

## **Crisis, Emotion, And Control: Rethinking Governance And Institutional Responses To Uncertainty**

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### **Abstract:**

*This study explores how fear and uncertainty, particularly during crises, shape states' behavior and governance models. By adopting a naturalistic perspective rooted in natural human responses to fear and uncertainty, this paper uses the European Union as a case study to examine how modes of governance shift during crises compared to periods of relative stability. To explain the European governance, the study proposes the adaptive theory of governance grounded in human nature, analyzing state and institutional reflexivity, behavioral symmetry, fear-driven decision-making, and the dynamics of adaptive behavior. The study includes an empirical section analyzing breaches of European law, specifically the infringement cases initiated by the European Commission between 2007 and 2022 in the areas of justice, fundamental rights, and citizenship, as well as employment, social affairs, and equal opportunities. The results reveal a correlation between peaks in EU law violations and the major crises experienced by the EU. Furthermore, as crisis severity increases, the rate of violations rises accordingly. The study also finds that breaches occur across all member states during periods of crisis and significant change, regardless of the intensity of Eurosceptic discourse.*

**Keywords:** Governance; Adaptive Governance; Fear; Institutional reflexivity; Behavioral symmetry

### **1. Introduction**

Governance, is a process of organizing the society, the act of governing through which are established rules, strategies and new actions that can help society achieve its general purpose. For centuries, we exercised a national model of governance, which grounded in our minds the concept of national interest that stopped at the borders of each country.

The emergence of the EU brought in front of us a new model of social organization and thinking, based on a different set of values and principles, that changed the type of governance we were used to and raised questions regarding the new model.

Proponents of power theories, such as realists, focused their arguments on the dynamics of power, the state vitality in international relations, and the self-centered, survival-oriented human nature (Forde, 1992). Realism explained state behavior until the late 1990s when the rise of the EU, market interconnectivity, and globalization have questioned the role of nation states as the primary actors in international relations. Also, the growing power of non-state actors, increased capital mobility, and realism's inability to "explain the amount, direction or causes of foreign investments" (Dassbach, 1998: 146).

Realism's weaknesses served as a starting point for advocates of liberalism and neoliberalism. The liberals focused on "the self-interested individual, free market, and the self-regulated economics" (Southgate and Bennett, 2016) to explain states behavior. While the neoliberals discussed about the necessity of specific actors, rules, and mechanisms to control market behavior (Ban, 2016).

In terms of human nature and rationality, the liberals focused on democracy, liberty, and equality, supporting individual life and liberty to decide on personal matters. They encouraged individual rights, and supported the rule of law, the separation of powers, the free market, the minimum intervention of the state in the personal life and economic affairs, plurality, and the liberal internationalism (Dworkin, 1998).

Meanwhile, neoliberals argues that individuals must take responsibility for their own economic success, claiming that the pursuit of self-interest leads to better outcomes for society as a whole. While acknowledging individuals as rational and self-interested actors, neoliberals sustain that the state can no longer fulfill its traditional role in a fundamentally transformed international environment.

Although different, these theories agree on one aspect, namely the rational nature of people, from where sprung traits such as selfishness and the pursuit of power. However, these approaches overlook the automatic and irrational responses that also constitute fundamental aspects of human nature. These responses become particularly evident during crises and disasters, prompting a different mode of thinking driven by fear of the unknown and a heightened focus on immediate needs and vulnerabilities, instead of deliberate, rational thought (Paulus David et al., 2022). As a result, existing theories struggle to adequately explain the behavior of nation-states and their governance models during crises or periods of change.

The COVID-19 pandemic and the European response to the war in Ukraine highlighted the limits of existing theories regarding the state's role in international relations. The decisions and resources allocated to tackle health crises at the national level within a highly interconnected system, followed by the delegation of decision-making power to the EU for a unified European response, called into question both states' capacity to make rational decisions during crises and their ability to provide solutions independently in a globalized world.

Middle-range theories, such as European integration theories, have sought to fill up this research gap. However, similar to the broader theories, they rely on the assumption of rational decision-making. Thus, by overlooking the influence of innate human responses, they fail to explain individual and states behavior in complex and unpredictable situations such as crises.

Beyond rational decision-making models, sociological research highlights that experiences of loneliness and social disconnection can intensify perceptions of uncertainty and vulnerability, reshaping how individuals interpret risk and respond to crisis situations. From this perspective, loneliness is not merely an individual psychological state but a socially structured condition that influences cognitive framing, emotional regulation, and trust in institutions. Consequently, heightened experiences of isolation may amplify fear-based reactions and reinforce defensive or adaptive behavioral patterns, which in turn can reverberate at the institutional level through collective attitudes and governance responses (Cioacă, 2025).

With this in mind, the present study focuses on addressing this research gap by proposing a new theoretical perspective on governance, with a specific focus on explaining states' behavior in the context of globalization and crises.

The novelty of this work lies in the introduction of adaptive governance as a theoretical framework and the natural perspective on the decision-making, offering a more comprehensive and dynamic understanding of states behavior during crises and uncertainty.

## **2. Methodology**

The study data was collected between January 1st 2007 and August 1st 2022.

The research begins with historical analysis and process tracing, employed on existing literature to observe the impact of governance habits and new governance challenges on current governance models, and identify causal links between events and states and international organizations' decisions during crises.

To observe and understand social, political, and historical conditions influencing states' behavior during crises we use context analysis. Along with this, we use content analysis for behavioral patterns and decision-making processes, and focus on counting the infringement cases initiated by the European Commission against its member states, and the areas the infringement cases were impacting the most.

Content analysis was used together with comparative and trend analysis, to observe breaches in the EU law across different fields, detect patterns in states' behavior and establish correlations between major crises and EU law violation.

## **3. European integration theories: insights and limitations**

A significant challenge in the European studies lies in explaining the governance model of the EU since the formation of the first European Communities. Scholars have developed various theories to explain EU's decision-making processes. However, these theories often concentrate on governance models during periods of stability or on instances where nation-states shift to national policies in times of crisis but none taking an integrated approach that accounts for both the dynamics of peace and the impact of crises on states' behavior.

One of the first attempts to explain the European model of governance was made by Haas in his neo-functionalist theory, focused on the formation of the European Economic Community. The theory centered on the 'spillover effect,' which he described as a domino effect in which integration in one functional area is likely to lead to integration in others (Haas, 1958: X).

Haas argued that integration and decision-making processes are influenced by both supranational and non-state actors. In his view, the European Commission is a key player in fostering European unity, along with interest groups and organizations or "any collective of individuals organized for joint action" (ibid: XXVIII) that trigger change by putting on the political agenda new topics.

Haas's theory explains the integration process and sequences of the European decision-making, but overlooks the role of the nation states. For this reason, Hoffmann introduced the intergovernmentalist theory that placed at the core of its ideas the nation states. He focused on the collective consciousness, defined as a

national feeling, which makes a group of people distinct and united in relation to others, and the so-called national situation, which is about the inheritance of cultural and identity aspects that shape the attitude of a nation towards the others (Hoffmann, 1966: 867 - 868).

Intergovernmentalism asserts that nation-states remain the primary actors in international relations, and the changes observed after the WWII are about stronger international collaboration, with states at the core of the European Communities' institutions, defending their national interests through alliances.

While the theory may have offered good explanations at that time, it faced limitations in accounting for European governance post-Maastricht Treaty, especially when EU member states began aligning their foreign policies with the Common Foreign and Security Policy (CFSP).

As a result, in 1994, the very father of intergovernmentalism wrote about a different Europe dominated by an identity crisis triggered by the economic integration and the Maastricht Treaty. Although a convinced intergovernmentalist, Hoffmann was surprised by this new Europe that managed to rewrite a totally new model of Franco-German relations (Hoffmann, 1994).

However, the EU member states did not completely or immediately align with the EU's CFSP, particularly between 1990 and 2000. During this period, Germany, Italy, the Netherlands, France, and other EU members, faced numerous accusations of pursuing their own energy interests and following a foreign policy that diverges from the Union's collective stance (Paillard, 2010; Siddi, Karajalainen and Jokela, 2022).

For this reason, in 1993, Moravcsik deepened and revived the intergovernmentalist theory by focusing on national interest and sovereignty, leading to the development of liberal intergovernmentalism. This theory is based on the concepts of rational state behavior, national preference formation, and interstate negotiation. Moravcsik argued that states make rational decisions based on their national goals by maintaining control over the decision-making (Moravcsik, 1993).

Yet, this approach fails in explaining the irrational state decisions during the COVID-19 crisis, as well as the subsequent shift in strategy, including the prioritization of a unified European foreign response to the Ukraine war over national energy interests (European Union, 2022). Additionally, while liberal intergovernmentalism posits that national decisions stem from rational institutional choices (Moravcsik and Schimmelfennig, 2018), it fails to explain states' return back to national politics during economic crises in an interconnected economic system.

To explain the unitary position of the European states in politics Sidjanski proposed a federalist approach and placed the European Commission at the center of the federal construct. This optimistic vision of the European project highlighted the innovative and unitary aspects of the idea of a federation of national states by Jacques Delors (Sidjanski, 2001). However, the structure of the European decision-making system, particularly the role of the Council of Ministers, dispels the notion of a true European federation.

Close to federalism we have the functionalism. The key distinction between these two lies in their organizational models. While federalism tends to be a closed and exclusive decision-making system, Mitrany's functionalism offers an open model where new members can be seamlessly integrated into the political and administrative framework without conflict or coercion (Lavenex, Križić and Veuthey,

2021). With all this, because it primarily focuses on the technical aspects of cooperation and overlooks the political dynamics and the role of national interests, it fails to fully explain shifts in governance or decision-making processes during periods of instability or when national and supranational interests diverge.

To address this gap, the theory of European governance emerged, conceptualizing multi-level governance as a model of shared sovereignty, in which decision-making power is decentralized and involves a range of actors, including the EU, nation-states, interest groups, organizations, and European citizens. It discusses about hierarchical governance in several areas (Tömmel, 2016) but fails to account for irrational decision-making and shifts in priorities. The theory lacks a comprehensive framework for understanding governance dynamics in periods of instability and global crises.

While existing theories provide valuable insights into governance, they fall short in explaining the irrational states' decisions during crises. These theories typically focus on rational decision-making and fail to account for the unpredictable and emotional aspects molding states' behavior in times of crisis. To address this gap, we introduce the theory of adaptive governance, which integrates both rational and irrational factors to offer a more comprehensive understanding of states' behavior during crises.

#### **4. A natural approach to the European governance**

Governance is a process that operates according to a set of rules, but it is fundamentally based on a much more complex thought process. Despite all factors and variables that influence human thinking, it seems that in certain situations people register a pattern of behavior. Thus, to understand governance, we have to look first at the human brain and see how decisions are made at the individual and group level in moments of peace and during crises.

##### **4.1 The neurobiological implications**

The human brain primarily operates in two states during the thought-action process. The first state is the alarmed one, where the brain seeks quick solutions for survival and danger avoidance. The second state is a secure and calm state of mind, allowing the brain to think critically, create logical connections, and solve problems.

Because governance is a complex process requiring deep thought, creating connections, and a high level of conscience, it has to take place in the second state of mind, in which decisions must be taken logically while considering the risks and the benefits for guaranteeing social welfare. But things happen differently during crises.

All sensory information we receive - whether visual, auditory, tactile, or olfactory - is initially transmitted to the brain's sensory processing areas and then sent to the amygdala, which plays a central role in processing emotional responses, particularly fear. The amygdala evaluates incoming stimuli, particularly those related to potential threats, and influences decision-making, prioritizing physical security and survival.

Thus, for survival purposes, all incoming sensory information first passes through the amygdala, which is described as "the central system of fear responsible for both conditioned and unconditioned fear" (Davis, 1997: 382). Only after the initial processing information reaches the prefrontal cortex, responsible for conscious thought and decision-making. However, this sequence does not guarantee that fear

will not influence thoughts and decisions. In situations that require immediate action for survival, conscious responses may be delayed, with the amygdala triggering an immediate reaction before the prefrontal cortex has time to intervene.

Thus, there are situations in which we respond with subconscious, automatic reactions through 'subcortical routes' (Sato, 2008), and other situations in which we make conscious decisions when we are calm and capable of engaging in complex thought processes. These help us differentiate between three types of decision-making: automatic, conscious, and mixed, that are based on the nature of the impulses and the brain regions involved in processing them.

The amygdala plays a key role in processing all information related to emotional responses. It does not generate responses directly, but it triggers commands for other relevant brain regions that are responsible for formulating appropriate reactions. And depending on the nature of the impulse and how the amygdala processes it, our brain may or may not make conscious or partially conscious decisions.

Most decisions, however, are made by the unconscious mind, often accompanied by an illusion of free will. The conscious typically becomes involved only after a process has been repeated enough times, with the best actions reinforced and rewarded by the limbic system (Bignetti, 2020). Yet, how frequently are the factors generating crises consistent enough across contexts to allow for transferable or standardized responses? While national-level strategies may appear effective, such approaches often fall short in an increasingly interconnected and interdependent world.

#### **4.2 The role of fear in governance logic**

Focused on the impact of fear on decision-making and governance, Von Neuman and Morgenstern laid the foundations of the expected utility theory. They started from the premise that people are rational, and that during crisis or catastrophes, government decisions will be rational in spite of any fear and uncertainty. In response to this, Chanel and Chichilinski (2009) did an experiment in which they showed that 52% of their study participants made irrational decisions regarding hypothetical situations of catastrophic events. The authors found that fear makes people focus excessively on the catastrophe and as a response their decisions lack rationality.

Similarly, Kohn studied the impact of fear on the decision-making in economy, and observed that fear and irrationality rise from the unknown, which reign in times of crises. Crises and mass changes build new impulses and situations with unknown impact which raise a feeling of fear considering the uncertainty of results. Thus, during financial crises there is the pressure of not taking a bad decision that can cause an economic disruption. This pressure for not making it worse, makes people focus excessively on the crisis and live in fear. From this moment on, people act very cautiously and take safe decisions, which are often irrational, (Kohn, 2005).

Another aspect worth mentioning is the intensity of crises, which is able to transform change and fear into normality. This makes it even harder to solve efficiently a crisis, especially when it is impossible to keep up with the information fully updated. Practically, our decisions are always based on a reality about to change. For this reason, a government cannot cope perfectly with the challenges of a crisis.

However, national institutions should develop in order to respond better to crises, and not only train for avoiding them (ibid.).

In the case of national governments, people from the state institutions follow a set of rules and protocols to avoid human subjectivity. Still, the governance remains human, giving to people the capacity to act based on their instinct and life experience. This is why institutions are equally impacted by the fear and uncertainty of a crisis, being nothing more than a reflection of individual decision-making, embodying the concerns, fears, and needs of all the individuals working within the and those they represent.

### **4.3 Human nature in decision making**

People are curious by nature, yet instinctively avoid danger and unknown. The reason behind this behavior is the simple survival instinct. Once we find a course of events that resembles something we encountered before, we tend to apply methods that were effective in the past for avoiding or solving a situation that threatened our security. Consequently, during crises our decisions are influenced by the fear of going through the unknown, pushing us towards solutions we tried before, although not efficient. This happens because biologically "the human model of organization is to lessen the uncertainty and randomness that individuals, social groups, nation states and cultures constantly encounter" (Aarelaid-Tart, 2010).

Thus, we instinctively become resistant to novelty. This behavior is called uncertainty avoidance (UA) (Frijns et al., 2013) and is classified as normal human behavior with the purpose of self-preservation and survival, and is substantial in influencing governance. To understand how this manifests, we examine social behavior during the COVID-19 crisis.

A first example in this direction is the moment during the pandemic when people began stockpiling food. This phenomenon occurred in multiple countries, with excessive purchasing leading to inflation and temporary disappearance of certain products from store shelves. The outcome of these decisions reinforced fears and established irrational patterns of behavior for future crises.

In such situations, people expect governing institutions to make logical decisions. However, it is well-known that nation-states tend to revert to national policies, primarily because "ambiguity and uncertainty exists rather in international relations and transactions between international affairs than in domestic affairs and local transactions" (Shenkar, 2001). Moreover, the tendency to avoid uncertainty is closely linked to loyalty towards local actors (Stranghan and Albers-Hiller, 2001) and traditional solutions. Consequently, this desire to minimize uncertainty that leads states and their actors to return to old principles and values, which can hinder innovation within firms (Shenkar and Zeira, 1992), described the behavior of the European states, creating one more crisis in the history of the European cooperation and unity.

The states' efforts to avoid uncertainty prompts state institutions to rely on traditional organizational models and refuse new technological tools to solve problems. In these contexts, uncertainty is also associated with innovation (Kedia and Bghart, 1989, apud Venaik and Brewer, 2010).

In practical terms, uncertainty, refers to the inability to predict future events, shaping in us the fear of the unknown. This fear arises when we reflect on past events

and compare them to present circumstances, but it sharpens when we don't know what is to come. Our initial response is to take preventive measures aimed at averting potential risks or harm (Aarelaid-Tart, 2010), with the goal of reducing the likelihood of bad events occurring in the present.

Thus, fear and uncertainty define social and individual behavior. At the individual level, uncertainties make us worry about the future and ask anxious questions about when and how we will suffer or die. And at the social level, uncertainties make us wonder what kind of risks can prevent the continuity of a certain socio-cultural action (ibid.). So, out of the desire to avoid crises, danger, or problems, when we recognize a potential pattern of events that triggers fear, we tend to adopt what we perceive as the safest solutions. These solutions are often familiar rather than effective or optimal options.

Whether decisions are made individually or collectively, fear plays a crucial role in shaping our choices, especially when it is shared within a group. This influence is easy to observe during crises, where fear can drive responses that prioritize immediate safety over long-term rationality.

### **5. Defining adaptive governance**

In an increasingly interconnected world, the ability of states and institutions to adapt to crises and uncertainty is crucial. In this light, adaptive governance is a framework that seeks to understand how state behavior evolves in response to both external and internal pressures. Our theory focuses on the influence of human instincts, emotions, and reflexivity, and argues that governance is not merely a product of strategic planning but also a reflection of the natural, instinctive, psychological and emotional states of the society it serves.

In this regard, we introduce the concept of adaptive governance - also referred to as 'governance of convenience' - to more accurately capture states' behavior within the contemporary international system and evolving governance models.

We define adaptive governance as a dynamic model of governance in which decision-making authority shifts between two principal centers of power: the nation-state and supranational structures, particularly in the context of the EU. This oscillation is primarily driven by the instinctual desire of both states and institutions to ensure their survival, responding to both internal and external pressures.

Thus, adaptive governance is a model of governance that focuses on institutional survival.

The foundational principle of this governance model lies in the ongoing tension between stability and the influence of fear, which has the potential to distort decision-making processes, leading to irrational choices that prioritize survival over long-term planning. In contrast, complex and strategic thinking thrives in environments of peace and stability, where there is sufficient capacity for reflective thought. Thus, only in stable times, governments and institutions prioritize easily sustainability and long-term goals, while during crises the decision-making models shift to align more with natural and instinctual patterns of thinking and action.

The adaptive governance theory looks at the nation-state through the framework of human instincts, focusing on the symmetry in the behaviors of individuals, institutions, and states during times of crisis and uncertainty. States and



institutions mirror and adapt the emotional and behavioral responses of the society they govern. These behaviors are not just top-down but are shaped by the collective instincts of individuals. As a result, fear within the population may lead to defensive, protective policies by the state.

In this regard, adaptive governance refers to real-time policy adjustments made in response to crises, balancing immediate needs with long-term survival strategies. This process involves both resistance to novelty and openness to new approaches, driven by the continuous testing of strategic efficacy. Governance, is not only about adapting for optimal outcomes, but rather navigating the inherent decision-making process to identify the most appropriate response to a crisis. This process usually follows a pattern: initial reliance on established methods, exploration of alternative approaches, identification of the most efficient solution, and transforming these solutions into preferred strategies to be implemented first in future crises.

Then, when discussing institutional reflexivity, we also speak about the similarity between individual, institutional and state behavior. Considering the human nature, we believe that emotional states and instincts of individuals are reflected in state responses. Consequently, understanding individual and group psychology can help predict institutional and state behaviors in times of crises.

Lastly, adaptive governance stresses the need to balance crisis management with long-term stability in governance. It is only through an understanding of human nature - recognizing it as an integral part of our decision-making processes - that more effective and resilient governance strategies can be developed. Acknowledging the instinctual drives that influence both individuals and institutions enables policymakers to craft adaptive strategies that not only respond to immediate crises but also lay the foundation for sustained stability and long-term success.

Understanding contemporary governance models requires an analysis of both long-standing governance traditions and emerging supranational frameworks. Historically, we observe that at the beginning of crises, states prefer to operate within familiar frameworks, as this fosters a sense of control when certain things align with established knowledge. However, panic and anxiety emerge when the traditional methods of governance fail to propose effective solutions, requiring fundamental transformations in the decision-making. This highlights a feeling of lost control, inducing fear among individuals who struggle to foresee future outcomes (Arafat et al, 2020). For this reason, in times of change and crises, power shifts are easy to observe, because people lean towards going back to the old ways for more control (Abdala, Alarabi and Hendawi, 2021). And only after these prove to be ineffective, people turn towards new solutions.

In light of this, new ideas often require proving their efficacy multiple times to gain acceptance over the old ones (Cheng and Weinberg, 2024). This is why the supranational model of governance is accepted only after a repeated success of the supranational solutions. The more frequently nationalist approaches fail to address crises, while supranational responses prove effective, the quicker supranational governance is accepted within the governance practices. Nevertheless, we cannot overlook the significant imprint that national governance has left on the human psyche and the long-standing traditions it has built. To replace it, supranational

governance must demonstrate its efficiency across a wide range of life domains, convincing us to move beyond national governance.

Resistance to novelty is a well-known reaction, especially during crises. It underpins several theories, including the loss aversion, status quo bias, neophobia, cognitive comfort theory, expected utility theory, and the backlash theory. All these theories align with Chen et al. (2017) ideas on animal behavior economics, regarding the natural tendency to maximize personal losses although the gain would be with a less significant personal value. These theories share a common theme: the human desire to embrace familiar methods and situations over new, unfamiliar approaches or environments with uncertain outcomes.

Consequently, during crises, states retreat into national policies, assume control, and attempt to solve problems individually. Their solutions may also involve alliances and bilateral collaborations, as these are older and more tested than supranational governance. But in a globalized world where nothing is static, the governance strategies and models require adaptation.

Focused on resistance to unknown, Kahneman and Tversky (1979) showed the individual's difficulty to remain rational in moments of risk and crises. Their prospect theory underlines the human tendency to minimize the risk identified as unknown circumstances. The more unknown variables, the harder it becomes to assess potential outcomes. Therefore, we often choose familiar options, even if they may lead to more challenging consequences.

In the same line, Hogan and Feeney (2012) showed that the drivers of policy change favor decisions for new solutions and policies typically only after existing policies have failed. After losing credibility, facing blame for the consequences of their choices, and grappling with the fear of losing decision-making power, institutions and states become desperate for alternatives that might help repair the damage and "reinstate their former power as capacity" (Mansbridge and Shames, 2008: 627). Only within this context states adopt previously unconsidered solutions. A similar process happened to the EU member states during the COVID-19 pandemic, when they initially attempted to address the crisis independently before agreeing to delegate decision-making authority to the EU. The same pattern emerged in response to the Ukraine crisis, where a national approach was initially pursued.

This problem-solving approach often reflects a desire to address issues independently while shifting blame for failures onto others. In the European context, national representatives frequently direct their discourse and efforts toward supranational institutions, a tradition of shifting blame to European bodies for anti-populist decisions, policies, or political actions (Schlipphak and Treib, 2017) that may irritate the electorate, while claiming credit for the successful ones.

In this light, adaptive governance describes a governance of convenience, where nation-states retain decision-making power and attempt to solve problems using traditional methods. And when these approaches fail, they transfer authority to supranational bodies for crisis management. This process mirrors individual reactions to crises, where the instinct to control and apply familiar methods is driven by the need for a sense of mastery. However, when old methods prove ineffective, new approaches are explored.

## **6. The dual nature of the European governance**

The dual character of the European governance is present in the underlying principles, procedures, and Treaties that shape the functioning of the Union. The tension between these two models is not only conceptual but also manifests in the day-to-day operations of governance and policy-making.

### **The European governance by decision-making procedures and principles**

The European decision-making reflects the national model, meaning the dialogue between legislative (European Parliament and the EU Council) and executive institutions (European Commission). However, the European decision-making does not stop at the Commission's actions, and it never intended to do so because of two reasons: 1. The European Union never wanted to take over the executive power from the nation states, because for a policy to be effective it must be adapted to national needs, traditions and working ways. 2. The nation states as political bodies never accepted the full transfer of power to the EU as a new construct they did not trust. Consequently, to this moment the nation states are involved directly in the European legislative process in the first reading of normative acts through a procedure called “the cards” but also through national representatives in the European institutions, where the members represent their national political positions (European Parliament, 2022).

In this context, European governance is about decisional competencies: exclusive, shared and supportive. The first type gives to EU the right to govern free of constraints in areas like “customs union, competition, monetary policy, marine biological resources, common commercial policy, conclusion of international agreements under certain conditions” (Eur-Lex, 2016). The shared competencies refer to areas of governance jointly managed by the EU and nation-states, covering 13 specific areas. And the supporting competences emphasize a governance model where decision-making power rests with the nation-states, and EU playing a supportive role in policy development in areas such as health, industry, culture, tourism, education, civil rights, and administrative cooperation.

EU's exclusive competencies overlap with shared domains like consumer protection, energy, freedom, security and justice, research, agriculture, economic cohesion, social policy, and the internal market. So, whenever EU seeks to alter a field in which it has shared or supporting competencies, it can initiate changes in areas where it holds exclusive competencies. For this reason, much of the EU governance turns back to subjects like consumer protection and internal market (Eur-Lex, 2016).

### **The European governance by treaties**

The Article 50 of the EU Treaty, emphasizes that nation states are the ‘masters of the treaties’ entitled to take at any moment the decision to withdraw from the Union based on national constitutional principles (European Parliament, 2016) - a decision the United Kingdom made in 2020. Meanwhile, member states navigate a mixed model of governance.

On the other side, the Lisbon Treaty empowers the supranational model of governance. For example, Article 2 of the Treaty on European Union emphasizes the principles of democracy, rule of law, and respect for human rights, which are central

to European governance and decision-making. Complementary to this, the Article 7 comes as an EU mechanism for verifying, ensuring member states' compliance, and possibly sanction potential breaches (European Union, 2012).

Then, we have the Article 5 from the Treaty on the EU emphasizing the principles of proportionality and subsidiarity. The second highlights the limits of EU actions while authorizing the Union to engage in areas where it has only shared or supporting competencies. This demonstrates the balance of power within the European Union and how the transfer of the decision-making authority is formalized in the EU treaties.

An example of adaptive governance in the EU occurred during the COVID-19 pandemic, which impacted two areas where nation-states hold exclusive competencies: health and tourism. After initially managing these sectors independently, the nation states transferred to EU the power to manage the crisis through recommendations and regulations. An outcome of EU's involvement was the introduction of the digital green certificate (European Commission, 2021), which affected both tourism and health, among other domains. This example illustrates a governance of convenience. However, to fully grasp the dynamics of adaptive governance, we turn to a deeper analysis of how fear and uncertainty, triggered by crises, influenced European decision-making and shaped the behavior of the EU and its members between 2007 and 2022.

### **6.1 Methods of measurement**

We start with the data collection on infringement cases initiated by the EU against its member states for violating European law in areas of justice, fundamental rights and citizenship, and employment, social affairs and equal opportunities between January 1st 2007 and August 1st 2022. The study data was collected by using the European Commission site, where search filters were applied on policy area. These policies are directly related to the principles and values of the Union and prove the EU members' commitment to the European project through compliance, or their shift towards national policies and reluctance to the EU, by engaging in European law violations. This helps us track states' behavior during crises.

Given that each state reacts differently to change, we normalize the collected data in the sense of establishing a reference value per country based on the infringement cases from the years without crises and big change in the EU.

Then, we identify the major crises and change that may have caused fear and insecurity among nation states in the established period and compare them with the collected data on EU infringement cases to observe variations in behavior when overlapping the charts. In this sense, we build two graphs to illustrate the peaks of violation of the European law in the chosen areas and overlap them with the biggest changes and crises the EU went through between 2007 and 2022.

For data collection and organization, we used Microsoft Excell, and for visualization we used Microsoft Word features.

## 7. Results and analysis

The Eurosceptic discourse gained strength during 2007 - 2008 economic and financial crisis. Then, it seemed that the Eurosceptic discourse was mostly characteristic to the Eastern European members. Yet, our data shows that both the states with an official Eurosceptic discourse and those at the helm of Europe have a relatively equal tendency to violate the European law during crises (see Table 1).

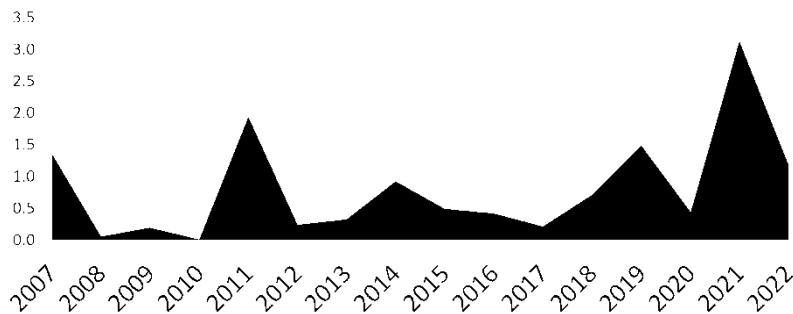
**Table 1.** Infringement cases in EU between January 1<sup>st</sup> 2007 and August 1<sup>st</sup> 2022 on justice, fundamental rights and citizenship

	PL	GR	HU	DE	IT	FR	AT	BE	DK	EE	ES	PT	GB	SE	FI	CZ	CY	IE	LV	LT	LU	MT	NL	SK	SI	BG	RO	HR	
2007	2	2	2	2	2	4	5	1	2	2	0	2	4	5	2	1	2	2	3	3	0	3	3	1	2	2	6		
2008	1	1	0	0	1	1	0	0	0	1	0	1	1	0	0	2	1	1	1	0	0	1	0	1	0	0	1		
2009	3	1	1	0	0	2	1	1	2	0	2	0	0	1	1	0	1	0	1.1	0	0	2	0	0	0	1	0	0	
2010	1	0	1	1	0	0	0	1	0	0	0	0	0	0	1	0	1	1	0	0	0	0	0	0	0	0	0		
2011	3	2	4	4	5	2	3	4	1	2	3	2	5	3	3	5	4	2	1	4	5	5	2	4	2	3	2		
2012	1	1	2	0	3	2	2	2	0	0	0	1	1	1	0	2	1	0	1	0	0	1	1	1	0	2	2		
2013	2	2	1	0	3	0	2	1	0	0	2	1	1	0	2	0	2	1	1	2	2	1	1	3	2	1	1		
2014	3	2	1	1	2	2	1	2	2	0	4	2	0	1	2	4	2	1	1	1	2	2	1	5	4	3	4		
2015	1	1	0	2	0	2	0	2	2	1	1	1	0	3	2	3	2	1	1	3	1	1	0	3	2	1	1	2	
2016	1	2	3	0	0	1	2	3	0	0	3	1	0	1	1	1	3	2	1	1	3	1	2	2	1	2	2	1	
2017	2	2	3	1	0	1	2	0	1	0	2	1	1	1	0	1	2	0	0	0	2	1	0	2	1	2	0	2	
2018	3	3	1	0	1	1	2	1	0	1	3	1	1	2	3	2	2	2	2	2	3	2	1	2	2	3	4	2	
2019	3	5	1	5	3	4	3	2	0	3	3	2	0	1	0	4	3	6	0	0	2	5	2	0	1	6	3	2	
2020	3	1	2	0	2	3	1	0	1	2	1	1	1	0	0	2	3	2	1	2	0	2	1	2	1	3	1	1	
2021	6	8	5	4	4	4	2	7	0	5	3	10		6	6	4	4	3	6	3	5	5	5	3	2	3	3	4	4
2022	2	3	2	3	2	2	2	3	1	3	1	2		3	3	2	3	2	2	1	3	2	3	3	5	3	3	2	

Source: Author's table

Although the public discourse raised expectations of more infringements to be registered by the Eastern European countries, we found that Greece, Portugal, Belgium and others often register more violations in the studied areas of European law than Poland and Hungary.

Then, we look further at the violation rates of EU law in the area of justice, fundamental rights and citizenship between January 1<sup>st</sup> 2007 and August 1<sup>st</sup> 2022 (See Figure 1).



**Figure 1.** EU members' breakage of the EU law on justice, fundamental rights and citizenship between January 1<sup>st</sup> 2007 and August 1<sup>st</sup> 2022

Source: Author's figure

The infringement cases highlight two first picks in EU law violation caused by the 2007-2008 economic and financial crisis, and the 2007 EU enlargement towards Romania and Bulgaria. We correlate these reactions by observing the subjects of EU law violations, which contour across topics like gender equality, equal treatment between people of different race and ethnic origins, voting rights for citizens residing in a member state other than their own, and the freedom of movement for workers and their families.

This situation unfolded in the context of Romania and Bulgaria having the largest Roma populations at the time of their EU accession (30% in Romania and 12.2% in Bulgaria). In these countries, Roma employment rates were significantly lower than the EU average (Lecerf, 2024).

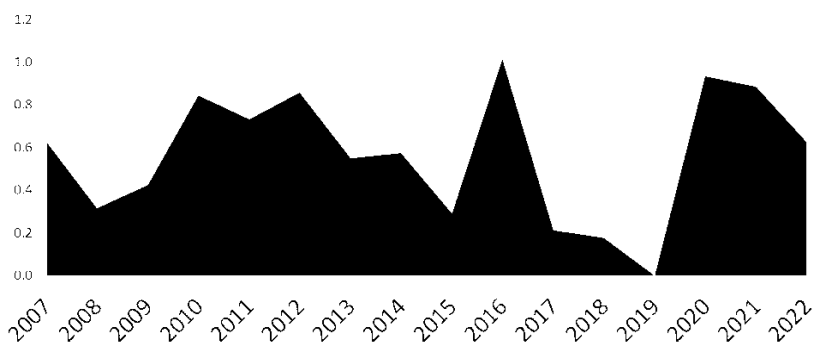
Another wave of infringement cases emerged in 2011, following the “contagion phenomenon” (Constâncio, 2012). The excessive focus of nation-states on overcoming the crisis led them to breaching European law on environmental protection, consumer rights, and the mediation of civil and commercial disputes.

Three years later, the Crimean crisis triggered further violations of EU law on unfair commercial practices, consumer protection, the right to information in criminal proceedings, and more.

In 2019 the peak of European law violation is related to the closest economic crisis, the 2018 - 2019 Turkish currency debt and crisis and the excessive market stock reaction to the USA - China trade war. In this light we find more infringement cases on market abuse and fight against fraud.

And the biggest infringement peak was in 2021 during the COVID-19 crisis, where most cases were on security matters and digital content directive (EU) 2019/770.

By analyzing the infringement cases during the years, we observe that crises pushed the states towards the old ways of doing things, that did not align with EU law. To fight this, in 2018 the Council of the EU adopted the Decision 2018/1993 on the EU integrated political crisis response arrangements that pushes the EU members to adopt a common and coordinated response to crises affecting Europe (Council of the EU, 2018).



**Figure 2.** EU members’ breakeage of the EU law on employment, social affairs and equal opportunities between January 1st 2007 and August 1st 2022

*Source:* Author’s figure

Then, we also have the area of employment, social affairs and equal opportunities showing relatively similar responses of the states during crises (see Figure 2).

The first reaction in this area was in 2007 after the EU enlargement towards Bulgaria and Romania and the economic crisis. The enlargement brought changes in the EU decision-making, since Romania became the EU's 7th largest country.

To mitigate the changes, EU formulated the directive 2006/15/CE regarding the right to information and consultation of employees in the undertakings and community groups regarding the upcoming enlargement. Still, it did not produce the desired effect given the breaches of EU law in this domain.

Later, we witness two events: the great recession after the 2007-2008 economic crisis and the beginning of the Syrian crisis that caused a peak in EU law violation between 2009 and 2012. Both crises had an impact on EU governance and the behavior of nation states that translated in discriminatory financial aid to foreign students, restricted freedom of movement for workers and their families, lack of communication and lack of attention for work safety.

In 2014 the Crimean crisis prevented the infringement cases from dropping, and in 2016 the Syrian conflict awakened states resistance to immigration, triggering breaches of EU law on restricted free movement of workers and their families, and the minimum health and safety requirements.

In 2021, the peak of EU law violations is caused by the COVID-19 crisis. The law breaches were on workers' protection from carcinogen and mutagen agents, health safety in working environments with chemicals, the free movement of workers, and the inclusion of SARS-Cov-2 on the list of biological agents known to infect humans.

In both policy areas the nation states registered more violations of the EU law in areas linked to the domains affected the most by crises. The nations' response showed the inertial return to the old ways of doing things in the detriment of the newly assumed policies. The data exemplifies the core principles of adaptive governance, where states adopt instinctual actions and adjust their decision-making mechanisms to individual and social responses to manage crises and ensure institutional survival.

## **8. Conclusions**

This study started from the existing theories of governance, international relations and European integration on states responses during crises. By highlighting the limited focus of the existent approaches on the role of natural and automated instinctive human responses during crises on the human capacity to think and decide rationally, the study focused on examining how natural reactions impact decision-making processes and the models of governance during moments of crises and uncertainty.

By exploring the human cognitive mechanisms and natural responses to fear and uncertainty, this paper proposed the adaptive governance theory that accounts for rational tendencies of individuals, automatic reactions to crisis-induced triggers, and the adaptive learned responses.

This approach allowed us to analyze the sequence of state reactions in crisis situations and identifying key patterns such as: 1) institutional and state reflexivity;

2) behavioral symmetry across individuals, institutions, and states; 3) decision-making driven by fear and survival instincts; and 4) adaptive behaviors, characterized by emergent actions that continuously evolve through natural learning mechanisms.

Starting from this, we analyzed the European model of governance between 2007 and 2022. The findings reveal that during major crises, EU member states exhibited a higher frequency of legal breaches compared to periods of stability. Moreover, as the intensity of crises increased, the inertia in violating EU law persisted.

The COVID-19 pandemic and the war in Ukraine served as examples of how adaptive governance manifests at the EU level. During both crises, there is a governance inertia and a newly learned governance response.

Based on the findings of this study and the inertial behavior of nation-states during crises and significant change, we suggest that for a faster adaptation to the adaptive model of governance for the policy makers to consider: the potential impact of natural automated reactions on the decision-making; the natural response of individuals and the necessity to build easy to grasp solutions; and to work on raising awareness and improving the human response to uncertainty and fear.

### Data Availability

The research data used for this study is available at: 10.6084/m9.figshare.26348770

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