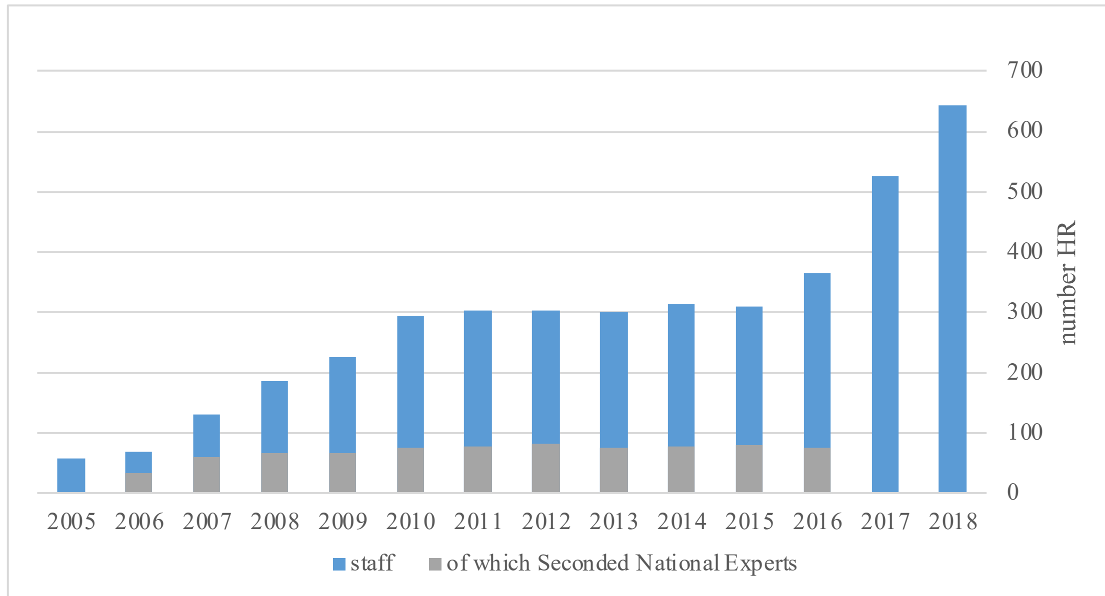
The financial resources of Frontex come from both the national and the European level, with the latter source dominating. The agency's annual budget is adopted by the management board and consists largely of contributions from the EU budget (subsidies from the Community entered in the general budget of the EU), but also from the Associated member states Iceland, Lichtenstein, Norway and Switzerland. In individual years also the non-participating EU member states UK and Ireland contributed to the Agency's budget. However, the UK does "not contribute towards the administrative costs of Frontex, but makes a negotiated annual financial contribution towards the costs of those activities in which they [we] seek to take part" (European Court of Auditors 2015). The annual 500,000 EUR financial contributions by the UK, for example have been entirely reimbursed by Frontex as the contribution of equipment and staff exceeded the financial contribution. Hence, the European Court of Auditors suggested to review the Irish and British financial contributions to Frontex (European Court of Auditors 2015) and as indicated in figure 5 above, no payments have been made since 2016. Instead, the UK decided that "equipment and staff would continue to be supplied on a case-by-case arrangement by the UK, but at 'nil cost to Frontex', replacing the reimbursement mechanism" (Taylor 2017).

Similar to EASO, both national and supranational resources contribute to the Frontex budget, while the latter dominate clearly. Until recently, the non-participating EU member states contributed a yearly payment as well, and given the contribution of associated countries, the monetary resources showed both internal and external differentiation.

Staff

Frontex's staff consists of its own directly employed staff, mostly for administration, risk assessments and the coordination of joint operations, and seconded national experts. Seconded national experts continue to receive the salary from their sending countries (Fink 2018, 33) and are not only deployed for joint operations, but inter alia also for administrative tasks, research and development unit, risk analysis or training. Figure 6 below shows clearly, that similar to the EASO (see section 3), the increase in staff has occurred largely on the side of the 'in-house staff', while the number of seconded national experts remained almost constant, which increases the agencies independence towards the member states.

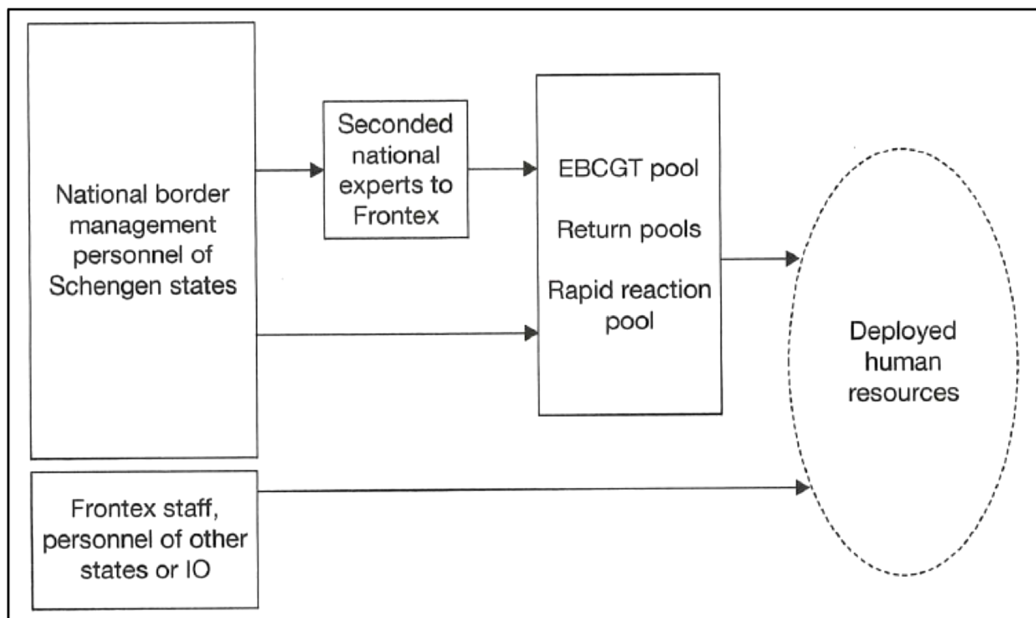
Figure 20. Frontex Staff 2005-2018



Operational human resources

Until the latest reform of Frontex in 2019 (European Parliament 2019), the Agency did not dispose over its own 'in-house' border guards. When it coordinates joint operations, Frontex can not only draw on the national experts seconded by the member states to the agency, but also coordinates experts and border guards made available (voluntarily) directly by the Schengen member states (see table 3 below) (Frontex 2018, 8, 2019b).

Table 17. Frontex: Pooling and depolyment of human resources for Joint Operations



Source: Fink 2018, p. 48

Therefore, Frontex set up three different pools of experts: the ‘standard’ pool of ‘European Border Guard Teams’ (now called the ‘European Border and Coast Guard Teams’), the Return Pools (since 2017), and the Rapid reaction pool (since the RABITs amendment in 2007). For the EBGT and the Return Pool, national authorities register national experts that can be deployed by the agency based on annual bilateral negotiations between the member state and Frontex (see for example Frontex 2018, 36). The rapid reaction pool is part of the EBGT, however, consists of 1,500 officers that can be deployed short notice within five working days (Fink 2018, 49). Figure 7 below shows the contribution of member states and Frontex to joint operations in 2018. It clearly indicates that the Agency is highly dependent on the contribution of national human resources. Frontex directly employed only 91 of the almost 7500 experts, border guards and advisors deployed in 2018. Human resources deployed for joint operations are co-owned.

Figure 21. Frontex: Contribution of staff by member state in number and duration (persons-days) in 2018[27]

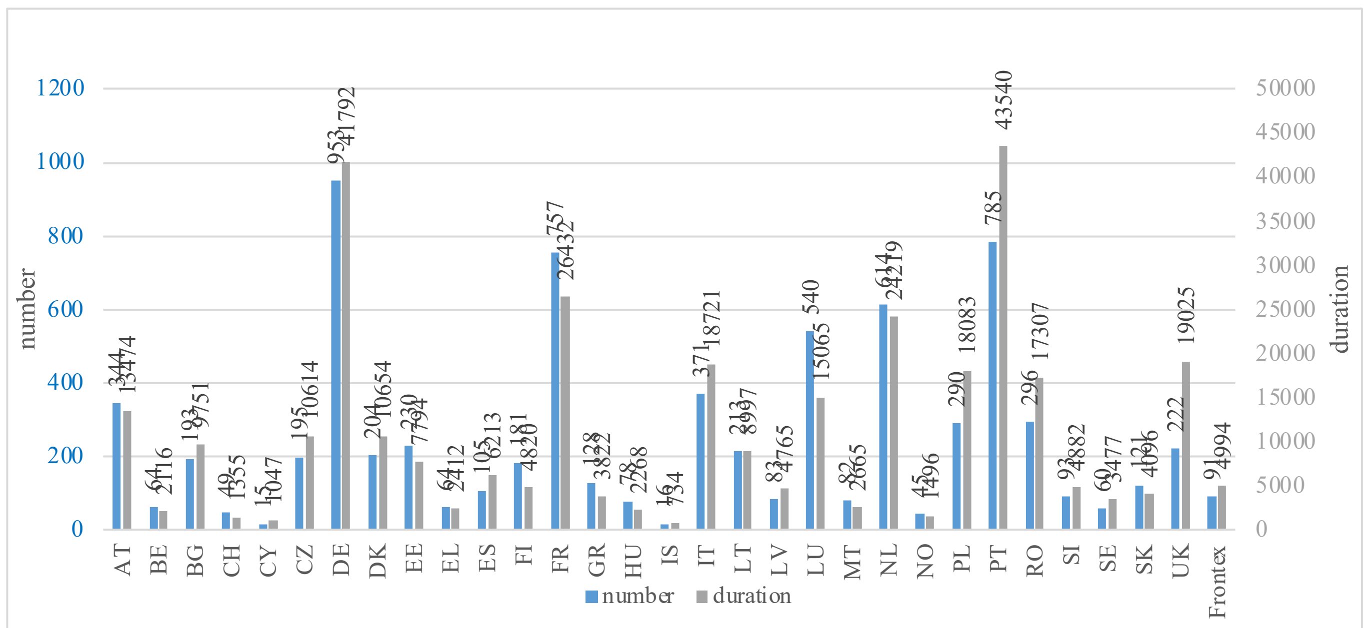
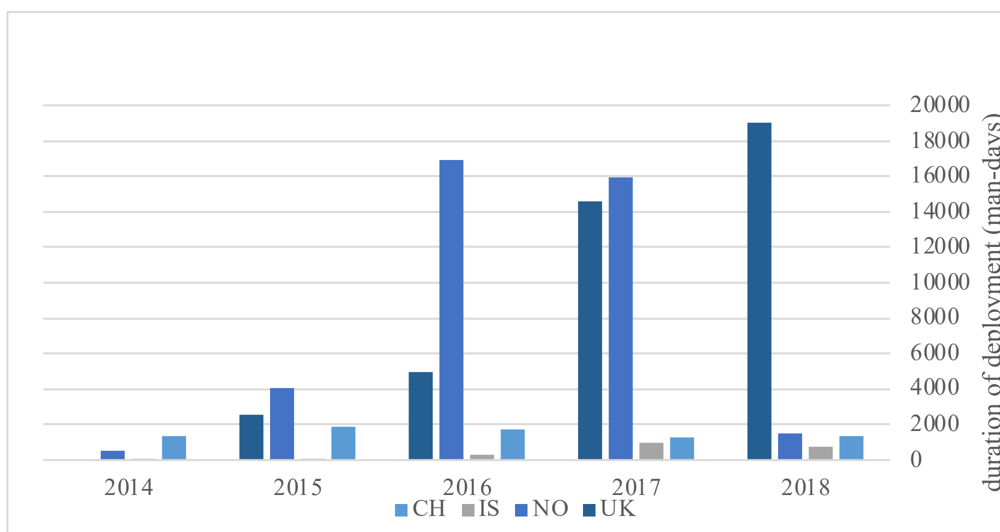


Figure 22 below also shows that both associated member states with limited voting rights as well as non-participating EU member states with no voting rights contribute to the human resources available to Frontex. In 2018, the UK deployed 222 staff members for a duration of 19025 days, which is the fifth longest time among all contributing states, while Ireland is not contributing any resources at all. Hence, the ownership of human resources is internally and externally differentiated.

27 ‘persons-days’ refers to the accumulated working days that the national staff of a member state was deployed to Frontex within the relevant year. Hence, Austria deployed 344 national officers to Frontex. The accumulated working days of all 344 national officers amounts to 13474 man-days. Therefore, on average each national expert of Austria served 39 days.

Figure 22. Frontex: staff (person-days) contributed by Switzerland, Iceland, Norway and UK 2014-20



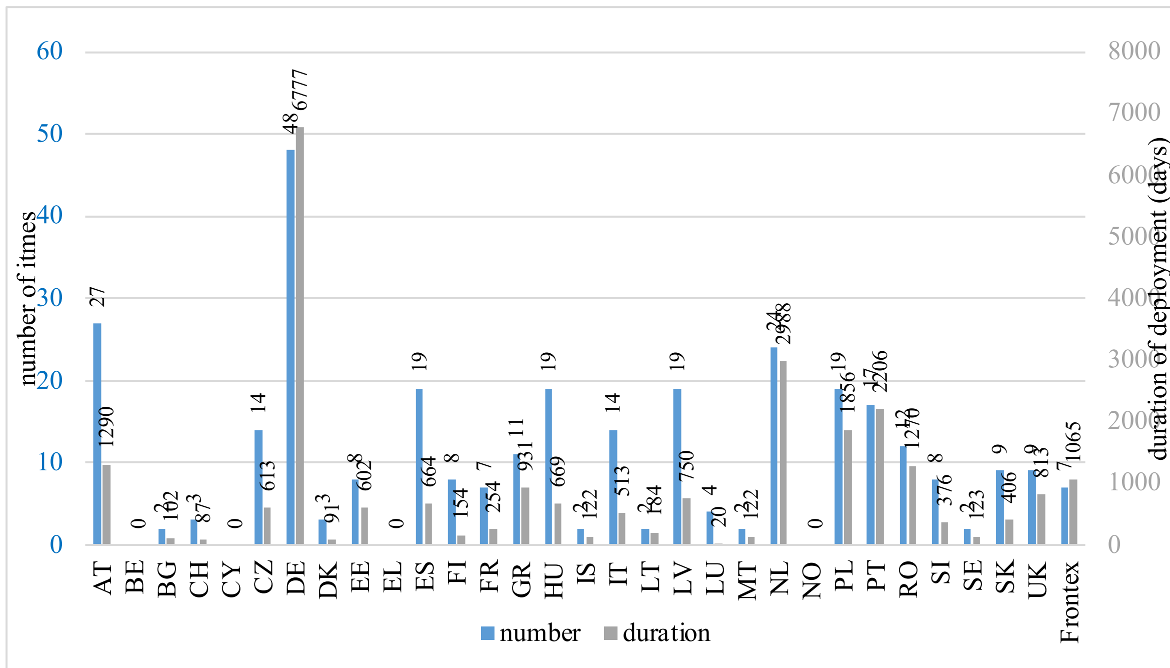
The latest reform in 2019 (Regulation 2019/1896) foresees to gradually establish a standing corps of 10 000 staff by 2027, which not only consists of national border guards seconded on a mandatory basis by the member states, but, for the first time, also of border guards directly employed by Frontex (European Parliament 2019; Frontex 2019a). Hence, the supranational component of co-owned human resources is increased.

Technical equipment

Figure 23 below plots the contribution of technical equipment by member states (overall number of items and accumulated days of deployment). These numbers include heavy equipment (Offshore Patrol Vessels, Coastal Patrol Vessels, Coastal Patrol Boat, Fixed Wing Aircraft, Helicopter) and light equipment (includes Patrol Car, Thermo-Vision Vehicle, Transportation Vehicle); excluded from the figure is portable equipment (CO Detector, Heartbeat Detector, Other equipment for border surveillance).

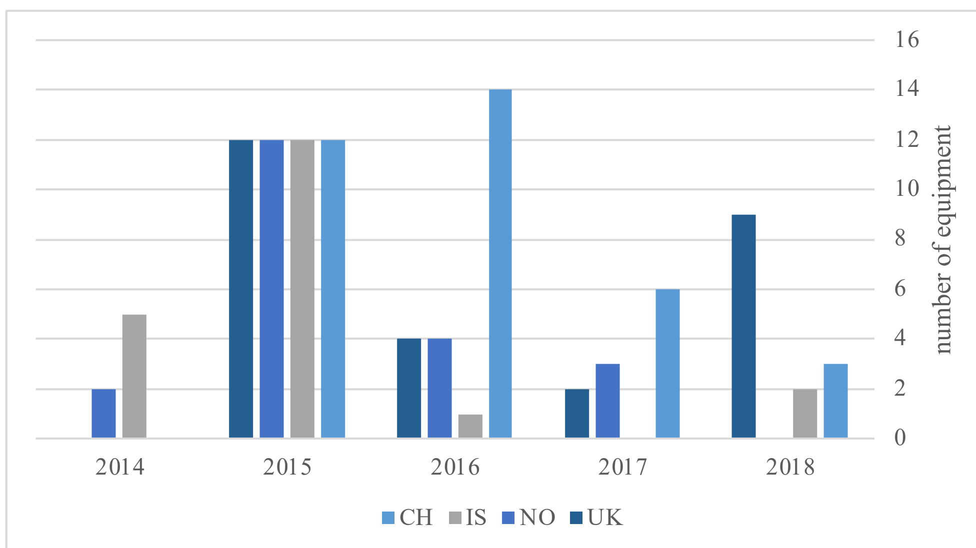
Since 2011, Frontex may acquire its own technical equipment such as vessels and helicopters; however, mostly it is still dependent on deploying the equipment of member states. Only in 2015, it started to purchase its own heavy and light technical equipment. In 2018, it contributed seven Fixed Wing Aircrafts to the joint operations. Other than that it mostly owns portable equipment such as infra-red cameras or Night Vision Goggles, which are not included in the figure 9 below (see Frontex 2018, 52). Interestingly, Frontex and member states can also co-own equipment which means in this context that not only both national and supranational resources are pooled for joint operations, but that Frontex can actually purchase equipment together with another member state (European Commission 2016).

Figure 23. Frontex: Contribution of heavy and light equipment by member state (number and duration in days) in 2018



Hence, also technical equipment comes from both the national and supranational level and is therefore co-owned. Also, the contribution is internally and externally differentiated. Again, both the Schengen associated countries with limited voting rights as well as the UK as a non-participating member state without voting rights in the management board, contribute heavy and light technical equipment to Frontex. Figure 10 below shows that the contribution varies between countries and years. While the UK did not contribute any equipment in 2014, it contributed in total nine Coastal Patrol Vessels and Boats for 813 days.

Figure 24. Frontex: Number of heavy and light equipment contributed per year by Switzerland, Iceland, Norway and the UK 2014-2018



Conclusion: joint regulation of co-owned resources

Although human resources and some technical equipment are co-owned, the budget is fully supranational and represents the most relevant source of financing for the agency. Like Europol after 2010, Frontex is another example of joint regulation of supranational resources. A main shortcoming of Frontex, the voluntary contribution of equipment and staff by the member states, is addressed by the recent reforms. First, the supranational human and technical resources will increase dramatically in the upcoming years. Secondly, similar to EASO, the authority with which the joint regulation of Frontex can dispose over the national component of the co-owned capacity (both human and technical resources) is strengthened by the reform.

The internal differentiation in the regulation of Frontex is based on the exclusion of the UK and Ireland. The Commission, the Court and the Council were unwilling to agree to the UK's participation request. The British incentive to seek participation in Frontex can be best explained by the conformity of Frontex's purpose with the government's overall security agenda. Hence, attempts of securitization can lead to positive integration outcomes.

Table 18. Frontex: Modes of Mobilisation and Differentiation

		Regulation	Resources
Frontex	Modes of Mobilisation	Joint regulation	Supranational
	Internal Differentiation	UK and IRE are excluded (no agreement, no voting rights)	Internal: IRE does not contribute; UK does on a case-by-case-basis
	External differentiation	Schengen Associated Countries (binding agreement; limited voting rights)	Schengen Associated Countries contribute

EASO: European Asylum Support Office

The European Asylum Support Office (EASO), based in Valetta, Malta, was set up in 2010 as an agency of the EU to contribute to an improved implementation of the Common European Asylum System (CEAS). It offers practical and technical support to the national asylum authorities of member states and training for national asylum officers (Peers 2016a, 313). The regulation establishing EASO (No 439/2010) is based on Article 74 and Article 78(1) and (2) TFEU. A reform that foresees to transform EASO into the European Union Agency for Asylum (EUAA) is currently under way (Rojo 2018; Schneider and Graff 2018).

Regulation

Similar to Frontex, EASO is governed by a management board consisting of one representative of each member state and two representatives of the Commission and an Executive Director. The task of the management board is the adoption of an annual work programme and the appointment of the Executive Director. The UK and Ireland executed their 'opt-in right' with regard to EASO and are therefore full members of the management board (Comte 2010, 390). Only if the management board votes on an issue that "relates exclusively to an asylum instrument of the Union by which they are not bound" (Art. 28.4), both states have no voting rights. As Denmark has a complete opt-out without an 'opt-in right', it also remains formally outside of EASO, but sought to be associated to the agency. Though, as an EU member state, it did not want to be treated as an Associate member state. Art. 48 of the Regulation therefore specifies that "the Support Office shall facilitate operational cooperation

with Denmark, including the exchange of information and best practices in matters covered by its activities". Accordingly, Denmark is not a member of the management board and has no voting rights, but a Danish representative is invited to the management board meetings (Comte 2010, 391). Similarly, also the Schengen Associate countries have an observer status in the management board. The agreement for the participation of Norway in EASO entered into force in 2014, those for Switzerland and Liechtenstein in 2016 (EASO 2017, 58)

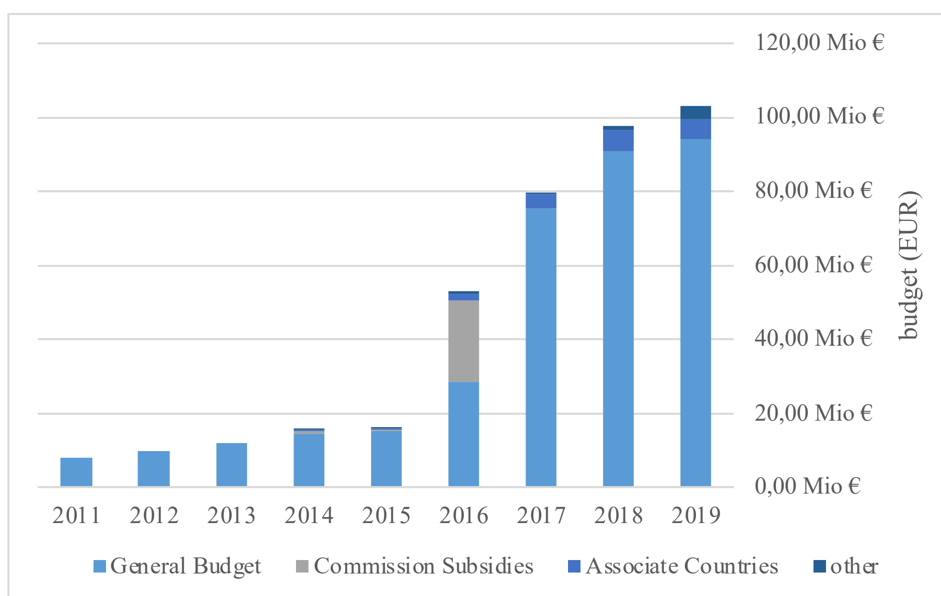
With the management board consisting of representatives of the member states and the EU Commission, we can speak of a joint regulation, which is internally differentiated due to the rigid Danish JHA opt-out.

Resources[28]

Budget

EASO is largely financed by the EU budget, supplemented by contributions of associate countries and at times by contributions of Commission Subsidies. Compared to Frontex, the resources of EASO are much smaller (Trauner 2016, 317). Starting with a budget of 8 Mio. EUR in 2011, it grew steadily to 15,5 Mio. EUR in 2015 and experienced a sharp increase during the Schengen Crisis. The budget for 2016, initially set at 19,4 Mio. EUR, was amended four times and eventually set at 53 Mio. EUR. Almost 21,7 Mio. EUR came from Commission Subsidies, such as the Emergency Assistance – Asylum, Migration, integration Fund (DG Home). The associate countries contribute to the annual budget of EASO. The contribution is calculated in accordance with its Gross Domestic Product (GDP) as a percentage of the GDP of all participating States (EASO 2017, 58). Overall, the budget is largely of supranational ownership (see Figure 11 below), and externally differentiated due to the contributions of associated countries.

Figure 25. EASO Budget 2011-2019

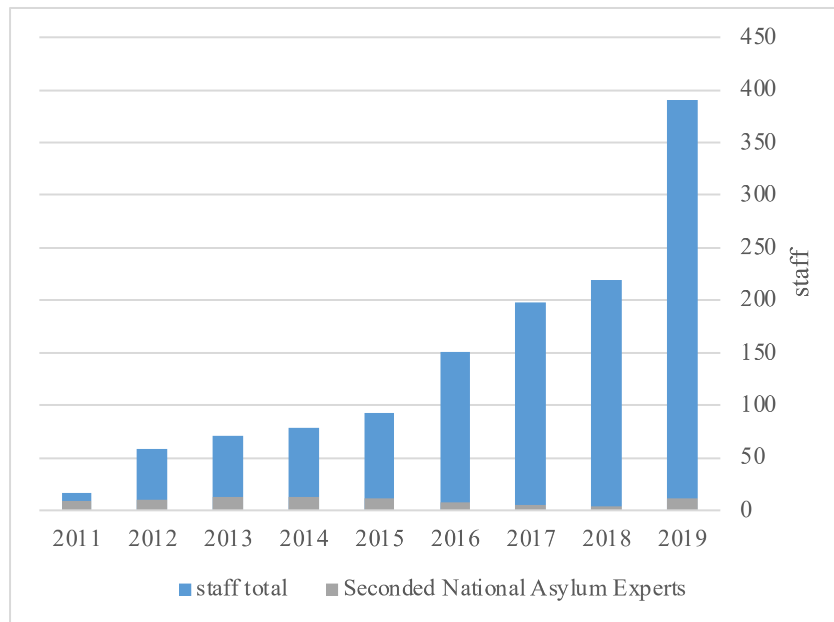


28 Data on EASO financial and human resources was compiled from EASO Annual Activity Reports and Budget Reports (https://www.easo.europa.eu/about-us/governance-documents); missing data on seconded national staff was requested from EASO.

Human Resources

The human resources of EASO experienced incremental growth between 2011 and 2015, and a sharp increase during the Schengen Crisis (see figure 12). Staff numbers have more than doubled between 2015 (93 filled full-time positions) and 2018 (219 positions). For 2019, 390 positions are authorised and for 2020 the Commission plans to increase the staff to 500 (Schneider and Graff 2018). Figure 12 below depicts the relative contribution of member states' resources in the form of seconded national experts to EASO compared to the contribution of supranational resources. It shows clearly that the human resources are largely supranational, with a very small contribution of member states. Over the years, only the staff directly employed by EASO increased, while the member states' contribution in the form of seconded national asylum experts stagnated. However, the human resources are not indicated as the absolute numbers of employees and national asylum experts but as equivalent to a full-time position.

Figure 26. EASO Staff



The internal differentiation of the regulation of EASO is also reflected in the contribution of human resources, as Denmark generally does not second national asylum experts[29] However, in general the secondment of national staff to EASO is very small compared to other agencies as indicated in table 5 below. Unfortunately, numbers from EASO could only be obtained for 2016-2019.

29 E-mail correspondence with EASO.

Table 19. EASO: Seconded National Experts by member state 2016-2019

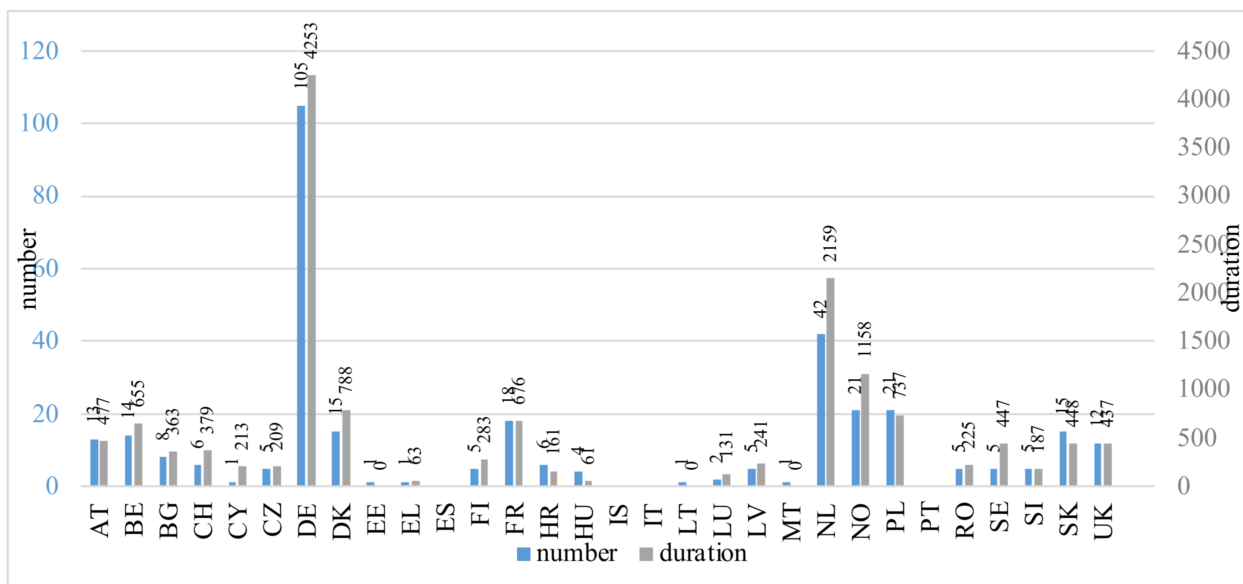
Nationality	2016	2017	2018	2019	Total
BE	1				1
BG	1				1
CZ				1	1
DE				2	2
EL	1	1	1	2	5
ES	1	1	1		3
NL	1	1	1	2	5
PT	1			1	2
SI				1	1
SK	1	1			2
Total	7	4	3	9	23

Operational human resources

For most of its support and training EASO deploys its own staff. Another central activity of EASO is to provide operational support for member states, whose asylum and reception systems are under disproportionate pressure. For this purpose, EASO can deploy special asylum support teams consisting of experts of member states. However, member states are not obliged to provide the staff, but they make their national experts available voluntarily.

Hence, besides the seconded national experts, who are under the authority of EASO, member states also deploy national experts for operational support (to differentiate them from the seconded national experts, I call them “deployed national experts”). While Denmark does not second national experts to EASO, it does participate in special asylum support teams by deploying national experts (15 in 2019). An HR staff member of EASO noted that “due to continuous shortages in nominations and deployments by Member States, EASO has increasingly deployed temporary agency workers (locally recruited interims) to its operations. At present MS experts represent only 13% of all deployed experts“ (Email Correspondence with EASO).

Figure 27. EASO: Deployed National Experts by Member States in Number and Duration (days) in 2019



Again, the degree to which the jointly regulated management board can actually dispose over the national component of the co-owned resources is very much limited, as the contribution of national staff is voluntary. Similar to the reform of Frontex, the Commission's reform plan for EASO foresees to establish an asylum intervention pool, which sets up a reserve pool of 500 national experts that the Agency can dispose of immediately and freely. Hence, again, the mandate of the joint regulation over the national component of the co-owned resources (national asylum experts) will be strengthened, as member states are obliged to make a certain number of experts available to the Agency (Schneider and Graff 2018).

Conclusion: joint regulation of supranational resources

As the management board consists of representatives of the member states and the EU Commission, we can speak of a joint regulation. Due to the opt-out of Denmark, the joint regulation is internally differentiated. Even though the contribution of national human resources in the form of seconded and deployed national experts is relatively small, we can speak of co-owned resources. Only very recently does Denmark deploy (but not second) national asylum experts via EASO. Hence, also the contribution of resources is internally differentiated. With associated countries contributing in the form of national asylum experts and payments to the budget, we also observe external differentiation. Currently, the jointly regulated management board cannot freely dispose over the national component of the co-owned resources.

Table 20. EASO: Modes of Mobilisation and Differentiation

		Regulation	Resources
EASO	Modes of Mobilisation	joint regulation	Co-owned
	Internal Differentiation	DK does not participate (no agreement; no voting rights)	Internal: DK does not contribute (but deploys staff)
	External Differentiation	Schengen Associated Countries participate (binding agreement; no voting rights)	Schengen Associated Countries contribute

Financial support measures

The Maastricht Treaty provided that operational spending on JHA should be funded intergovernmentally by the member states, unless the Council agrees by unanimity to use the EU budget (Peers 2016a, 335). The first but marginal JHA funds were established during the Maastricht period. These were managed directly by the Commission, meaning that the Commission implemented and monitored the expenditure of the financial resources. However, the annual work programme, drafted by the Commission, had to be approved unanimously by a Committee, consisting of one representative from each Member State. Hence, the funds were regulated intergovernmentally. Most of the funds co-financed national or transnational projects, meaning that only around 60% of the actual costs of the programmes were covered by the fund. National public resources had to finance the remaining costs. Therefore, we can speak of co-owned financial resources, as the mobilisation of supranational resources necessitated the mobilisation of national public or private financial resources. The following JHA Funds, all established before 1999, can be classified as intergovernmental regulation of co-owned financial resources:

- 'Sherlock' Programme on identity documents (OJ 1996 L 287/7)

- ‘Odysseus’ Programme for training, exchanges and cooperation in the field of asylum, immigration and crossing of external borders (OJ 1998 L 99/2)
- ‘STOP’ programme on combating sexual exploitation (OJ 1996 L 322/7)
- ‘Oisin’ programme on support for law enforcement (OJ 1997 L 7/5)
- ‘Falcone’ programme on combating international organized crime (OJ 1998 L 99/8)
- ‘Grotius’ programme for legal practitioners (OJ 1996 L 287/3)

The Amsterdam Treaty facilitated the establishment of JHA funds. Using the EU budget for funds became the standard, unless the Council decided otherwise with a unanimous vote (Peers 2016a, 335). Also, Articles 3 to 7 of Decision 1999/468/EC regulated the decision-making regarding the Commission’s implementing powers and distinguishes between advisory, managing and regulatory procedures[30]. Most funds require the Committees to adopt the Commission’s annual work programmes according to the managing procedure, which determines a qualified majority in the Committee to adopt the programme. Hence, funds adopted since 1999 are regulated jointly. These include the following funds:

- ‘Argo Programme’ supporting national spending on asylum, immigration, visa and borders (OJ 2002 L 161/11), which replaced the Odysseus Programme mentioned above;
- ‘Hippocrates’ for crime prevention (OJ 2001 L 186/11);
- ‘Grotius II’ for criminal matters (OJ 2001 L 186/1);
- ‘STOP II’ (OJ 2001 L 186/7);
- ‘Oisin II’ (OJ 2001 L 186/4);

The latter four programmes, together with the Falcone Programme were subsumed into the ‘AGIS’ programme (OJ 2002 L 203/5) on police and judicial co-operation in criminal matters, which ran from 2003 to 2006. The latter was replaced in 2007 by the following three funds:

- Terrorism & other Security-related Risks (CIPS)
- Prevention of and Fight against Crime (ISEC)
- And the Criminal Justice Support Programme (JPEN);

The European Refugee Fund, established in 2000, was the first fund in the area of JHA that relied on both ‘shared management’ and ‘direct management’ , which are two different EU budget management types to distribute financial resources[31]. First, under what is known as ‘shared management’[32], each member state drafts an annual work programme that outlines which projects the member state seeks to support financially over the year. The programme is subsequently scrutinised and pre-approved by the Commission. Again, the financial resources distributed under shared management are meant to co-finance national projects; hence, the supranational budget covers only 50-75 per cent of the programme’s overall costs, while the remaining costs have to be financed by national public or private funding (European Commission 2014a, 224). Hence, we can categorise funds under ‘shared management’ as joint regulation of co-owned resources.

30 The decision has been repealed in 2011 by Regulation 182/2011, which lays down the scope of functions for committees that mostly assist the Commission.

31 A third means to manage funds is ‘indirect management’ by delegation to third parties such as EU Agencies.

32 Since the Treaty of Lisbon, ‚Shared management‘ is referred to in the Treaty, which states that ‘the Commission shall implement the budget on its own responsibility in cooperation with the Member States’ and that ‘Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with the principles of sound financial management’ (Art. 317 TFEU). Before that, ‚shared management‘ was regulated in secondary legislation (European Commission 2014a, 224).

Second, the remaining budget of the fund that is not under 'shared management' is directly managed by the Commission through Union Actions. The Commission drafts an annual work programme, which requires the majority of the Committee for approval (European Commission 2014a, 223). Funds under 'direct management' can be categorised as joint regulation of supranational resources.

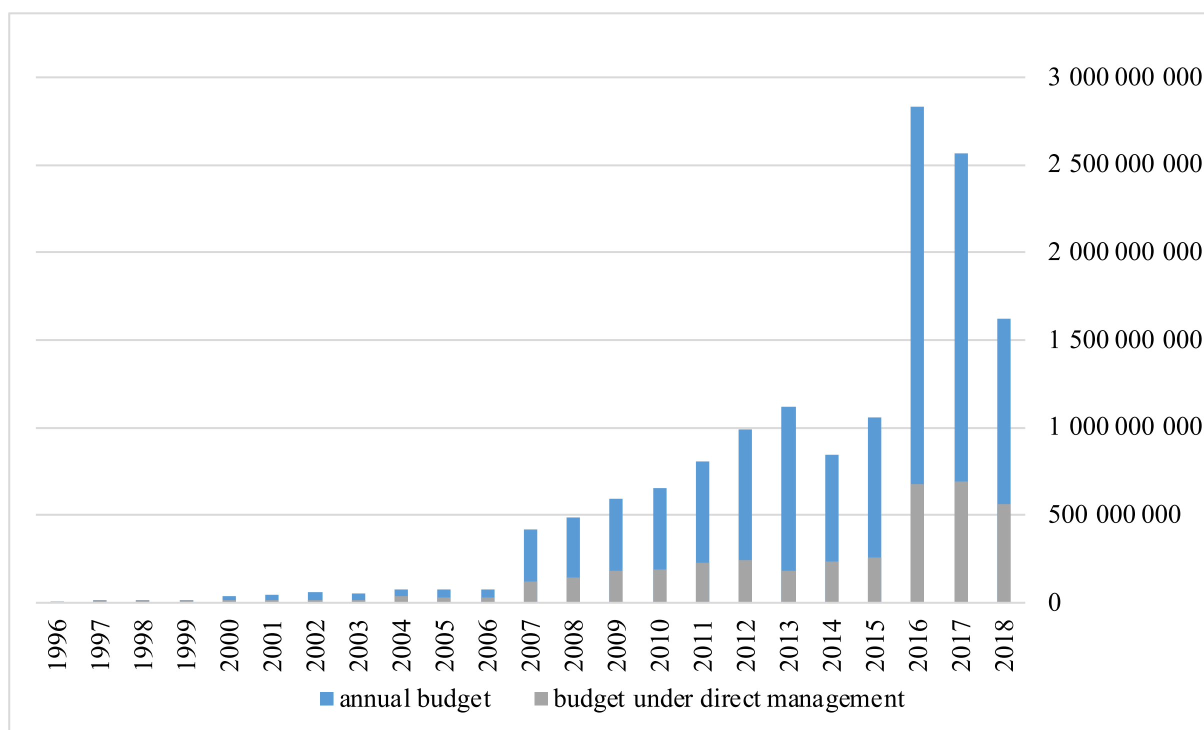
Hence, the distribution of the financial resources of one and the same fund can follow two different management logics, as parts of the fund are under shared management and require national co-financing (joint regulation of co-owned resources), while the other part is under direct management by the Commission (joint regulation of supranational resources).

Table 21. JHA Funds: Modes of Mobilisation

Regulation **Capacity**	**Intergovernmental**	**Joint**	**Supranational**
National			
Co-owned	Funds established before Amsterdam (unanimity in the Committee for Commission's annual work programme; mostly co-financing of national projects)	Funds since 1999 (qualified majority in the committee, co-financing national projects); National programmes under shared management (approval of national programmes by Commission; co-funding of national projects of around 50-75% by EU budget)	
European		Union Actions under direct management of Commission (requires qualified majority in the Committee)	

With the overall budget for JHA funding increasing steadily, sharing the responsibility to distribute the financial resources with the member states has become more common. Since 2007 all funds in the area of migration, return and borders are partially under shared management and since 2014 also all funds related to policing and internal security (see Annex I). The majority of the financial resources of those funds are under shared management (between 95 to 62 per cent of the overall fund's budget allocations). While overall fewer funds are exclusively managed by the Commission alone, we can still observe that in recent years the share of budget allocated to direct management through Union Actions increased (see Figure 14 below). For example, the multi-annual framework of the first European Refugee Fund from 2000 to 2004 devoted only 5 per cent of the overall fund's budget to Union Actions, while the current Asylum, Migration and Integration Fund increased the share to 12 per cent. The Internal Security Fund for Visa, Borders and Police reserves 34 to 38 per cent for direct management.

Figure 28. JHA Funds:Overall annual budget 1996-2018



Funds that are both under shared and direct management, and can therefore be categorised as joint regulation of both co-owned and supranational resources are the following:

- European Refugee Fund (OJ 2000 L 252/12) and successor programmes (OJ 2004 L 381/52; OJ 2007 L 144/1); internally differentiated as DK is excluded;
- European return fund (OJ 2007 L 144/45); internally differentiated: all Member States except DK; UK and IRE opted in
- The European Fund for the Integration of third-country nationals (OJ 2007 L 168/18); internally differentiated: all Member States except DK; UK and IRE opted in;
- Asylum, Migration and Integration Fund (AMIF) (OJ 2014 L 150/168); internally differentiated: all Member States except DK; UK and IRE opted in
- External Borders Fund (OJ 2007 L 144/22); internally and externally differentiated: All Member States and the Schengen associated states from 2010 (Norway, Iceland, Switzerland and Lichtenstein; except the UK and IE;
- Asylum, Migration and Integration Fund (AMIF); internal differentiation: all Member States except DK; UK and IRE opted in
- Internal Security Fund: Borders; internally and externally differentiated: all Member States and the Schengen associated states CH, IS, LI, NO; except IRE and UK
- Internal Security Fund: Police; internally differentiated: all Member States except DK and UK; IRE opted-in;
- Funds concerning criminal and civil justice remain fully under the direct management of the Commission through Union Actions:
- 'Grotius II' for civic matters (OJ 2001 L43/1)

- General framework for activities to facilitate the implementation of judicial
- cooperation in civil matters (OJ 2002 L 115/1); all ms, except DEN; UK and IRE opted-in;
- Revised civil justice programme (JCIV) (OJ 2007 L 257/16); all ms except DK;
- Justice programme; all MS, except DK and UK;

Annex II lists the yearly budget allocations for the funds in Annex I, and the percentage and budget allocations of the budget reserved for direct management of the Commission through Union Actions[33]. The very right column of Annex II, as well as the figure 14 above show the overall annual budget allocated for JHA Funds from 1996 to 2019. The budget grew steadily from around 10 Mio. EUR in 1997 to 74 Mio. EUR and increased sharply to 415 Mio. EUR in the following year. After a brief decrease in 2014, the budget doubled from 1.062 Mio EUR in 2015 to more than 2.500 Mio. EUR following the so-called Schengen Crisis. In 2018, the JHA budget for funds diminished again but is still higher than during pre-crisis times (see figure 14 above).

Internal and external Differentiation

Annex I below maps the above mentioned JHA funds on a timeline stretching from 1996 to 2019. Only in the case of Denmark does the pattern of differentiation also follow the formal Danish JHA opt-out. Due to its rigid opt-out, Denmark is excluded from all JHA funds, unless they are 'building-upon Schengen'. Hence, it does not participate in any funds related to asylum, migration and civil law after the Amsterdam Treaty came into force in 1999, which enshrined the Danish JHA opt-out. Also, the Danish opt-out in Criminal Law and Policing and Security regulations since the Treaty of Lisbon is reflected in the Danish nonparticipation in the Internal Security Fund – Police. On the other hand, Denmark is participating in funds related to external borders, such as the External Borders Fund and the Internal Security Fund – Borders and Visa as they are 'building upon the Schengen acquis'.

In contrast, the UK and Ireland, which cannot opt-into measures 'building upon Schengen', are not participating in the latter two funds related to external borders. However, both member states made use of their opt-in option frequently and participated in almost all other funds. Of the almost 30 funds listed in Annex I, 16 were adopted before the UK and Ireland negotiated their opt-outs for asylum, migration and civil law under the Amsterdam Treaty and for criminal law and policing under the Treaty of Lisbon. Of the remaining funds, only very recently the UK decided to abstain from two funds voluntarily, namely the Internal Security Fund- Police and the Justice Programme. The UK government justified its decision not to opt-into the ISF Police as follows:

> "The decision […] was driven by the substance of the proposal as it currently stands, coupled with the overall need for budgetary constraint in this time of fiscal austerity. The UK sees value in the ISF (Police) Fund supporting practical action on police cooperation and internal security. However, we have on-going concerns about the budgetary elements of the programme, in particular given the obligations that will arise from the arrangements for shared management." (Government of the United Kingdom 2012)

Hence, the fact that the ISF Police is distributed partially under shared management was in this case a reason for the UK not to opt in, as – 'given the obligations that will arise from the arrangements for shared management' - it requires national public or private resources to co-finance projects funded by the ISF Police. The justification of the UK government not to participate in the Justice Programme was very similar, because it was "considered that the benefits for the UK from the programme (in terms of receiving funding for UK organisations to carry out activities under the programme) did not outweigh its costs to the Government" (Government of the United Kingdom 2018).

33 I compiled the data on the JHA funding budget from the final adoptions of the general budget as published in the Official Journal of the European Union and the annual programmes of the individual funding schemes, published in the Official Journal of the European Union as well.

At the same time, the UK opted-into the Asylum Migration and Integration Fund arguing that the past EU funds related to asylum and migration enabled the UK Border Agency to finance resettlement activities. Also, “the current European fund for the integration of third-country nationals has become an important source of funding for third-country nationals seeking to integrate into British society” (Government of the United Kingdom 2012). Ireland only abstained from the ‘Argo’ Programme and opted-into all other funds whenever possible.

The Schengen Associated Countries Norway, Iceland, Switzerland and Lichtenstein participate in funds building upon the Schengen acquis: the Internal Security Fund – Borders and Visa and its predecessor, the External Border Fund. Their cumulated contribution to the latter was 23.417.000 EUR for 2009 and 2010, 16.262.000 EUR for 2011, 21.018.000 EUR for 2012 and 28.971.000 EUR for 2013. Even though they contribute financially to the funds, they do not have a vote in the AMIF ISF Committee and therefore cannot vote on the Union Action annual work Programmes, nor on any other topic voted on in the Committee. This is stated in article 7 of the AMIF ISF Committee’s Rules of Procedure (European Commission 2014b). Hence, in these cases, the contribution of financial resources is externally differentiated, which is, however, not reflected in the regulation of the funds, as associated countries do not have a vote.

Conclusion

The case study exemplifies the importance to study the regulation of core state powers by going beyond the treaty-based differentiation of European integration and taking in account first, the selective opt-ins of opt-out countries and associated countries and second, the commitment of resources by countries. When examining the mobilisation of public resources for public purposes in the Schengen Regime, the case study shows clearly that the differentiation in regulation and ownership does not follow the broader treaty-based opt-out regimes. Instead, comparatively Eurosceptic opt-out countries, such as the UK, Ireland and Denmark seek to opt-into measures that establish financial or operational support measures and which necessitate the mobilisation of national or the creation of European resources. At the same time, the differentiation of regulation does not necessarily match with the differentiation in the contribution of resources. Hence, opt-out countries that are not full members of the management board, do still contribute resources.

In the case of financial support measures, the first funds for JHA matters were established after Maastricht and were regulated intergovernmentally, as unanimity in the Committee for Commission’s annual work programme was required. Later, funds were regulated jointly, as unanimity was replaced by qualified majority in the committee. Today, most funds are regulated jointly, but the resources are partially European Union Actions - and therefore supranationally owned - and partially co-owned, because the application for funding requires co-funding from national public or private resources (see table 7 above). The Danish participation follows the logic of path dependency, as Denmark is only allowed to join those funds that are ‘building upon Schengen’ and deal with the protection of external borders. While the UK and Ireland are excluded from the latter, both member states made use of their opt-in option frequently and participated in almost all other funds, as financial arguments prevail and incentivise the UK and Ireland to join financial burden-sharing mechanisms to finance national policies.

In the case of the agencies, which provide operational support measures, the co-owned resources are regulated jointly. However, the regulation does not involve executive powers and the authority of the agencies over the national component of the co-owned human or technical resources is limited. Hence, the final decision over the deployment of national resources rests with the member states. Since the Schengen Crisis in 2015, we observe a trend towards greater independence of the agencies from the member states’ contribution. First, by seeking to increase the share of European human and technical resources for operations; and second, by strengthening the obligation to contribute national resources.

The differentiation of regulation and ownership over resources differs between agencies (see table 8). The regulation of the agencies' resources are currently all internally differentiated, because either Denmark or the UK and Ireland were not able to participate due to their treaty-based opt-outs. Hence, mostly internal differentiation does not occur because opt-out countries were unwilling to join, but because they were not allowed to join for reasons enshrined in the opt-out protocols. Hence, the UK, Ireland and Denmark sought to participate (or at least cooperate) in measures that they were actually exempted from due to their treaty-based opt-outs. As both Frontex and EASO are 'building upon Schengen', both agencies show external differentiation in their regulation with the Schengen Associated countries entering cooperation agreements.

Table 22. Operational Support: Modes of Mobilisation and Differentiation

		Regulation	Resources
Europol	Modes of Mobilisation	Intergovernmental regulation (until 2009) Joint regulation (since 2009)	Co-owned
	Differentiation	Before 2017: no differentiation Since 2017: internal: DK exited (participates based on binding agreement; no voting rights)	No differentiation: all ms (including DK) contribute
Frontex	Modes of Mobilisation	Joint regulation	Co-owned
	Differentiation	Internal: UK and IRE are excluded (no agreement, no voting rights) External: Schengen Associated Countries (binding agreement; limited voting rights)	Internal: IRE does not contribute; UK does on a case-by-case-basis; External: Schengen Associated Countries contribute
EASO	Modes of Mobilisation	Joint regulation	Co-owned
	Differentiation	Internal: DK does not participate (no agreement; no voting rights) External: Schengen Associated Countries participate (binding agreement; no voting rights)	Internal: DK does not contribute External: Schengen Associated Countries contribute

The findings lead to ask how we could explain such "differentiated differentiation" within the Schengen Regime and its related measures. What incentivizes comparatively Eurosceptic countries to negotiate treaty-based opt-outs, but then decide to opt-into certain measures? While this case study did not strive to give a causal argument of why opt-out countries repeatedly sought to opt-into measures that involve the mobilisation of national resources, the postfunctionalist hypothesis might help to explain the overall decision of eurosceptic countries to negotiate broad treaty-based opt-out protocols for the area of justice and home affairs. However, when it comes to operational cooperation, ideational arguments speak in favour of participation, if the foreseen cooperation does not promote cosmopolitan ideas such as human rights and protection of migrant rights, but rather furthers the securitization of borders, migration and asylum. A similar observation is brought forward by Chebel d'Appollonia (2019) who argues that we observe less internal differentiation in "policy areas related to the resilient framing of immigration (broadly defined) as posing a security threat" (Chebel d'Appollonia 2019, 199). Vice versa, we observe more internal differentiation (hence, non-participation of UK

and/or Ireland) in measures that either harmonise and strengthen the rights and protection of migrants or that are supposed to establish a fair system of responsibility-sharing (especially when it comes to the relocation of asylum seekers). Hence, the securitization of migration, asylum and border carries the potential to enable intergovernmental cooperation, supranational regulations and the mobilisation of national resources for public purposes. It can shift the above-mentioned ideational cost-benefit calculation in favour of cooperation, if the policy under discussion matches the national security agenda. Other measures, however, which do not fit this agenda because they are supposed to fairly relocate asylum seekers or strengthen the rights and protection of migrants, are opposed (Chebel d'Appollonia 2019). In addition, due to the limited executive powers and authority of the agencies over national resources, the sovereignty transfer to the agencies is limited, which helps governments in Eurosceptic member states to justify their participation. One might speculate that the willingness to participate decreases in future, when operational support mechanisms entails the supranational regulation of national resources.

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Annex

Annex I: JHA funding as listed in Peers 2011: p. 123-127; and Peers 2016: p. 61- 64

<table>
<tr><th>Year</th><th colspan="4">Asylum and Migration</th><th>Borders</th><th colspan="3">Third pillar: police and crime</th><th>Civic law</th></tr>
<tr><td>2019
2018
2017
2016
2015
2014</td><td colspan="3">Asylum, Migration and Integration Fund (AMIF); All ms except DK; UK and IRE opted in; joint regulation of European and co-owned resources (shared and direct management);</td><td>Instrument for Emergency Response within the Union; all ms; joint regulation and European resources (direct management);</td><td>Internal Security Fund: Borders; all ms except IE and UK plus the Schengen associated states CH, IS, LI, NO; DEN opted; joint regulation of European and co-owned resources (shared and direct management);</td><td colspan="2">Internal Security Fund: Police; All ms except DK and UK; IRE opted-in; joint regulation of European and co-owned resources (shared and direct management);</td><td colspan="2">Justice Programme; All MS, except DK and UK; joint regulation and European resources (direct management);</td></tr>
<tr><td>2013
2012
2011
2010
2009
2008
2007</td><td>Revised Refugee Fund; all ms except DK; UK and IRE opted in; joint regulation of European and co-owned resources (shared and direct management);</td><td>emergency measures</td><td>European Return Fund; All ms except DK; UK and IRE opted in; joint regulation of European and co-owned resources (shared and direct management);</td><td>The European Fund for the Integration of third-country nationals; All ms except DK; joint regulation of European and co-owned resources (shared and direct management);</td><td>External Borders Fund; All ms plus the Schengen associated states CH, IS, LI, NO; except IE and UK; joint regulation of European and co-owned resources (shared and direct management);</td><td>Terrorism & other Security-related Risks (CIPS); all ms; joint regulation and European resources (direct management);</td><td>Prevention of and Fight against Crime (ISEC); all ms; joint regulation and European resources (direct management);</td><td>Criminal Justice Support Programme (JPEN); all ms; joint regulation and European resources (direct management);</td><td>Revised Civil Justice Programme (JCIV); all ms except DEN; joint regulation and European resources (direct management);</td></tr>
</table>

2006
2005
2004
2003
2002
2001
2000
1999
1998
1997
1996

European Refugee Fund; all ms except DEN; joint regulation of European and co-owned resources (shared and direct management);

European Refugee Fund; all ms except DEN; UK and IRE opted-in; joint regulation of European and co-owned resources (shared and direct management);

short-term asylum funding measures;

'Argo' programme, support national spending on asylum, immigration, visa and borders; all ms except DEN and IRE; UK opted-in; joint regulation of co-owned resources (direct management);

Odysseus Programme for cooperation in the field of asylum, immigration and borders; all ms; intergovernmental regulation and co-owned resources;

Sherlock' Programme on identity documents; all ms; intergovernmental regulation of co-owned resources (direct management);

'AGIS' Programme on police and judicial cooperation in criminal matters; joint regulation of European and co-owned resources (shared and direct management);

'STOP II' all ms; joint regulation of co-owned resources (direct management);

'STOP' Programme on combating sexual exploitation; intergovernmental regulation of co-owned resources (direct management);

'Oisin II'; all ms; joint regulation of co-owned resources (direct management);

'Oisin' programme on support for law enforcement; all ms; intergovernmental regulation of co-owned resources (direct management);

'Falcone' Programme on combating international organized crime; all ms; intergovernmental regulation of co-owned resources (direct management);

Hippocrates' for crime prevention; all ms; joint regulation of co-owned resources (direct management);

Grotius II' for criminal matters of the third pillar; all ms; joint regulation of co-owned resources (direct management);

Judicial Cooperation in Civil Matters; all ms, except DEN; UK and IRE opted-in; joint regulation of co-owned resources (direct management);

Grotius II' for civic matters; supranational regulation of co-owned resources (direct management);

Grotius' Programme for legal practitioners; intergovernmental regulation of co-owned resources (direct management);

Annex II: Annual budget allocations

Year		Asylum and Migration				Borders	Third pillar: police and crime			Civic law	TOTAL
2019	budget	1.118.313.770				335.317.547	135.679.988			43.675.000	1.632.986.305
	% direct m.	12%			100%	34%	38%			100%	21%
	budget direct m.	134.197.652			0	114.007.966	51.558.395			43.675.000	343.439.014
2018	Budget	716.700.000			199.000.000	503.806.000	153.679.988			45.949.000	1.619.134.988
	% direct m.	12%			100%	34%	38%			100%	35%
	budget direct m.	86.004.000			199.000.000	171.294.040	58.398.395			45.949.000	560.645.435
2017	budget	1.617.800.000			198.000.000	403.680.352	292.374.838			52.631.000	2.564.486.190
	% direct m.	12%			100%	34%	38%			100%	27%
	budget direct m.	194.136.000			198.000.000	137.251.320	111.102.438			52.631.000	693.120.758
2016	budget	1.918.000.000			148.500.000	557.653.803	155.555.064			50.250.000	2.829.958.867
	% direct m.	12%			100%	34%	38%			100%	24%
	budget direct m.	230.160.000			148.500.000	189.602.293	59.110.924			50.250.000	677.623.217
2015	budget	620.900.000				252.963.542	139.644.154			48.051.000	1.061.558.696
	% direct m.	12%				34%	38%			100%	25%
	budget direct m.	74.508.000				86.007.604	53.064.779			48.051.000	261.631.383
2014	budget	401.100.000				252.153.194	148.955.846			45.812.000	848.021.040
	% direct m.	12%				34%	38%			100%	28%
	budget direct m.	48.132.000				85.732.086	56.603.221			45.812.000	236.279.307
2013	budget	112.330.000	9.800.000	192.500.000	182.500.000	510.171.000	25.100.000	42.520.000	27.500.000	16.550.000	1.118.971.000
	% direct m.	4,00%	100%	7%	7%	6%	100%	100%	100%	100%	16%
	budget direct m.	4.493.200	9.800.000	13.475.000	12.775.000	30.610.260	25.100.000	42.520.000	27.500.000	16.550.000	182.823.460
2012	budget	102.530.000	9.800.000	162.500.000	162.500.000	370.118.000	23.280.000	117.570.000	26.950.000	16.100.000	991.348.000

	% direct m.	4,00%	100%	7%	7%	6%	100%	100%	100%	100%	24%
	budget direct m.	4.101.200	9.800.000	11.375.000	11.375.000	22.207.080	23.280.000	117.570.000	26.950.000	16.100.000	242.758.280
2011	budget	98.961.975	17.500.000	113.500.000	131.500.000	268.762.000	24.100.000	109.000.000	26.500.000	15.700.000	805.523.975
	% direct m.	4,00%	100%	7%	7%	6%	100%	100%	100%	100%	29%
	budget direct m.	3.958.479	17.500.000	7.945.000	9.205.000	16.125.720	24.100.000	109.000.000	26.500.000	15.700.000	230.034.199
2010	budget	67.500.000	7.800.000	87.500.000	110.500.000	230.917.000	20.420.000	85.880.000	26.000.000	15.500.000	652.017.000
	% direct m.	4,00%	100%	7%	7%	6%	100%	100%	100%	100%	29%
	budget direct m.	2.700.000	7.800.000	6.125.000	7.735.000	13.855.020	20.420.000	85.880.000	26.000.000	15.500.000	186.015.020
2009	budget	97.500.000	9.800.000	66.500.000	97.500.000	185.500.000	19.400.000	72.100.000	30.900.000	15.050.000	594.250.000
	% direct m.	10,00%	100%	7%	7%	6%	100%	100%	100%	100%	30%
	budget direct m.	9.750.000	9.800.000	4.655.000	6.825.000	11.130.000	19.400.000	72.100.000	30.900.000	15.050.000	179.610.000
2008	budget	71.500.000	9.800.000	55.500.000	77.500.000	169.500.000	15.200.000	45.775.000	29.800.000	14.300.000	488.875.000
	% direct m.	10,00%	100%	7%	7%	6%	100%	100%	100%	100%	29%
	budget direct m.	7.150.000	9.800.000	3.885.000	5.425.000	10.170.000	15.200.000	45.775.000	29.800.000	14.300.000	141.505.000
2007	budget	67.130.000		12.500.000	64.900.000	170.000.000	12.700.000	44.656.000	29.200.000	14.100.000	415.186.000
	% direct m.	10,00%		7%	7%	6%	100%	100%	100%	100%	30%
	budget direct m.	6.713.000		875.000	4.543.000	10.200.000	12.700.000	44.656.000	29.200.000	14.100.000	122.987.000
2006	budget	49.632.000		5.200.000			15.783.000			3.753.600	74.368.600
	% direct m.	7%		100%			100%			100%	38%
	budget direct m.	3.474.240		5.200.000			15.783.000			3.753.600	28.210.840
2005	budget	46.452.250		6.200.000			15.745.000			3.750.000	72.147.250
	% direct m.	7%		100%			100%			100%	40%
	budget direct m.	3.251.658		6.200.000			15.745.000			3.750.000	28.946.658

2004	budget	42.271.000	19.800.000	12.270.000					3.000.000	77.341.000
	% direct m.	5%	100%	100%					100%	48%
	budget direct m.	2.113.550	19.800.000	12.270.000					3.000.000	37.183.550
2003	budget	42.271.000	3.000.000	5.300.000					3.000.000	53.571.000
	% direct m.	5%	100%	100%					100%	25%
	budget direct m.	2.113.550	3.000.000	5.300.000					3.000.000	13.413.550
2002	budget	45.081.000	2.972.479	2.000.000	2.000.000	2.000.000	500.000	2.000.000	2.153.460	58.706.939
	% direct m.	5%	100%	100%	100%	100%	100%	100%	100%	27%
	budget direct m.	2.254.050	2.972.479	2.000.000	2.000.000	2.000.000	500.000	2.000.000	2.153.460	15.879.989
2001	budget	34.190.000	3.000.000	2.000.000	2.000.000	2.000.000	500.000	2.000.000	650.000	46.340.000
	% direct m.	5%	100%	100%	100%	100%	100%	100%	100%	30%
	budget direct m.	1.709.500	3.000.000	2.000.000	2.000.000	2.000.000	500.000	2.000.000	650.000	13.859.500
2000	budget	25.280.000	3.000.000	1.500.000	3.000.000	2.000.000		2.000.000		36.780.000
	% direct m.	5%	100%	100%	100%	100%		100%		35%
	budget direct m.	1.264.000	3.000.000	1.500.000	3.000.000	2.000.000		2.000.000		12.764.000
1999	budget	1.500.000	3.000.000	1.500.000	3.000.000	2.000.000		2.000.000		13.000.000
	% direct m.	100%	100%	100%	100%	100%		100%		100%
	budget direct m.	1.500.000	3.000.000	1.500.000	3.000.000	2.000.000		2.000.000		13.000.000
1998	budget	3.750.000	3.000.000	1.500.000	2.500.000	2.000.000		2.000.000		14.750.000
	% direct m.	100%	100%	100%	100%	100%		100%		100%
	budget direct m.	3.750.000	3.000.000	1.500.000	2.500.000	2.000.000		2.000.000		14.750.000
1997	budget	3.750.000	1.000.000	1.500.000	2.500.000			2.000.000		10.750.000
	% direct m.	100%	100%	100%	100%			100%		100%

	budget direct m.	3.750.000	1.000.000	1.500.000	2.500.000			2.000.000	10.750.000
1996	budget			500.000				800.000	1.300.000
	% direct m.			100%				100%	100%
	budget direct m.			500.000				800.000	1.300.000

Direct m. = direct management

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