NORMATIVE POWER EUROPE AND MIGRATION: A 'REFUGEE CRISIS' OR A 'NORMATIVE CRISIS'?

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Abstract

Engaging with the concept of Normative Power Europe (NPE), this paper examines the EU's discourse on and policy response to the so-called "refugee crisis". The author argues that the EU has failed to live up to its own ideals and norms in its response to the intensified migration flows in 2015 and 2016 because it has prioritized the security dimensions of the phenomenon, notably border management, measures against irregular migration, and accelerated returns and readmissions, at the expense of its non-security dimensions, especially respect for human rights, solidarity among the Member States, and the need for a comprehensive system of legal migration. This mode of behavior can be explained by the fact that in those areas where it has no exclusive competences, as in asylum and migration, the EU acts only as a coordinator, with the real policy-making power remaining in the hands of the Member States. The "refugee crisis", which looks more like a normative or political crisis, has shown that the EU is not so much a normative power as a normative actor that pays attention to normative concerns but finds it extremely hard to translate normative aspirations into normative practices.

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Introduction

To analyze the problem [the "refugee crisis"] is not that difficult, and to also point to solutions isn't even that difficult. The difficulty is to get member states to come together on those solutions [...] The politics and the morality of it [the "refugee crisis"] run in opposite directions.[1]

Frans Timmermans
First Vice-President of the European Commission

Along with the post-2008 financial and economic crisis, the recent flows of asylum seekers and refugees from the Middle East and Africa constitute the greatest test the EU has faced so far in its history. Migration, as Commissioner Timmermans aptly points out, has proved particularly tricky for the EU because of the conflict between politics and ethics. Engaging with the concept of Normative Power Europe (NPE), this paper examines the EU's discourse on and policy response to the so-called "refugee crisis". The goal is to test the validity of NPE in migration and asylum policy, paying special attention to the relationship between rhetoric and practice.

The author of this paper argues that the EU has failed to live up to its own ideals and norms in its response to the "refugee crisis" because it has prioritized the security dimensions of the phenomenon, notably border management, measures against irregular migration, and accelerated returns and readmissions, at the expense of its non-security dimensions, especially respect for human rights, solidarity among the Member States, and the need for a comprehensive system of legal migration. The "refugee crisis", which looks more like a normative or political crisis, raises numerous questions not only about NPE but, more importantly, about the very

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[1] James Traub, "Europe wishes to inform you that the refugee crisis is over," *Foreign Policy*, October 18, 2016, accessed November 13, 2016, http://foreignpolicy.com/2016/10/18/europe-wishes-to-inform-you-that-the-refugee-crisis-is-over/.

nature of the EU as a political entity, its role as an international actor, and the prospects of future integration.

The paper develops as follows. Chapter 1 provides an overview of the NPE literature. It outlines the origins and the main features of the concept, and highlights several points that remain highly contested. Chapter 2 describes the research design and methodology employed here: a combination of discourse analysis and interviews with EU experts, supplemented by analyses and policy briefs published by research centers and in the media. Chapter 3 offers an analysis of the official migration-related communication of the three main EU institutions. Building on Chapter 3, Chapter 4 explores the EU's policy response to the intensive migratory flows. Chapter 5 discusses the major findings from the discourse and policy analyses and their implications for NPE. The paper ends with a conclusion that summarizes the main takeaways.

Chapter 1: Normative Power Europe as a Concept

Scholars have used different but related terms to capture the EU's supposedly distinct identity. The EU has been described as a civilian power[2], a model power[3], an ethical power[4], a polycentric polity with a multi-level governance regime[5], and a modern type of empire[6], to mention just the most popular concepts in the literature. One conceptualization of the EU, however, has generated more heated debates than any other, namely Normative Power Europe (NPE).[7]

1.1 Manners' Normative Power Europe

In probably his most famous article, Manners argues that "conceptions of the EU as either a civilian or a military power, both located in discussions of capabilities, need to be augmented with a focus on normative power of an ideational nature characterized by common principles and a willingness to disregard Westphalian conventions".[8] He does not deny the importance of the EU's civilian and limited military power. Instead, he stresses that the EU's "ability to shape conceptions of 'normal' in international relations needs to be given much greater attention".[9] By emphasizing its normative power, Manners depicts the EU as a sui generis political actor on the ground that "the most important factor shaping the international role of the EU is not what it does

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[2] Francois Duchene, "Europe's Role in World Peace," in *Europe Tomorrow: Sixteen Europeans Look Ahead*, ed. Richard Mayne (London: Fontana, 1972), 32-47.

[3] David Miliband, "Europe 2030: Model Power, Not Superpower," Speech at the College of Europe, Bruges, November 15, 2007, accessed May 2, 2017, https://www.brugesgroup.com/images/media_centre/rebuttals/MilibandBrugesSpeech.pdf.

[4] Lisbeth Aggestam, "Introduction: Ethical Power Europe," *International Affairs* 84, no. 1 (January 2008): 1-11.

[5] Richard Bellamy and Dario Castiglione, "Legitimizing the Euro-'Polity' and its 'Regime': The Normative Turn in EU Studies," *European Journal of Political Theory* 2, no. 1 (January a2003): 7-34.

[6] Jan Zielonka, "Europe as a Global Actor: Empire by Example?" *International Affairs* 84, no. 3 (May 2008): 471-484; Jan Zielonka, "Europe's New Civilizing Missions: The EU's Normative Power Discourse," *Journal of Political Ideologies* 18, no. 1 (January 2013): 35-55.

[7] Ian Manners, "Normative Power Europe: A Contradiction in Terms?" *Journal of Common Market Studies* 40, no. 2 (June 2002): 235-258.

[8] Ibid., 239.

[9] Ibid.

or what it says, but what it is".[10] He counters the proposition that the EU simply promotes its own norms like historical empires and modern global powers by suggesting that the EU is normatively distinct due to "its historical context, hybrid polity and political-legal constitution".[11]

According to Manners, the EU's normative power rests on five major and four minor norms, all of which but one are part of the EU's Treaty base.[12] The five major norms include peace, liberty, democracy, the rule of law, and respect for human rights and fundamental freedoms. The four minor norms comprise social solidarity, anti-discrimination, sustainable development, and good governance. The EU, Manners argues, spreads its norms around the globe through six mechanisms: contagion (leading by example), informational diffusion (strategic and declaratory communications), procedural diffusion (institutionalization of relationships with third countries or international organizations), transference (economic exchanges and assistance), overt diffusion (presence of EU representatives in third countries and international organizations), and cultural filter (social and political identity).[13] To back up his case for NPE, Manners examines the EU's pursuit of the international abolition of the death penalty. The EU, he explains, has pursued this policy despite risking its economic relations with certain countries and despite diverging voices within the European Council and opposition from countries such as the USA, China, and Saudi Arabia. Referring back to the title of his article, Manners concludes that normative power does not represent a contradiction in terms, as "the ability to define what passes for 'normal' in world politics is, ultimately, the greatest power of all."[14]

Since he came up with the concept of NPE, Manners has revisited it several times. In 2006, sticking to the gist of his earlier claims, he wrote that the EU's normative power was under

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[10] Ibid., 252.
[11] Ibid., 240.
[12] Ibid., 242-243.
[13] Ibid., 244-245.
[14] Ibid., 253.

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threat due to "the unreflexive militarization" of the Union after the September 11 terrorist attacks in the USA.[15] He reiterated his criticism of Duchene's "civilian power Europe", which he sees as carrying a neocolonial and, thus, overly negative connotation and oriented toward the Westphalian, state-based status quo.[16] He also explained that he formulated the notion of NPE for explicitly normative purposes, given the limited normative theorizing in European integration scholarship.[17] To retain its distinctiveness as a legitimate normative international actor, the EU, Manners wrote, should adopt a more self-reflexive and critical approach in accordance with the relational aspects of normative power.[18]

In the course of a decade, Manners invested a lot of time and energy to refine his depiction of the EU as a normative power. For instance, he later offered three different meanings of "normative".[19] First, he argued that any theory in international relations is normative because of certain assumptions about what should be done. He then distinguished between a normative form of power, which is "ideational rather than material or physical," and a normative type of actor, which goes back to his original claim that the very distinctiveness of the EU arises not from what it says or does but from what it is. Moreover, Manners claimed that NPE can be employed not only as a theoretical concept describing what the EU *is* but also as an instrument in the form of a tripartite framework for an empirical assessment of EU foreign policy based on the principles it promotes, how it promotes them, and what impact its actions and policies have.[20] He

[15] Ian Manners, "Normative Power Europe Reconsidered: Beyond the Crossroads," *Journal of European Public Policy* 13, no. 2 (August 2006): 194.

[16] Ibid., 184.

[17] Ibid.; Ian Manners, "The European Union as a Normative Power: A Response to Thomas Diez," *Millennium* 35, no. 1 (December 2006): 177, 179.

[18] Manners, "Normative Power Europe Reconsidered," 194-195; Manners, "The European Union as a Normative Power," 180.

[19] Ian Manners, "The European Union's Normative Power: Critical Perspectives and Perspectives on the Critical," in *Normative Power Europe: Empirical and Theoretical Perspectives*, ed. Richard G. Whitman (London: Palgrave Macmillan, 2011), 228-232.

[20] Ian Manners, "The Normative Ethics of the European Union," *International Affairs* 84, no. 1 (January 2008): 45-60; Manners, "The European Union's Normative Power," 233-240, 243-245.

identified three "procedural normative ethics" that allow us to judge how the EU moves from being a normative actor to acting as a normative actor: "living by example", "being reasonable", and "doing least harm".[21]

These refinements and the considerable currency it has gained notwithstanding, the notion of NPE continues to display some important deficiencies, as illustrated in part by Manners' recurrent elaborations on his own creature. For one thing, whereas he initially emphasized the EU's normative difference, which arose from the historical context in which the EU developed, its mix of intergovernmental and supranational decision-making, and its legal foundation, Manners later described the EU as a hybrid and polycentric political actor relatively similar to states in that it is constituted both through the interaction of its components (Member States, institutions, transnational political parties, etc.) and through its relations with non-EU actors.[22] On a related note, drawing on Diez and Pace's work[23], Manners in a way weakened his original claim about the EU's normative nature by suggesting that the more interesting question may be whether, how much, and in what ways the EU is *constructed* as a normative power rather than whether it actually *is* one.[24]

A second source of ambiguity in Manners' NPE relates to his treatment of norms and interests. Whereas in 2002 he built his case for normative power on the basis of the EU's readiness to promote norms such as the abolition of the death penalty even in the face of opposition and possible material losses, he later criticized those trying to separate norms and interests on the ground that these are inseparable.[25] Aware of the danger of creating artificial

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[21] Manners, "The Normative Ethics of the European Union," 46.
[22] Manners, "The European Union's Normative Power," 240-241.
[23] Thomas Diez and Michelle Pace, "Normative Power Europe and Conflict Transformation," in *Normative Power Europe: Empirical and Theoretical Perspectives*, ed. Richard G. Whitman (London: Palgrave Macmillan, 2011), 210-225.
[24] Manners, "The European Union's Normative Power," 233.
[25] Ibid., 243.

dichotomies, Manners wrote that "the question really involves understanding differing constructions of short-term self-interest, long-term intelligent self-interest, valued beliefs and identity" but this internal ambivalence appears to have made things even worse.[26]

Another norms-related issue is the nature of the norms the EU strives to promote in its external relations. In his response to Thomas Diez, Manners suggested that the EU is a leading normative actor because of its willingness to commit itself to "cosmopolitan international treaties", which contain supposedly universal principles and standards.[27] Later, however, Manners argued that "a norms-based international system will only be achieved through normative power that persuades others of the *universality* of such norms".[28] Hence the question: does the EU promote universal norms, or does it try to present its own norms with clear origins in Western Europe as universal? At the same time, Manners' NPE seems to suggest that the EU rests on a shared set of norms, which implies a degree of internal consensus, yet he emphasizes that there is no single, fixed, and coherent EU identity and that it is the very complexity and fluidity of self-other contestations that shape the EU as a normative power.[29]

Two additional points about Manners' NPE merit attention. On the one hand, most EU citizens have hardly been aware of the EU's pursuit of the international abolition of the death penalty. The limited extent of public scrutiny and the fact that the pursuit of this policy posed few risks for the EU while promising to provide some reputational benefits weakens Manners' NPE proposition. On the other hand, its potential yet limited validity notwithstanding, Manners' argument does not necessarily apply to the EU's policies in all sectors all the time. It may well hold in relation to less sensitive issues that bring most Member States together but it hardly

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[26] Ibid.
[27] Manners, "The European Union as a Normative Power," 173.
[28] Ian Manners, "The Normative Power of the European Union in a Globalized World," in *EU Foreign Policy in a Globalized World: Normative Power and Social Preferences*, ed. Zaki Laïdi (London and New York: Routledge, 2008), 37.
[29] Manners, "The European Union as a Normative Power," 178.

explains the EU's divided and ineffective response to critical events. The "refugee crisis", which directly affects only a fraction of all Member States and raises concerns about national sovereignty, is one policy issue in which the EU's normative power is debatable or, worse, non-existent.

1.2 Manners' Followers and Critics

Manners' NPE thesis has triggered an avalanche of responses, underpinned by several main themes. One issue that has kept scholars of different intellectual traditions particularly busy concerns the very substance of NPE. What do we mean by normative power when applying the concept to the EU? What norms and values are we talking about? Which actors should we include in our analysis and which actors can we leave aside? Diez and Forsberg, among others, have questioned the usefulness of NPE as a concept on the ground that it seems to have many of the characteristics of Duchene's civilian power Europe.[30]

Dissatisfied with Manners' initially somewhat vague definition of normative power, some scholars have reconstructed the concept for greater analytical clarity. Diez has outlined three dimensions of normative power: an actor in international politics, a specific type of relationship between actors (including hegemonic power understood as the ability to shape the values of others), and normative (ideational) means of power as opposed to military capabilities and economic incentives.[31] Forsberg, for his part, has identified five criteria for normative power: normative identity, normative interests, normative behavior, normative means of power, and normative impact.[32] Birchfield, following the tripartite framework for policy analysis proposed by Manners, claims that NPE can be used as a scheme for the evaluation of policies rather than

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[30] Thomas Diez, "Constructing the Self and Changing Others: Reconsidering 'Normative Power Europe'," *Millennium* 33, no. 3 (June 2005): 635; Tuomas Forsberg, "Normative Power Europe, Once Again: A Conceptual Analysis of an Ideal Type," *Journal of Common Market Studies* 49, no. 6 (November 2011): 1188-1189.
[31] Diez, "Constructing the Self," 616.
[32] Forsberg, "Normative Power Europe, Once Again," 1191-1195.

simply as a theoretical tool with limited practical value.[33] By looking at the principles the EU promotes, the means and policies it employs to promote them, and the impact these means and policies have, Birchfield suggests, researchers can better assess the normative dynamics of EU foreign policy-making. She argues that NPE is "a theoretical grounding that guides analytical work attempting to make sense of and explain the role of the EU as a global actor".[34] Thus, NPE allows researchers to understand "the distinction between the theoretical and empirical functions of NPE and avoid conflating NPE as an analytical construct with NPE as an uncontested interpretation of what the EU says and does".[35]

A second element of NPE, which continues to generate considerable anxiety due to its core function, is the connection between norms and interests. Despite Manners' subsequent elaborations, his initial use of NPE implied that norms and interests are two distinct and possibly diametrically opposed categories in the sense that a normative actor is expected to pursue certain policies even if these go against its interests. Over the years, however, a degree of consensus has emerged that norms and interests are mutually constitutive and inseparable. Although in principle they may be distinct behavioral criteria, norms, values, and principles, on the one hand, and strategic or material interests, on the other, are hard to distinguish and measure in practice.[36]

Relying on a combination of rationalist and constructivist logics, Youngs rejected the widespread idea that norms have trumped traditional power-politics considerations, pointing out that "[n]orms based on material interests can assume normative authority; norms are woven into

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[33] Vicki Birchfield, "A Normative Power Europe Framework of Transnational Policy Formation," *Journal of European Public Policy* 20, no. 6 (May 2013): 911.
[34] Vicki Birchfield, "The EU's Development Policy: Empirical Evidence of 'Normative Power Europe'?" in *Normative Power Europe: Empirical and Theoretical Perspectives*, ed. Richard G. Whitman (London: Palgrave Macmillan, 2011), 144.
[35] Ibid.
[36] Thomas Diez, "Not Quite 'Sui Generis' Enough," *European Societies* 14, no. 4 (October 2012): 524-526.

material interests."[37] He explained that "normative and instrumentalist dynamics can be seen to set parameters for each other, with scope remaining for choice within these common boundaries".[38] Following Youngs, Diez posited that "norms and economic interests form one whole: norms shape interests; interests shape norms."[39] Indeed, one of the reasons he proposed replacing the concept of NPE with hegemony is precisely his desire to go beyond the long-lasting debate about the EU's questionable behavior as a normative power.[40] Diez acknowledged that substituting hegemony for NPE would make for a more modest argument, since it removes the "acting against interest" element, but he insisted that this element is "unhelpful if not untenable" anyway.[41] By promoting its principles and standards in its neighborhood as well as in more distant parts of the world, the EU can simultaneously pursue security, economic, and other interests because the environment, getting closer to its liking, gives it an advantage vis-à-vis other state and non-state actors.[42]

The dichotomy between norms and interests becomes still more problematic when they are considered separately. Even if we assume that norms can exist on their own, we still need to specify the types of norms we mean when we use NPE and how these norms feature on the agenda. Although Manners outlined five core and four minor norms that are incorporated into the EU legal base and belong to the broader system of the United Nations (UN), there is no single EU identity and, thus, no single set of values that all EU actors across the board accept as given.[43] Instead, norms and ideas are being constantly renegotiated, reinterpreted, and applied to specific

[37] Richard Youngs, "Normative Dynamics and Strategic Interests in the EU's External Identity," *Journal of Common Market Studies* 42, no. 2 (June 2004): 420.
[38] Youngs, "Normative Dynamics and Strategic Interests in the EU's External Identity," 431.
[39] Thomas Diez, "Normative Power as Hegemony," *Cooperation and Conflict* 48, no. 2 (June 2013): 201.
[40] Ibid., 195-197.
[41] Ibid., 202.
[42] Ibid., 197; Raffaella A. Del Sarto, "Normative Empire Europe: The European Union, its Borderlands, and the 'Arab Spring'," *Journal of Common Market Studies* 54, no. 2 (2016): 215-232.
[43] Diez, "Not Quite 'Sui Generis' Enough," 524-526.

contexts, both within and outside the EU.[44] Contrary to popular belief, values and norms considered mutually reinforcing, such as democracy and justice, may indeed conflict with each other, as illustrated by Diez's analysis of the EU-Turkey accession negotiations and the control of the EU's external borders.[45] Interests, like norms, are fluid and hard to disentangle. Martin-Maze rejects "the assumption that interest can be conceptualized as a transhistorical and anthropological function, whereby collective or individual actors consciously behave so as to maximize their own utility through means/end calculations".[46] Borrowing insights from Bourdieu's sociology based on structural constructivism that anchors norms and interests in social fields, Martin-Maze distinguishes between generic interest, which "enables insiders to recognize what is at stake in a particular field as something that matters", and specific interest, which "orients actors' strategies in relation to the positions they hold within this field."[47]

Another extensively debated aspect of NPE is whether the EU has been consistent in its rhetoric and actions and how this consistency, or inconsistency, affects its credibility and legitimacy as a normative actor. This question directs the focus away from the ontological dimension of the EU's normative power toward the EU's normativity articulated in words and deeds. Manners himself is convinced that to be considered legitimate, the EU's principles and norms should be applied consistently and coherently within and outside the Union.[48] Nicolaidis and Howse agree with him. "What matters most," they write, "is consistency between the internal and external planes, a consistency requiring a constant checking of the EU's narratives of

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[44] Diez, "Normative Power as Hegemony," 197-198.
[45] Diez, "Not Quite 'Sui Generis' Enough," 522-523.
[46] Mederic Martin-Maze, "Unpacking Interests in Normative Power Europe," *Journal of Common Market Studies* 53, no. 6 (November 2015): 1288.
[47] Ibid., 1295.
[48] Manners, "The European Union's Normative Power," 233-240.

projection on its own internal goals and, we must add, deficits."[49] By contrast, Scheipers and Sicurelli posit that inconsistency does not automatically lead to loss of credibility and that in fact "inconsistency seems to be a characteristic feature of collective identities *per se*".[50] As with the complexities involved in exploring norms and interests, Scheipers and Sicurelli consider the discussion about consistency versus inconsistency to be redundant due to the lack of clear and objective criteria for measuring consistency between external and internal EU policies. Based on their examination of the EU's behavior during the negotiations over the International Criminal Court (ICC) and the Kyoto Protocol, they conclude that inconsistency and lack of reflexivity do not prevent the EU from acting as a credible normative actor. Noteworthy, though, it is not immediately obvious that these two case studies prove their argument because of their interpretation of consistency. Disagreement between EU Member States at the different stages of the negotiations in both cases does not imply inconsistency on its own, since the Member States eventually were among the first to ratify the Rome Statute and the Kyoto Protocol.[51] Especially with regards to the Kyoto Protocol, the EU translated its support for the proposed reforms into concrete policies within its territory even before the protocol came into force.

Finally, there are the calls for greater reflexivity in NPE scholarship. Already in 2006, reacting to the EU's apparent turn to coercive means of power after the terrorist attacks in the USA in September 2001, Manners wrote that "the EU's normative power is being undermined by the unreflexive militarization".[52] He explained that we need to pay attention to context, keep

[49] Kalypso Nicolaidis and Robert Howse, "'This is my EUtopia…': Narrative as Power," *Journal of Common Market Studies* 40, no. 4 (November 2002): 771.
[50] Sibylle Scheipers and Daniela Sicurelli, "Normative Power Europe: A Credible Utopia?" *Journal of Common Market Studies* 45, no. 2 (June 2007): 438.
[51] Ibid., 444, 450.
[52] Manners, "Normative Power Europe Reconsidered," 194.

questioning the functions of the EU institutions and the EU's relations with the world, analyze EU discourses and policies, and think about how we analyze these processes.[53]

Many authors have since then made similar calls for a more critical analysis of the EU's normative power in an effort to safeguard the validity and usefulness of NPE as a conceptualization of the EU. Diez recommends that both the NPE discourse and the difference between normative power and civilian power should be studied more systematically and carefully to prevent "normative power from becoming a self-righteous, messianistic project that claims to know what Europe is and what others should be like."[54] After exploring the ways in which EU actors discursively construct the EU as a normative power in overly ambitious terms, Nicolaidis and Howse emphasize that to be a legitimate and credible normative actor, "the EU would need to model itself on the utopia that it seeks to project on to the rest of the world".[55] Larsen, for his part, brings together insights from research on NPE and external perceptions of the EU, two strands that have run parallel to each other with limited points of intersection, and shows how the EU is usually seen as an economic (and not always benign) power and only rarely, and mostly in its neighborhood, as a normative power.[56]

Going beyond the simple representations of NPE as an absolute good, Pace notes that the construction of NPE can be a source of opportunities for the EU if successful but also a source of vulnerability if challenged.[57] She gives the Israeli-Palestinian conflict as an example of a sensitive political event whereby NPE constructions constrain the EU's actions, which may lead to inaction rather than coercion and, thus, make the EU look weak. Others have questioned the

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[53] Manners, "The European Union as a Normative Power," 180.
[54] Diez, "Constructing the Self," 636.
[55] Nicolaidis and Howse, "'This is my EUtopia…'," 788.
[56] Henrik Larsen, "The EU as a Normative Power and the Research on External Perceptions: The Missing Link," *Journal of Common Market Studies* 52, no. 4 (July 2014): 908.
[57] Michelle Pace, "The Construction of EU Normative Power," *Journal of Common Market Studies* 45, no. 5 (December 2007): 1052.

validity of conceptualizing the EU as a normative power capable of setting the standards for "normal" in international politics by describing the reverse phenomenon whereby the EU, instead of shaping or altering the norms of others, absorbs and adjusts to their own.[58] This reading of norm diffusion as a two-way process is one reason why Aggestam considers the concept of "Ethical Power Europe" to be more appropriate than NPE, as the former examines "how the context of normative globalization after the end of the Cold War *enabled* the EU to assume a more proactive international role by drawing on an international ethics largely, but not exclusively, institutionalized within the UN system.[59] Last but not least, Scheipers and Sicurelli go as far as to suggest that reflexivity and collective identity are incompatible, since the former requires deconstruction, while the latter demands assertiveness.[60]

Engaging with this extensive research on NPE, this paper develops on the basis of three premises. Firstly, it examines both the EU's official discourse(s) on refugees and asylum seekers and its migration policies, thus painting a fuller and more credible picture. Secondly, while norms and interests do inform each other and while consistency can be an elusive concept, there are still ways in which we can assess the role of normative considerations in the EU's rhetoric and actions. For instance, if it implements policies that go directly against its own rules and values, the EU certainly weakens its position as a normative actor. Finally, the general application of NPE may not only be inappropriate in the light of the varying perceptions of the EU across the world but also significantly limited by the specificities of individual policy domains. Migration, in contrast to the abolition of the death penalty, environmental protection, or development cooperation, is more vulnerable to appropriation by Member States' governments for domestic

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[58] Diez, "Not Quite 'Sui Generis' Enough," 535.
[59] Aggestam, "Introduction: Ethical Power Europe," 4.
[60] Scheipers and Sicurelli, "Normative Power Europe: A Credible Utopia?" 439.

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gains, which may lead to fierce struggles over the interpretation of norms and the proper means to pursue them.

Chapter 2: Research Methodology

To gauge the EU's normative power, this paper relies on a combination of discourse analysis and semi-structured expert interviews. The point of departure is the summer of 2015 which saw a dramatic increase in the number of third-country nationals seeking international protection in EU Member States.

Discourse is both a source of knowledge about people's generalized use of language and the result of their use of that knowledge in creating interpreting discourse.[61] Discourse appears in two forms: as an abstract, mass, non-count noun (like information or propaganda) and as a specific, count noun ("discourses").[62] Discourses constitute particular representations of particular parts of the world.[63] It is worth emphasizing that existing discourses emerge under the direct or indirect influence of prior discourses and simultaneously shape future discourses. The existence of different discourses and their variability over time are important in social-scientific research, as different discourses generate different policies – that is, in line with the post-structuralist perspective, discourses and policies are seen here as mutually constitutive.[64]

Discourse analysis, for its part, is an approach to the study of language that goes beyond linguistic mechanics to emphasize the embeddedness of language in social practices.[65] It is a social scientific method used to answer a variety of questions in and across disciplines, which involves dissecting language into its constituent components, both structurally and functionally, to derive meaning. As a process of "meaning-making", discourse analysis combines morphology (the structure of words), syntax (the structure of sentences) and semantics (the meaning of

[61] Barbara Johnstone, *Discourse Analysis* (Malden, MA: Blackwell Publishing, 2008), 3-5.
[62] Ibid.; Linda A. Wood and Rolf O. Kroger, *Doing Discourse Analysis: Methods for Studying Action in Talk and Text* (Thousand Oaks, California: Sage Publications, 2000), 19; Norma Fairclough, *Analysing Discourse: Textual Analysis for Social Research* (London: Routledge, 2003), 26, 123-124.
[63] Fairclough, *Analysing Discourse*, 26.
[64] Ibid., 128; Wood and Kroger, *Doing Discourse Analysis*, 10-11.
[65] Fairclough, *Analysing Discourse*, 3-4.

words), allowing researchers to learn about social relations such as dominance, oppression, and solidarity, as well as identity construction and group identification.[66] Instead of uncovering verifiable facts or truths, discourse analysts aim to identify interpretations of events and phenomena, which are seen as discursively or socially constructed.[67] Since they understand language as "social practice, as a way of doing things", discourse analysts treat their objects of research interest as "constituted in and through discourse".[68] Language has a performative function, which means that discourse is important not only because of its content but also because of its use to achieve specific goals. It is therefore necessary to keep attention to content and style at the same time.[69] The function of discourse as a meaning-making instrument that frames events and actors in a particular way makes discourse analysis an appropriate method for the study of NPE construction in the context of the migration challenges confronting the EU.

Drawing on Lene Hansen's *Security as Practice: Discourse Analysis and the Bosnian War*, this paper analyzes the EU's discourse on the "refugee crisis" between July 2015 and March 2017. Because this period spans more than a year and a half with refugee and asylum seeker flows of different intensity and major policy responses from the EU, the author has established a timeline around key events.[70] Table 1 offers a detailed description of the timeline.

Table 1. Timeline for the discourse analysis

Period	Key Events
July – October 2015	A dramatic increase in asylum applications in the EU Germany announces its "open-door" policy Temporary relocation scheme adopted
November 2015 – February 2016	Valletta Summit on Migration EU-Turkey Summit Sweden and Denmark reintroduce border controls

[66] Johnstone, *Discourse Analysis*, 7.
[67] Wood and Kroger, *Doing Discourse Analysis*, 28-30.
[68] Ibid., 4.;
[69] Ibid., 4-7.
[70] Lene Hansen, *Security as Practice: Discourse Analysis and the Bosnian War* (London and New York: Routledge, 2006), 115-116.

March – November 2016	EU-Turkey Statement Increasing calls for reforms of the Dublin system Denmark and Sweden extend border check Referendum in Hungary on EU migrant quotas
December 2016 – March 2017	Malta Declaration on the external aspects of migration Hungary adopts controversial asylum legislation and starts building a second border fence The EU marks the 60th anniversary of the Treaties of Rome

The materials subject to discourse analysis here include the official migration-related communication of the three main EU institutions: the European Council/Council of the European Union, the European Commission, and the European Parliament. For each period, five documents per institution are analyzed, which makes for a total of 60 documents (see full list in Appendix I). For the European Council, the documents analyzed include European Council conclusions, agreements such as the EU-Turkey Statement of 18 March 2016, and statements by the European Council President. Regarding the European Commission, the texts comprise Commission reports, statements by the European Commissioner for Migration, Home Affairs, and Citizenship and the European Commission President, and several joint statements. The European Parliament's perspective is analyzed through its resolutions, reports, press releases, and statements by its President.

By deconstructing the official EU communication, the author seeks to find out whether the three institutions have used an identical and coherent discourse or whether they have offered different representations of the migration-related challenges and the EU's role in the process. Although they share a common ground and vision for the EU as a global actor, the EU institutions tend to offer slightly different narratives, partly because of their different functions in EU policy-making, partly because of their different sources of legitimacy and accountability. The analysis is premised on a number of questions: has the EU tried to portray itself as a normative

power in the context of the intensive migration from the Middle East, Asia, and Africa? How has the EU justified its policies and actions? How has the EU described the people arriving on its territory? Has the EU emphasized one particular discourse, or has it relied on different discourses for different purposes on different occasions?

Although discourse is hereby treated as action in the sense that it shapes and constrains action, the relationship between discourse and policies by no means direct and straightforward. That is why this paper also draws on semi-structured interviews with four experts on EU policy-making and/or migration (see interviewees' biographies in Appendix II), along with insights from articles published in specialized editions and the mainstream media. Semi-structured interviews match the purpose of this research project, as they enable the interviewer to frame and guide the interview while giving the interviewee sufficient room to elaborate where he/she deems it necessary.[71] In addition, semi-structured interviews allow the researcher to get a deeper and more nuanced understanding of a specific issue, such as the presence or absence of normative considerations in the EU's response to the "refugee crisis." In this particular case, interviews help the researcher to connect EU discourse and practice in the area of migration and answer the following questions: how have the EU migration-related discourse and policies informed each other? Has the EU *acted* normatively in addressing the recent immigration challenges? To what extent has the EU used normative means to pursue normative ends?

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[71] Sandra Halperin and Oliver Heath, *Political Research: Methods and Practical Skills* (Oxford: Oxford University Press, 2012), 253-256; Layna Mosley, ed., *Interview Research in Political Science* (Ithaca: Cornell University Press, 2013), 6-8; Laura R. Woliver, "Ethical Dilemmas in Personal Interviewing," *Political Science and Politics* 35, no. 4 (December 2002): 678.

Chapter 3: Discourse Analysis of the EU Communication on Migration

This chapter examines the official migration-related communication of the Council, the European Commission, and the European Parliament from July 2015 to March 2017.

3.1 European Council/Council of the European Union

Since July 2015, migration has occupied a central position on the agendas of the European Council and the Council of the European Union (hereafter collectively the Council). This is hardly surprising in view of the intensified migration along the Central and Eastern Mediterranean routes in 2015 and 2016, which put tremendous pressure on the asylum systems of the Member States along the EU external borders, especially Italy and Greece. The Council insisted that the "unprecedented flows of refugees in 2015"[72] represented "a major test for all EU members".[73] Moreover, these flows constituted not just a test for the EU but "a global challenge that requires a strong response from the international community"[74], including close cooperation with countries of origin and countries of transit, and international organizations such as the United Nations High Commissioner for Refugees (UNHRC) and the International Organization for Migration (IOM).[75] Challenging and polarizing as it is, however, intensified migration

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[72] Council of the European Union, "Presidency Report – Managing Migration Flows. State of Play – Implementing Solutions and Remaining Gaps," December 16, 2015, accessed May 6, 2017, http://www.consilium.europa.eu/en/press/press-releases/2015/12/17-presidency-report-managing-migration-flows/.

[73] European Council President, "Remarks by President Donald Tusk before his meeting with Prime Minister of Hungary Viktor Orban," September 3, 2015, accessed May 6, 2017, http://www.consilium.europa.eu/press-releases-pdf/2015/9/40802201922_en.pdf.

[74] European Council, "European Council Meeting (28 June 2016) – Conclusions," June 28, 2016, accessed May 6, 2017, http://data.consilium.europa.eu/doc/document/ST-26-2016-INIT/en/pdf.

[75] European Council, "Malta Declaration by the Members of the European Council on the External Aspects of Migration: Addressing the Central Mediterranean Route," February 3, 2017, accessed May 7, 2017, http://www.consilium.europa.eu/press-releases-pdf/2017/2/47244654402_en.pdf; European Council President, "Remarks by President Donald Tusk at the Informal Summit in Malta," February 3, 2017, accessed May 7, 2017, http://www.consilium.europa.eu/press-releases-pdf/2017/2/47244654395_en.pdf; Council of the European Union, "Council Conclusions on Libya – Council Conclusions (6 February 2017)," February 6, 2017, accessed May 6, 2017, http://data.consilium.europa.eu/doc/document/ST-5321-2017-INIT/en/pdf.

worldwide is hardly insurmountable, as European Council President Donald Tusk pointed out in 2015 when he said that he took "declarations of existential crises with a pinch of salt."[76]

If there is one element that predominates in the Council's approach to the migration situation since July 2015, it is the consistent prioritization of the need to secure the EU's borders, curb irregular entries into the EU, and fight migrant smuggling. While it stresses that that all EU actions aimed at achieving these goals must comply with international refugee law, especially the UN Convention Relating to the Status of Refugees and the principle of non-refoulement, international humanitarian law, and respect for fundamental rights and freedoms[77], the Council seems to care mostly about the integrity of the EU internal and external borders. There is basically not a single communication unit among those analyzed here in which the Council does not emphasize the importance of regaining control over the situation by stepping up border security, curbing irregular migration, and tackling smuggling and trafficking of human beings. Although the EU institutions and Member States should first guarantee access to international protection to those who need it, European Council President Donald Tusk said in September 2015, "[s]ecuring our borders is the most immediate and toughest test facing us."[78] Five months later, the 28 Heads of State and Government stressed that "the objective must be to rapidly stem the flows, protect our external borders, reduce illegal migration and safeguard the integrity of the Schengen area."[79] In their March meeting, the leaders of the EU Member States repeated that

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[76] European Council President, "Address by President Donald Tusk at the Annual EU Ambassadors' Conference," September 3, 2015, accessed May 6, 2017, http://www.consilium.europa.eu/press-releases-pdf/2015/9/40802201921_en.pdf.

[77] Ibid.; Council of the European Union, "External Aspects of Migration – Council Conclusions (23 May 2016)," May 23, 2016, accessed May 6, 2017, http://data.consilium.europa.eu/doc/document/ST-9111-2016-INIT/en/pdf; European Council, "Malta Declaration by the Members of the European Council on the External Aspects of Migration: Addressing the Central Mediterranean Route"; Council of the European Union, "Council Conclusions on Libya – Council Conclusions (6 February 2017)."

[78] European Council President, "Address by President Donald Tusk at the Annual EU Ambassadors' Conference."

[79] European Council, "European Council Meeting (18 and 19 February 2016) – Conclusions," February 19, 2016, accessed May 6, 2017, http://data.consilium.europa.eu/doc/document/ST-1-2016-INIT/en/pdf.

"[p]riority will continue to be given to regaining control of our external borders."[80] Tellingly enough, after noting that he understood those opposing "the controversial solutions" proposed by Hungarian Prime Minister Viktor Orban, President Tusk stressed that "one thing is clear, Prime Minister Orban took action to strengthen the protection of the EU borders."[81] Building border fences, in President Tusk's eyes, raises some legitimate concerns, yet such actions seem to be acceptable, with some qualifications, provided they are taken in the name of the EU's collective security.

One aspect of the Council migration-related communication that deserves special attention is its framing of the migrants. The Council insists that the EU is doing its best to ensure that people can effectively exercise their fundamental right to asylum, help those in distress, and provide asylum seekers and refugees with dignified reception conditions.[82] At the same time, however, the Council seems to suggest that while there are people among those trying to reach Europe who are in genuine need of international protection, they are not necessarily a majority. When it introduced the temporary relocation scheme for the benefit of Italy and Greece, the Council noted that the two countries had experienced "unprecedented flows of migrants, *including* applicants for international protection who are in clear need of international protection, arriving on their territories, generating a significant pressure on their migration and asylum

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[80] European Council, "European Council Meeting (17 and 18 March 2016) – Conclusions," March 18, 2016, accessed May 6, 2017, http://data.consilium.europa.eu/doc/document/ST-12-2016-REV-1/en/pdf.

[81] European Council President, "Remarks by President Donald Tusk before his meeting with Prime Minister of Hungary Viktor Orban."

[82] European Council President, "Opening Statement by President Donald Tusk at the Valletta Summit on Migration," November 11, 2015, accessed May 6, 2017, http://www.consilium.europa.eu/press-releases-pdf/2015/11/40802204892_en.pdf; Council of the European Union, "Council Decision Establishing Provisional Measures in the Area of International Protection for the Benefit of Italy and Greece," September 3, 2015, accessed May 6, 2017, http://data.consilium.europa.eu/doc/document/ST-11161-2015-INIT/en/pdf; European Council President, "Remarks by President Donald Tusk before his meeting with Prime Minister of Hungary Viktor Orban"; Council of the European Union, "Foreign Affairs Council – Council Conclusions on Migration," July 20, 2015, accessed May 6, 2017, http://www.consilium.europa.eu/en/press/press-releases/2015/07/20-fac-migration-conclusions/.

systems" (emphasis added).[83] In the same document, referring to the continuing instability and conflicts in North Africa, the Council concludes that "it is very likely that a significant and increased pressure will continue to be put on their migration and asylum systems, with a significant portion of the migrants who *may be* in need of international protection" (emphasis added).[84] In his opening remarks at the EU-Turkey Summit of 29 November 2015, President Tusk described the situation in similar terms while identifying one more group among the migrants that threatens the very existence of the EU: "Some seek shelter from war and prosecution. Others seek a better life. And a few seek to destroy our values."[85]

This representation of the events, according to which many, if not most, of the migrants arriving on EU territory are not eligible for international protection and simply exploit the circumstances for economic or other benefits, at least partially explains the prevailing focus on border protection and the fight against irregular migration and smuggling. The presence of economic migrants notwithstanding, any discourse that depicts genuine asylum seekers and refugees as a fraction of all migrants serves as a justification of the Council's security-based approach: the EU, it appears, is under attack, with hundreds of thousands of people pretending to be asylum seekers so that they can stay on its territory. In this context, the EU institutions and Member States need to take urgent measures to protect the EU external borders and, thus, safeguard the principle of free movement inside the Union, especially within the Schengen area.

Another expression of the Council's security-centered approach to migration is its insistence on the need for a new Partnership Framework with countries of origin and countries of

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[83] Council of the European Union, "Council Decision Establishing Provisional Measures in the Area of International Protection for the Benefit of Italy and Greece."
[84] Ibid.
[85] European Council President, "Introductory Remarks by President Donald Tusk at the Meeting of EU Heads State or Government with Turkey, 29 November 2015," November 29, 2015, accessed May 6, 2017, http://www.consilium.europa.eu/en/press/press-releases/2015/11/29-introductory-remarks-eu-turkey/.

transit.[86] Even though it envisions measures addressing the root causes of migration and helping third countries offer better social and economic prospects to their citizens, this Partnership Framework seems above all to serve as a tool for swift and effective returns and readmissions of those people who do not qualify for international protection. The Council sees cooperation on readmission and return as "a key test of the partnership between the EU and these partners" and at the same time recognizes that to be successful, the Partnership Framework should draw on "effective incentives and adequate conditionality".[87] Not surprisingly, the Council describes cooperation with key third countries not in self-interested terms but as an expression of solidarity and shared responsibility in addressing a phenomenon with transnational repercussions. Nevertheless, with respect to the EU's cooperation with Turkey, President Tusk found it necessary to emphasize, obviously in response to criticisms in that direction, that the EU was not "outsourcing its security and migration policy to Turkey", nor was it "adding a burden on Turkey".[88]

3.2 European Commission

The European Commission, like the Council, has over the past two years devoted a significant part of its time, energy, and resources to handling migration. The Commission, like the Council, believes that the EU should do its best "to save lives and ensure protection of those in need, in line with European values and international law".[89] It further calls for a more encompassing approach that includes coherence between EU internal and external policies,

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[86] European Council, "European Council Meeting (28 June 2016) – Conclusions"; European Council, "Malta Declaration by the Members of the European Council on the External Aspects of Migration"; European Council, "European Council Meeting (20-21 October 2016) – Conclusions," October 21, 2016, accessed May 6, 2017, http://data.consilium.europa.eu/doc/document/ST-31-2016-INIT/en/pdf.

[87] European Council, "European Council Meeting (28 June 2016) – Conclusions."

[88] European Council President, "Introductory Remarks by President Donald Tusk at the Meeting of EU Heads of State or Government with Turkey, 29 November 2015."

[89] European Commission, "Joint Statement on the International Migrants' Day," December 18, 2015, accessed May 7, 2017, http://europa.eu/rapid/press-release_STATEMENT-15-6376_en.htm.

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effective border protection, measures addressing the root causes of migration, irregular migration, migrant smuggling, and human trafficking, and expansion of the legal pathways for third-country nationals who would like to study, work, and invest in the EU.[90] What distinguishes the Commission's discourse on migration from that of the Council, however, is the combination of explicit calls for a truly EU-wide migration and asylum policy, the presence of greater self-reflexivity, and a perspective on migration that takes into account the history as well as the future of this phenomenon – two elements that place the Commission's discourse on a more normative level in comparison to the Council's discourse.

In line with the European Agenda on Migration, which it presented in May 2015, the Commission advocates a thorough reform of the Common European Asylum System (CEAS) to ensure "more Europe in our asylum policy" and "more Union in our refugee policy".[91] While it, like the Council, emphasizes that migration is a global challenge that requires a global response[92], the Commission argues that the EU should adopt a more proactive approach by increasing its participation in global resettlement programs, improving its legal and labor migration policy, and

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[90] Ibid.

[91] European Commission, "State of the Union 2015: Time for Honesty, Unity and Solidarity," September 9, 2015, accessed May 7, 2017, http://europa.eu/rapid/press-release_SPEECH-15-5614_en.htm.

[92] European Commission, "Communication from the Commission to the European Parliament, the European Council, the Council, and the European Investment Bank on Establishing a New Partnership Framework with Third Countries under the European Agenda on Migration," June 7, 2016, accessed May 7, 2017, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication_external_aspects_eam_towards_new_migration_ompact_en.pdf; European Commission, "Joint Statement on the Occasion of International Migrant Day on 18 December," December 16, 2016, accessed May 7, 2017, http://europa.eu/rapid/press-release_STATEMENT-16-4440_en.htm; European Commission, "Remarks by Commissioner Avramopoulos following the Ministerial Conference on the Central Mediterranean Migration Route in Rome," March 20, 2017, accessed May 7, 2017, http://europa.eu/rapid/press-release_SPEECH-17-689_en.htm; European Commission, "Keynote Speech by Commissioner Avramopoulos at the 2016 Harvard European Conference: Europe at the Crossroads of the Migration and Security Crises," February 20, 2016, accessed May 7, 2017, http://europa.eu/rapid/press-release_SPEECH-16-365_en.htm; European Commission, "Remarks by Commissioner Dimitris Avramopoulos at the Round Table on Addressing Vulnerabilities of Refugees and Migrants on Their Journeys from Their Countries of Origin to Their Countries of Arrival at the UN Migration Summit," September 19, 2016, accessed May 7, 2017, http://europa.eu/rapid/press-release_SPEECH-16-3121_en.htm.

encourage multilateral cooperation at various international fora.[93] Increased involvement in resettlement in particular, the Commission suggests, will allow "the EU to lead by example" and thus provide "a visible and concrete expression of European solidarity towards the international community".[94]

If it is to respond effectively and sustainably to "the worst refugee crisis since the Second World War", the EU Member States need to act in solidarity and a sense of shared responsibility simply because none of them can manage the situation on its own.[95] The European Commission notes that "[s]olidarity and responsibility are two sides of the same coin"[96] and that solidarity with frontline Member States requires the other Member States to "show responsibility in applying the common EU rules"[97] in asylum and migration policy. To highlight the importance of solidarity and mutual responsibility, European Commission officials on occasions make very vivid and emotionally charged statements that paint a more concrete, rather than purely abstract, picture of the situation. For example, in his State of the Union address at the European Parliament in September 2015, European Commission President Jean-Claude Juncker said that he did not want to

> create any illusions that the refugee crisis will be over any time
> soon. It will not. But pushing back boats from piers, setting fire to
> refugee camps, or turning a blind eye to poor and helpless people:
> that is not Europe**.** Europe is the baker in Kos who gives away his

[93] European Commission, "Communication from the Commission to the European Parliament, the European Council, and the Council: Towards a Reform of the Common European Asylum System and Enhancing Legal Venues to Europe," April 6, 2016, accessed May 7, 2017, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160406/towards_a_reform_of_the_common_european_asylum_system_and_enhancing_legal_avenues_to_europe_-_20160406_en.pdf.
[94] Ibid.
[95] European Commission, "A European Response to Migration: Showing Solidarity and Sharing Responsibility," August 14, 2015, accessed May 7, 2017, http://europa.eu/rapid/press-release_SPEECH-15-5498_en.htm.
[96] European Commission, "More Responsibility in Managing the Refugee Crisis: European Commission Adopts 40 Infringement Decisions to Make European Asylum System Work," September 23, 2015, accessed May 7, 2016, http://europa.eu/rapid/press-release_IP-15-5699_en.htm.
[97] European Commission, "Refugee Crisis: European Commission Takes Decisive Action," September 9, 2015, accessed May 7, 2017, http://europa.eu/rapid/press-release_IP-15-5596_en.htm.

bread to hungry and weary souls. Europe is the students in Munich and in Passau who bring clothes for the new arrivals at the train station. Europe is the policeman in Austria who welcomes exhausted refugees upon crossing the border. This is the Europe I want to live in. The crisis is stark and the journey is still long. I am counting on you, in this House, and on all Member States to show European courage going forward, *in line with our common values and our history* [emphasis added].[98]

In the same speech, President Juncker explained, indirectly referring to Hungary, that building border walls and fences would not solve the crisis because "[t]here is no price you would not pay, there is no wall you would not climb, no sea you not sail, no border you would not cross" if you face oppression, violence, or terrorism.[99] During his visit to Hungary just over a week later, Dimitris Avramopoulos, European Commissioner for Migration, Home Affairs, and Citizenship, made the same point about walls and violence in almost exactly the same words.[100] He also added a distinctly moral and legal element by saying that offering protection to those in need is "a duty inscribed in international and European laws" and "grounded in our principles", and "also a Christian duty".[101]

The Commission also differs from the Council in the way it frames the people trying to reach Europe by land or sea. While it admits that some people may be taking advantage of the situation without being in genuine need of international protection, the Commission tends to believe that the majority of the migrants have legitimate claims to apply for asylum and refugee status.[102] In the aftermath of the Paris terrorist attacks in November 2015, Commission President Juncker made an emotional appeal to all those who, in the context of multiple security threats, had readily conflated refugees and terrorists.

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[98] European Commission, "State of the Union 2015."
[99] Ibid.
[100] European Commission, "Remarks by Commissioner Avramopoulos during his Visit to Hungary," September 17, 2015, accessed May 7, 2017, http://europa.eu/rapid/press-release_SPEECH-15-5663_en.htm.
[101] Ibid.
[102] Ibid.

I try to make it crystal clear that we should not mix the different categories of people coming to Europe. The one who is responsible for the attacks in Paris cannot be put on an equal footing with real refugees, with asylum seekers and with displaced people. These are criminals and not refugees or asylum seekers. I would like to invite those in Europe who are trying to change the migration agenda we have adopted – I would like to invite them to be serious about this and not to give in to these basic reactions. I don't like it.[103]

In addition to drawing attention to the human dimension of the present situation, the Commission depicts current developments in relation to events from Europe's not so distant past. Offering protection to people in distress is "first of all a matter of humanity and of human dignity" but "for Europe it is also a matter of historical fairness".[104] Unlike most Member State leaders sitting in the Council who tend to concentrate on current events, Commission President Juncker recalls that the modern global protection regime, based on the 1951 UN Convention Relating to the Status of Refugees, emerged in Europe after World War II when there were around 60 million refugees across the continent. It is for this reason, President Juncker says, that "[w]e Europeans should know and should never forget why giving refuge and complying with the fundamental right to asylum is so important."[105]

Finally, the Commission's discourse on migration contains important instances of self-reflexivity when it comes to whether and how much the EU has taken on its share of responsibility toward the international community. Despite the "unprecedented number of refugees coming to Europe", the situation is hardly as overwhelming for the EU as it may seem at first because refugees "still represent just 0.11% of the total EU population" whereas they represent up to a quarter of the population in much smaller and poorer countries like Lebanon.[106]

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[103] European Commission, "Transcript of Press Conference – G20 Summit in Antalya," November 15, 2015, accessed May 7, 2017, http://europa.eu/rapid/press-release_SPEECH-15-6091_en.htm.
[104] European Commission, "State of the Union 2015."
[105] Ibid.
[106] Ibid.

The Commission does not simply question the extent to which the EU has fulfilled its international obligations. It also points to telling examples of behavior within the EU that runs contrary the its values, principles, and rules, and "the spirit of loyal cooperation".[107] The Commission's more elaborate take on migration is also evident in its representation of migration as an opportunity rather than just as a source of troubles. As President Juncker points out, the demographic decline and the consequent labor shortages within the EU demand that migration change "from a problem to be tackled to a well-managed resource".[108] Creating legal and safe venues for migration into the EU, from the Commission's point of view, is an investment in the EU's future because of the contributions migrants make to the economic and social development of their host countries.[109]

3.3 European Parliament

In line with its role in the EU policy-making process, the European Parliament is the one EU institution that puts international and EU laws and values under the spotlight most assertively when it comes to migration. President Marin Schulz, for one, sometimes uses simple but emotionally powerful language to highlight the human tragedy behind the numbers circulating in the media, stressing that "every life lost is a stain on Europe and the values we stand for."[110] The Parliament most explicitly and consistently promotes a comprehensive, human rights-based approach to migration intended to address the root causes of migration and ensure coherence

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[107] European Commission, "Communication from the Commission to the European Parliament, the European Council, and the Council: First Report on Relocation and Resettlement," March 16, 2016, accessed May 7, 2017, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160316/first_report_on_relocation_and_resettlement_en.pdf.

[108] European Commission, "State of the Union 2015."

[109] European Commission, "Joint Statement on the International Migrants' Day"; European Commission, "Communication from the Commission to the European Parliament, the European Council, and the Council: Towards a Reform of the Common European Asylum System and Enhancing Legal Venues to Europe."

[110] European Parliament President, "Keynote at the Meeting of the G7 Speakers in Leipzig," September 5, 2015, accessed May 8, 2017, http://www.europarl.europa.eu/former_ep_presidents/president-schulz-2014-2016/en/press-room/parliamentary_responses_to_migration_crises.html.

between the EU's internal and external policies.[111] Recognizing the significant shortcomings of the Dublin system, the Parliament calls for "the establishment of a genuine, human rights-based common European migration policy based on the principle of solidarity among Member States as enshrined in Article 80 TFEU".[112] Such genuinely EU-wide migration policy should enable the EU to secure its external borders and fulfil other short-term objectives, and at the same time come up with a sustainable framework for long-term migration management that provides for diverse legal and safe avenues for migration into the EU and ensures the protection of the rights and best interests of the migrants, especially of the most vulnerable groups among them.

There is one theme that occupies a central position virtually in all EP migration-related documents: solidarity. Noteworthy, while it notes that the EU is facing "the most serious humanitarian crisis since the Second World War"[113], the EP argues that what has been termed a refugee or migration crisis may more properly be called a "solidarity crisis".

> Faced with human tragedy I am sad to say that many EU member states have not covered themselves in honor. This need not have been a crisis if we had all pulled in the same direction. But there is still hope. This solidarity crisis has forced us to push ahead with the long-overdue reform of our asylum, migration and border policy […] [A] number of governments still choose to use this crisis as a political football to score cheap points. But the sheer obligation to find answers to a crisis that shames us

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[111] European Parliament, "European Parliament Resolution of 10 September 2015 on Migration and Refugees in Europe (2015/2833(RSP))," September 10, 2015, accessed May 7, 2017, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP8-TA-2015-0317%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN; European Parliament, "Report on Addressing Refugee and Migrant Movements: The Role of the EU External Action (2015/2342(INI)," February 22, 2017, accessed May 9, 2017, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bREPORT%2bA8-2017-0045%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN; European Parliament, "European Parliament Resolution of 21 January 2016 on the EU's Priorities for the UNHRC Sessions in 2016 (2015/3035(RSP))," January 21, 2016, accessed May 8, 2017, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0020+0+DOC+XML+V0//EN&language=EN.
[112] European Parliament, "Report on Addressing Refugee and Migrant Movements: The Role of the EU External Action."
[113] European Parliament, "European Parliament Resolution of 21 January 2016 on the EU's Priorities for the UNHRC Sessions in 2016."

and paralyses us will push us to act in the right way, and the right way is European solidarity.[114]

Unlike the Council and to some extent the Commission, the Parliament suggests that the causes of the "crisis" are as much (if not more) internal than external. What the EU needs most, the EP argues, is solidarity at multiple levels articulated through concrete policies.[115] To put an abstract ideal into practice, however, the EU institutions and Member States first need to understand that *referring to* solidarity is a long way from *showing* solidarity.

> It is deplorable that to this day this debate remains largely theoretical: we have moved from "flexible solidarity" to "effective solidarity", but none of the solutions proposed so far were either flexible, effective, or had much solidarity at their heart. Solidarity is no one-way street, and some among us here have to ask themselves the question whether sharing responsibility is not something that should be self-evident among close partners. Especially when these same partners already benefit from the others' solidarity with major structural funds. You have the choice: either the asylum and migration crisis will enter into history books as a moment of fundamental failure of EU policy, or as a moment in which the EU took a leap forward in showing the world that its values shine brightest when they are expressed in concrete action.[116]

According to the Parliament, only if they transformed the rhetoric of solidarity into acts of solidarity can the EU institutions and Member States to "lead by example" and be a credible international actor speaking with one voice.[117] The EU should set an example to the rest of the world by promoting and safeguarding the rights and freedoms of migrants, especially within its own borders, implement all relevant human rights instruments set up by the UN, anchor human

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[114] European Parliament President, "Speech at Business Europe – European Business Summit – 'What's Next for Europe?'," June 2, 2016, accessed May 8, 2017, http://www.europarl.europa.eu/former_ep_presidents/president-schulz-2014-2016/en/press-room/speech_at_business_europe_-_european_business_summit_-_what_s_next_for_europe__.html.

[115] European Parliament President, "Speech of the President of the European Parliament, Martin Schulz, at the European Council of 20 October 2016," October 20, 2016, accessed May 8, 2017, http://www.europarl.europa.eu/former_ep_presidents/president-schulz-2014-2016/en/press-room/speech_of_the_president_of_the_european_parliament__martin_schulz__at_the_european_council_of_20_.

[116] European Parliament President, "Speech of the President of the European Parliament, Martin Schulz, at the European Council of 15 December 2016," December 15, 2016, accessed May 8, 2017, http://www.europarl.europa.eu/former_ep_presidents/president-schulz-2014-2016/en/press-room/speech_of_the_president_of_the_european_parliament__martin_schulz_at_the_european_council_of_15_d.

[117] European Parliament, "European Parliament Resolution of 14 December 2016 on the Annual Report on Human Rights and Democracy in the World and the European Union's Policy on the Matter 2015 (2016/2219(INI))," December 14, 2016, accessed May 9, 2017, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0502+0+DOC+XML+V0//EN&language=EN; European Parliament, "European Parliament Resolution of 25 October 2016 on Human Rights and Migration in Third Countries (2015/2316(INI))," October 25, 2016, accessed May 9, 2017, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0404+0+DOC+XML+V0//EN&language=EN; European Parliament, "Report on Addressing Refugee and Migrant Movements: The Role of the EU External Action."

rights at the intersection of its internal and external policies, revamp its labor migration policies, and highlight the positive contributions of migration to the sending as well as the host communities. This representation of the EU as an actor that should model its behavior on its norms and international standards comes closest to Manners' proposition that the EU can only move from *being* a normative actor to *acting* as a normative actor by "living by example", "being reasonable", and "doing least harm".[118]

The EP stresses that the current migration challenges require not only an orderly management of migration and protection of the external borders but also more legal and safe migration channels for third-country nationals and more targeted and comprehensive integration policies. Implicit in the EP's discourse is the belief that people will continue to move in large numbers around the world not only because of war, persecution, and violence but also because of poverty, inequality, and environmental degradation. In fact, the EP urges the EU "to participate actively in the debate on the term 'climate refugee', including its possible legal definition in international law or in any legally binding international agreements".[119] References to climate-induced migration push EU and Member State leaders to realize that migration is here to stay even if there were no conflicts and oppression around the world.

In this context, efforts to curb irregular migration, discourage people from undertaking risky journeys, and fight migrant smuggling are helpful but not enough. That is why, similar to the Commission, the Parliament draws attention to the positive aspects migration and the importance of tapping into its potential through effective legal migration and integration policies – "a dynamic and multi-dimensional process" based on "respect for the values upon which the

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[118] Manners, "The Normative Ethics of the European Union," 46.

[119] European Parliament, "European Parliament Resolution of 17 December 2015 on the Annual Report on Human Rights and Democracy in the World 2014 and the European Union's Policy on the Matter (2015/2229(INI))," December 17, 2015, accessed May 8, 2017, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0470+0+DOC+XML+V0//EN&language=EN.

EU is built" and "respect for the fundamental rights of those concerned".[120] A more constructive response to migration, the EP notes, starts from a more positive framing of the effects of migration and a more positive narrative about those on the move.[121] Migration, due to its visibility and immediate impact as well as its sensitivity when it comes to national sovereignty, tends to cause anxiety and divisions in the host Member States which some government and opposition figures all too readily exploit "to fuel anti-migration sentiments while blaming the EU for the crisis".[122] Hence the EP's call on EU politicians "to take a clear stance in favor of European solidarity and respect for human dignity".[123]

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[120] European Parliament, "European Parliament Resolution of 13 December 2016 on the Situation of Fundamental Rights in the European Union in 2015 (2016/2009(INI))," December 13, 2016, accessed May 9, 2017, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0485+0+DOC+XML+V0//EN&language=EN.
[121] Ibid.
[122] European Parliament, "European Parliament Resolution of 10 September 2015 on Migration and Refugees in Europe."
[123] Ibid.

Chapter 4: Analysis of the EU Asylum and Migration Policy Response

The pronounced emphasis the three main EU institutions place on the need for solidarity and a fair sharing of responsibility is hardly surprising. These two values are firmly anchored in the EU Treaty base, especially Article 80 of the Treaty on the Functioning of the European Union (TFEU).[124] In its 2016 global strategy, the EU reiterated its support for a multilateral approach based on close cooperation among state and non-state actors to achieve "win-win solutions" and "move beyond the illusion that international politics can be a zero-sum game".[125]

Since it recognized the "refugee crisis" as a top priority, the EU has employed a variety of binding and non-binding instruments to mitigate its negative effects and address its causes. One area in which the EU has stood out is humanitarian and development assistance. As of March 2017, it has allocated over EUR 9.4 billion in humanitarian and development assistance as part of the international response to the ongoing conflict in Syria.[126] In November 2015, the EU launched the Trust Fund for Africa amounting to EUR 1.8 billion from the EU budget, the European Development Fund (EDF), and pledges from national donors, which grew to EUR 2.55 billion in December 2016.[127]

Its financial contribution aside, the EU has proved unprepared to respond in a coordinated and sustainable manner to the rapid increase in the number of asylum seekers and refugees arriving on its territory in 2015 and 2016, exposing itself to criticism from within and outside the Union. Against this backdrop, this chapter explores the EU's response in terms of its policies and

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[124] European Union, *Treaty on the Functioning of the European Union*.

[125] European Union, *Shared Vision, Common Action: A Stronger Europe*, June 2016, accessed May 14, 2017, https://europa.eu/globalstrategy/sites/globalstrategy/files/regions/files/eugs_review_web.pdf.

[126] European Commission, "Europe's Migration and Asylum Policy: Small Steps to Make a Big Difference," March 2, 2017, accessed May 14, 2017, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170302_factsheet_on_europes_migration_and_asylum_policy_-_small_steps_to_make_a_big_difference_en.pdf.

[127] European Union, "A European Agenda on Migration – State of Play: March 2017," March 2, 2017, accessed May 14, 2017, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170302_eam_state_of_play_en.pdf.

their impact, concentrating on the degree of consistency and coherence in the EU's internal and external actions and its implications for the Union's standing as a (credible) normative power.

4.1 Internal Dimensions

While cherished and promoted as the guiding principles of any EU action in the areas of asylum and migration, solidarity and responsibility sharing, it turns out, are much harder to achieve in practice. The persistent disagreements among the Member States and between some Member States and the EU institutions over the objectives of the EU's asylum and migration policy and the means to pursue them have impeded a genuinely collective and effective EU response to the latest migration challenges. The inadequate amount of solidarity and a sense of mutual responsibility can be seen in all major EU internal actions – and sometimes inaction.

To alleviate the pressure on the asylum systems of frontline Member States, the Council introduced a temporary relocation system in two steps. In July 2015, the Member States committed themselves to relocating 40,000 persons in clear need of international protection from Greece and Italy to the rest of the EU.[128] Two months later, the Council adopted a decision establishing provisional measures in the area of international protection according to which 120,000 persons were to be relocated from Greece and Italy to the other Member States over the next two years.[129] Relocations were to take place according to four "distribution keys" related to the capacity of the Member States to receive and take care of a specific number of applicants for international protection: population size, total GDP, average number of asylum applications per one million inhabitants between 2010 and 2014, and unemployment rate. The temporary

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[128] Council of the European Union, "Resolution of the Representatives of the Governments of the Member States Meeting within the Council on Relocating from Greece and Italy 40,000 persons in Clear Need of International Protection," July 22, 2015, accessed May 14, 2017, http://data.consilium.europa.eu/doc/document/ST-11131-2015-INIT/en/pdf.

[129] Council of the European Union, "Council Decision Establishing Provisional Measures in the Area of International Protection for the Benefit of Italy and Greece." September 22, 2015, accessed May 6, 2017. http://data.consilium.europa.eu/doc/document/ST-12098-2015-INIT/en/pdf.

relocation system applies only to applicants for international protection coming from Syria, Eritrea, and Iraq, which means that the overall number of affected refugees is relatively small.[130]

While it may be seen as a move in the right direction, the temporary relocation scheme has a limited potential. The fundamental deficiency of the scheme is that it offers only a temporary corrective mechanism in the framework of the Dublin Regulation, which remains the cornerstone of the EU's asylum policy despite its weaknesses and embedded unfairness.[131] The relocation scheme "primarily addresses the symptoms and not the actual causes" of the critical situation, perpetuating "an unfair system of attribution of state responsibility for determining asylum applications, which often results in human rights and protection failures".[132] In addition to its design shortcomings, the relocation system has largely failed to lead to major improvements due to implementation failures. On the one hand, the system rests on the presumption that all Member States have fully and effectively implemented Directive 2013/33/EU (Reception Conditions Directive)[133] and therefore offer adequate and identical reception conditions – a presumption that has not materialized, as illustrated by reports about difficult access to asylum procedures, insufficient or lacking support for vulnerable individuals, and incidents of arbitrary detention.[134] On the other hand, the relocation system itself has suffered from an implementation deficit, since some Member States are not participating at all or only partially. Hungary, Poland, Austria, and Denmark have not relocated a single person from Greece and Italy, while Bulgaria, the Czech Republic, Estonia, Lithuania, Sweden, and Ireland have relocated just a few people

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[130] Sergio Carrera and Elspeth Guild, "Can the new refugee relocation system work? Perils in the Dublin logic and flawed reception conditions in the EU," *CEPS Policy Brief* 334, October 1, 2015, accessed May 3, 2017, 6, https://www.ceps.eu/publications/can-new-refugee-relocation-system-work-perils-dublin-logic-and-flawed-reception.
[131] Ibid., 9-10.
[132] Ibid., 2.
[133] Official Journal of the European Union, "Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 Laying Down Standards for the Reception of Applicants for International Protection," June 29, 2013, accessed May 10, 2017, http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033.
[134] Ibid., 11.

from one of the two countries.[135] Despite the accelerated rate of relocations in recent months, the absence of effective solidarity among all Member States makes it harder for those participating to deliver on the EU's pledges. As of 10 April 2017, the Member States have relocated a total of 16,340 people from Greece and Italy.[136] If they are to fulfill their commitment on relocation by the end of this year, they need to relocate 4,500 people per month.[137]

Another key element underpinning the EU's internal response to migration, which is also related to the implementation of the temporary relocation system, is the so-called hotspot approach. This approach entails the deployment of personnel from three EU agencies – Frontex, Europol, and European Asylum Support Office (EASO) – to areas facing exceptional migration pressures ("hotspots") in Member States like Greece and Italy to support local officials in the screening of third country nationals, the provision of information and assistance to applicants, and organizing the returns of those who are not eligible to receive international protection.[138] Like the relocation scheme, the hotspot approach serves as an instrument for addressing gaps in the Dublin system and does not transcend its limitations and shortcomings.[139] The officials from the abovementioned agencies seconded to Greece and Italy have limited competences which they can exercise in the hotspots only. The absence of solidarity makes the situation still harder, with Member States responding slowly and inadequately to the urgent need of expanding the personnel and resources of EASO and related agencies.[140]

[135] European Commission, "Relocation and Resettlement – State of Play," April 12, 2017, accessed May 14, 2017, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_update_of_the_factsheet_on_relocation_and_resettlement_en.pdf.
[136] Ibid.
[137] European Commission, "Europe's Migration and Asylum Policy: Small Steps to Make a Big Difference."
[138] Sergio Carrera et al., "The EU's Response to the Refugee Crisis: Taking Stock and Setting Policy Priorities," *CEPS Essay* 20, December 16, 2015, accessed May 3, 2017, 7, https://www.ceps.eu/publications/eu%E2%80%99s-response-refugee-crisis-taking-stock-and-setting-policy-priorities.
[139] Ibid., 14.
[140] European Commission, "Communication from the Commission to the European Parliament, the European Council, and the Council: First Report on Relocation and Resettlement,"; European Parliament, "European Parliament Resolution of 14 October 2015 on the Council Position on Draft Amending Budget No 7/2015 of the

The ineffective implementation of the Reception Conditions Directive shows that what the Member States do is often connected to what they do not do. The Reception Conditions Directive is a major example of implementation failures across the EU but it is certainly not the only case. In September 2015, the European Commission launched 40 infringement decisions[141] against several Member States for failing to implement legislation making up the Common European Asylum System (CEAS), specifically the Reception Conditions Directive, the Asylum Procedures Directive (Directive 2013/32/EU)[142], and the Qualification Directive (Directive 2011/95/EU)[143]. At the same time, Member States such as Hungary have not only failed to fully and effectively implement EU asylum legislation but have even taken measures that directly violate this legislation. The controversial "border policies and criminalization practices in Hungary" are a major test for the EU because "Schengen rules accept no wall stopping asylum-seekers from having access to international protection in the EU".[144] The fact that the Commission resorts to infringement procedures indicates its readiness to use its competences to safeguard EU laws and principles, yet infringement procedures seem to be a relatively weak, politically sensitive, and context-dependent mechanism for ensuring a state's compliance.[145] The EU institutions have so far been extremely reluctant to take more assertive actions, such as

European Union for the Financial Year 2015, Managing the Refugee Crisis: Immediate Budgetary Measures under the European Agenda on Migration (12511/2015 – C8-0297/2015 – 2015/2252(BUD))," October 13, 2015, accessed May 8, 2017, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0355+0+DOC+XML+V0//EN&language=EN; European Parliament, "European Parliament Resolution of 25 October 2016 on Human Rights and Migration in Third Countries."

[141] European Commission, "More Responsibility in Managing the Refugee Crisis."

[142] Official Journal of the European Union, "Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on Common Procedures for Granting and Withdrawing International Protection (Recast)," June 29, 2013, accessed May 10, 2017, http://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013L0032.

[143] Official Journal of the European Union, "Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted (Recast)," December 20, 2011, accessed May 10, 2017, http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011L0095.

[144] Carrera et al., "The EU's Response to the Refugee Crisis," 16.

[145] Personal interview with Lina Vosyliute, April 27, 2017.

triggering Article 7 of the Treaty on European Union (TEU), which may lead to the suspension of a Member State's voting rights in the Council if there is "a clear risk of a serious breach by a Member State of the values referred to in Article 2".[146]

Indicative of the significance of inaction is the EU's inability to establish a genuine, fully and effectively implemented, and consistently applied CEAS. The progress in some areas notwithstanding, CEAS is a misnomer because there is no common EU asylum and migration policy but, as EP President Schulz put it in September 2015, "28 national policies".[147] Like Article 7, the EU has never used Directive 2001/55/EC (Temporary Protection Directive).[148] Even though it is supposed to employ this directive "in the event of a mass influx of displaced persons" and ensure a fair sharing of responsibility among its members, the EU did not use this instrument even in the peak of the migratory flows in the summer of 2015 when the situation in Greece and Italy would have justified such action.[149] Similarly, the Member States' reluctance to implement the relocation scheme illustrates one of the defining features of migration policy, namely its susceptibility to freeriding in a context in which a particular phenomenon affects directly just a handful of the Member States.[150] Whereas the Commission and the Parliament tend to see "more Europe" as the only viable approach to EU asylum and migration policy, the Member States have opposed any proposals that would put greater power in the hands of EU agencies such as the European Border and Coast Guard (EBCG). One of the questions during the negotiations on establishing this agency, which did proceed very quickly relative to the EU policy-making standards, was whether the EBCG should have the power to enter the territory of a

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[146] European Union, *Treaty on European Union*.
[147] European Parliament President, "Keynote at the Meeting of the G7 Speakers in Leipzig."
[148] Official Journal of the European Union, "Council Directive 2001/55/EC of 20 July 2001 on Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts between Member States in Receiving Such Persons and Bearing the Consequences Thereof," August 7, 2001, accessed May 10, 2017, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32001L0055.
[149] Personal interview with Lina Vosyliute.
[150] Personal interview with Marie Walter-Franke, May 12, 2017.

Member State to help it handle a critical situation without the explicit prior permission of the government of this Member State. The Member States rejected any such possibility because they viewed it as a violation of their national sovereignty.[151] The EU has also made virtually no progress in opening up more legal channels of migration[152], despite the Commission's and the Parliament's repeated calls for reforms in this direction.

Last but not least, contrary to Manners' description of the EU as an international actor that stands out by readily binding itself to international agreements and conventions, the EU has still not acceded to the European Convention for the Protection of Human Rights and Fundamental Freedoms although it has committed itself to doing so in Article 6 TEU. Further undermining the EU's ability to lead by example is that not a single Member State has signed or ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families[153], while many Member States have ratified the Convention on Action against Trafficking in Human Beings with specific reservations[154]. The non-ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families in particular undermines "[the] EU human rights policies and its stated commitment to the indivisibility of these rights".[155]

4.2 External Dimensions

In line with its prioritizing border management and control, curbing irregular migration, fighting migrant smuggling, and ensuring the speedy returns and readmissions of third-country

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[151] Personal interview with Nicole Koenig, May 12, 2017.
[152] Carrera et al., "The EU's Response to the Refugee Crisis," 20.
[153] United Nations Office of the High Commissioner for Human Rights, "International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families," accessed May 16, 2017, http://indicators.ohchr.org/.
[154] Council of Europe, "Reservations and Declarations for Treaty No.197 – Council of Europe Convention on Action against Trafficking in Human Beings," accessed May 16, 2017, https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/197/declarations?p_auth=RIZvsK1m.
[155] European Parliament, "European Parliament Resolution of 25 October 2016 on Human Rights and Migration in Third Countries."

nationals ineligible for international protection, the EU has devoted considerable resources to adapting its external actions to the changes on the international scene. The external dimensions of the EU's asylum and migration policy, being closely linked to its internal dimensions, include stronger and more flexible partnerships with countries of origin and transit within the new Migration Partnership Framework and cooperation with international organizations such as the UNHCR and IOM. One area where the EU has performed relatively well, albeit with important qualifications regarding the proportion of the burden it has taken, is resettlement. In July 2015, Member States pledged to resettle around 22,000 persons in need of international protection.[156] Later, as part of the EU-Turkey Statement of 18 March 2016, they agreed to resettle up to 54,000 Syrian refugees and asylum seekers from Turkey in return for reducing irregular migration into the EU.[157] As of 10 April, the Member States have resettled 15,492 people under both schemes.[158]

The other adopted measures that deserve special attention include the already mentioned EU-Turkey Statement, partnerships with priority third countries such as Mali aimed at improving the rate of returns, discouraging risky journeys to Europe, and addressing the root causes of migration, and financial and other forms of assistance to Libya for the purpose of capacity building, better border management, and more adequate reception conditions.

The EU-Turkey Statement, signed on 18 March 2016 by the heads of state or government of the EU Member States and representatives of the Turkish government, has probably generated

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[156] Council of the European Union, "Conclusions of the Representatives of the Government of the Member States Meeting Within the Council on Resettling Through Multilateral and National Schemes 20,000 Persons in Clear Need of International Protection," July 22, 2015, accessed May 14, 2017, http://data.consilium.europa.eu/doc/document/ST-11130-2015-INIT/en/pdf.

[157] Official Journal of the European Union, "Council Decision (EU) 2016/1754 of 29 September 2016 amending Decision (EU) 2015/1601 Establishing Provisional Measures in the Area of International Protection for the Benefit of Italy and Greece," October 1, 2016, accessed May 16, 2017, http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016D1754.

[158] European Commission, "Relocation and Resettlement – State of Play."

more intensive and more diverse reactions than all other EU actions related to the external aspects of migration. At the heart of the Statement, consistent with the goal of reducing irregular entries in the EU and discouraging people from undertaking life-threatening journeys, is the 1:1 mechanism: the EU commits itself to resettling one Syrian refugee for each Syrian migrant who has been returned to Turkey from the Greek islands after irregularly crossing to the EU from 20 March 2016 onwards.[159] Since the Statement came into force, the number of arrivals in the Greece islands has dropped by 98%.[160]

There is no doubt that the EU needs to cooperate with Turkey because it is a major country of transit, especially for Syrian refugees and asylum seekers heading to the EU. Along with other factors such as the closure of the Western Balkans route, the Statement has played a decisive role in reducing the number of irregular crossings to Greece. At the same time, political analysts, international human rights organizations, and even the European Parliament have expressed concerns over some of the main features of the Statement.

The controversy begins already with the nature of the document. It is "not a legally binding agreement" but "a political statement issued by the European Council".[161] Only some elements of the Statement, notably the return of migrants to Turkey, are based on binding readmission agreements. According to a recent judgement of the General Court of the EU, the Statement is not an international agreement binding the EU "because it was not the EU but its Member States, as actors under international law, that conducted negotiations with Turkey".[162]

[159] European Council, "EU-Turkey Statement, 18 March 2016," March 18, 2016, accessed May 16, 2017, http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/.

[160] European Commission, "Europe's Migration and Asylum Policy: Small Steps to Make a Big Difference."

[161] Nicole Koenig and Marie Walter-Franke, "One Year On: What Lessons from the EU-Turkey 'Deal'?" *Jacques Delors Institut – Berlin*, March 17, 2017, accessed May 16, 2017, 2, http://www.delorsinstitut.de/en/publications/posttype/blog-post-en/one-year-on-what-lessons-from-the-eu-turkey-deal/.

[162] General Court of the European Union, "The General Court Declares that It Lacks Jurisdiction to Hear and Determine the Actions Brought by Three Asylum Seekers Against the EU-Turkey Statement Which Seeks to

The judgement also demonstrates that the non-EU nature of the Statement has direct consequences as to where and how affected individuals can seek remedies. The European Ombudsman, for her part, has ruled that "the political aspect of the [EU-Turkey Statement] does not absolve the Commission of its responsibility to ensure that its actions are in compliance with the EU's fundamental rights commitments".[163]

The Statement has also been criticized by the European Parliament. While it acknowledges that the agreement has helped reduce the number of irregular entries into the EU, it has serious concerns about the human rights implications of the agreement.[164] The Member States' expedient and legally ambivalent approach to cooperation with Turkey has prevented the EP from exercising its powers. It is for this reason that the EP claims that in their response to the intensified migratory and refugee flows, "the EU and its Member States have opted for the conclusion of agreements with third countries, which avoid the parliamentary scrutiny attached to the Community method".[165] Overall, the Member States concluded the Statement because of the urgency of the situation and because of the inherently slow decision-making process at EU level, yet in this way they sidelined the EP, exposing themselves to accusations of undermining transparency and the rule of law.[166]

One more sensitive issue related to the EU-Turkey Statement has raised eyebrows across the board. According to the agreement, Turkey is a safe third country. This designation suggests that Turkey has the capacity to guarantee the safety and rights of the refugees and asylum seekers

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Resolve the Migration Crisis," February 28, 2017, accessed May 16, 2017, https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-02/cp170019en.pdf.

[163] European Ombudsman, "Decision of the European Ombudsman in the Joint Inquiry into Complaints 506-509-674-784-927-1381/2016/MHZ against the European Commission Concerning a Human Rights Impact Assessment in the Context of the EU-Turkey Agreement," January 18, 2017, accessed May 16, 2017, https://www.ombudsman.europa.eu/cases/decision.faces/en/75160/html.bookmark.

[164] European Parliament, "Report on Addressing Refugee and Migrant Movements: The Role of the EU External Action."

[165] Ibid.

[166] Personal interview with Marie Walter-Franke; Personal interview with Nicole Koenig.

on its territory and provide them with decent reception conditions. The intensified migratory

flows led the Turkish authorities in 2013 to adopt the Law on Foreigners and International

Protection (LFIP) – a first step toward a comprehensive asylum and migration system.[167]

Nevertheless, the implementation of this otherwise well-drafted law has not worked as desired

due to a lack of experience and capacity in asylum and migration, and a security-based approach

to migration. The system, therefore, is "far away from providing a safe haven for migrants and

refugees" and "[is] only creating a legal limbo where migrants and asylum seekers are waiting

without seeing their futures".[168]

A second issue of contention regarding the EU's approach to the external dimensions of

migration concerns cooperation with priority countries of origin and transit in Africa and Asia

under the new Migration Partnership Framework. Presented by the European Commission on 7

June 2016 and endorsed by the European Council three weeks later[169], the framework is seen as a

step toward "a truly comprehensive migration policy, based on partnership and with the

necessary investments and resources that will allow us to keep working together to save lives,

dismantle criminal networks, provide people with better opportunities, manage together

migratory flows in a sustainable, respectful and human manner".[170] In principle, migration

"compacts" with key partners make sense when it comes to addressing the immediate needs of

the EU, especially curbing irregular migration, as well as the root causes of migration and forced

displacement like poverty, corruption, and lack of economic opportunities. In practice, such

partnerships pose multiple difficulties and constraints on the EU's behavior.

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[167] Orçun Ulusoy, "Turkey as a Safe Third Country?" *Border Criminologies*, March 29, 2016, accessed May 5, 2017, https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2016/03/turkey-safe-third.
[168] Ibid.
[169] European Union, "A European Agenda on Migration – State of Play: March 2017."
[170] European Commission, "Commission Calls for Accelerated Delivery Under the Migration Partnership Framework and Further Actions Along the Central Mediterranean Route," March 2, 2017, accessed May 8, 2017, http://europa.eu/rapid/press-release_IP-17-402_en.htm.

The EU's relations with Mali are a case in point. Mali is one of the five priority countries of the Migration Partnership Framework, along with Niger, Nigeria, Senegal, and Ethiopia.[171] In early 2016, during the Dutch Presidency of the Council of the EU, the EU initiated a High-Level Dialogue on Migration with Mali.[172] In December 2016, the EU and Mali signed a Joint Communique[173], which some media described as a "money-for-migration deal".[174] Like the EU-Turkey Statement, the Communique is not a formal agreement. Instead, it simply offers the basis for enhanced returns to Mali in exchange for financial assistance from the EU aimed at improving Mali's border management, fighting migrant smugglers, and create employment for the young people in the country.[175] The deal sparked protests in Mali, with many Malians accusing the government of betraying them by accepting EUR 145 million for "measures to deter migration".[176] This amount corresponds to approximately one fifth of Mali's annual remittance revenue.[177] Similar to the EU-Turkey Statement, the Communique with Mali is seen as creating legal uncertainty and possible misunderstandings, while also highlighting "the practical limitations of subordinating development and security aims to migration-related ones".[178] On a more normative level, the EP, for one, has opposed "any attempts to link aid with border control,

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[171] Ibid.

[172] Nicole Koenig, "The EU's External Migration Policy: Towards Win-Win-Win Partnerships," *Jacques Delors Institut – Berlin*, April 6, 2017, accessed May 16, 2017, 12, http://www.delorsinstitut.de/en/all-publications/win-win-win-partnerships-in-eu-migration-policy/.

[173] Government of the Netherlands, "Koenders Concludes Migrant Return Agreement with Mali for EU," December 11, 2016, accessed May 16, 2017, https://www.government.nl/latest/news/2016/12/11/koenders-concludes-migrant-return-agreement-with-mali-for-eu.

[174] Gabriela Baczynska and Tom Körkemeier, "EU Agrees Money-For-Migration Deal with Mali," *Reuters*, December 12, 2016, accessed May 16, 2017, http://www.reuters.com/article/us-europe-migrants-eu-mali-idUSKBN141158.

[175] Government of the Netherlands, "Koenders Concludes Migrant Return Agreement with Mali for EU."

[176] BBC, "Mali Sends Back Migrants Deported by France," December 30, 2016, accessed May 16, 2017, http://www.bbc.com/news/world-africa-38467244.

[177] Koenig, "The EU's External Migration Policy."

[178] Ibid.

management of migratory flows or readmission agreements", stressing that "development aid must not be made conditional on cooperation in migration matters".[179]

Lastly, the EU has tried to prevent the loss of lives in the Mediterranean Sea, stem irregular migration, and improve camp conditions in Northern Africa by partnering, among other countries in the region, with Libya – the departure point for 90% of those seeking to reach European shores.[180] In June 2016, the Foreign Affairs Council extended the mandate of European Union Naval Force – Mediterranean Operation Sophia (EUNAVFOR Med Operation Sophia) until 27 July this year and added two supporting tasks: besides conducting search and rescue operations at sea, the operation now had to conduct training of the Libyan coastguard and navy and contribute to the implementation of the UN arms embargo on the high seas off the coasts of Libya.[181] EU leaders have further backed bilateral agreements with Libya, such as the memorandum Italy signed with the North African country on 2 February this year.[182] In contrast to Maltese Prime Minister Joseph Muscat who described the agreement as "one first decent shot in trying to get a proper management of migration flows across the central Mediterranean", aid groups such as Medicins Sans Frontiers, which works on the ground in Libya, described EU leaders as "delusional" about Libya, explaining that "the EU is ready to sacrifice thousands of vulnerable men, women and children in order to stop them reaching European shores".[183]Cooperation with Libya, where the UN-backed Government of National Accord

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[179] European Parliament, "European Parliament Resolution of 14 February 2017 on the Revision of the European Consensus on Development (2016/2094(INI))," February 14, 2017, accessed May 9, 2017, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0026+0+DOC+XML+V0//EN&language=EN.

[180] European Commission, "Managing Migration Along the Central Mediterranean Route – Commission Contributes to Malta Discussion," January 25, 2017, accessed May 16, 2017, http://europa.eu/rapid/press-release_IP-17-134_en.htm.

[181] European Union, "A European Agenda on Migration – State of Play: March 2017."

[182] Gabriela Baczynska and Alastair Macdonald, "EU Leaders Back Libyans to Curb New Migrant Wave," *Reuters*, February 3, 2017, accessed May 16, 2017, http://www.reuters.com/article/us-europe-migrants-italy-libya-idUSKBN15I17D.

[183] Ibid.

(GNA) controls only a portion of the country's territory, is very problematic along legal and security lines but also from a humanitarian perspective due to reports about rapes, torture, and even executions in Libyan detention centers.[184]

Two other highly controversial issues raise concerns about the EU's cooperation with Libya. On the one hand, not long ago Libya was believed to be part of the smuggling model, whereas today the country, in the EU leaders' eyes, seems a trustworthy partner.[185] On the other hand, since UNHCR was officially banned from operating in Libya, IOM, a "non-normative organization", is now in charge of supervising detention centers in the country.[186]

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[184] Ibid.; Elizabeth Collett, "New EU Partnerships in North Africa: Potential to Backfire?" *Migration Policy Institute*, February 2017, accessed May 5, 2017, http://www.migrationpolicy.org/news/new-eu-partnerships-north-africa-potential-backfire.
[185] Personal interview with Lina Vosyliute.
[186] Ibid.

Chapter 5: Discussion of Findings

In their official communication, the three main EU institutions try to present the EU's role and actions in normative terms. The recurrent references to solidarity, a fair sharing of responsibility, respect of international law, human rights, and fundamental freedoms, and the moral obligation to help people in distress – principles enshrined in the Treaties – help construct the EU as a hybrid polity that puts human rights and cooperation before security and power dynamics that condition states' behavior. At the same time, while they justify EU actions on the basis of supposedly shared values, the three institutions differ in the emphasis they put on different values, which explains the differences in their visions of what the EU is and should be.

The EU's hybridity, which Manners treats as an unquestionably positive attribute and a cornerstone of the EU's normative power, may be the one feature that does not allow the EU to bridge the gap between normative aspirations and normative actions. The discourse analysis reveals a pattern that is in line with the institutions' sources of legitimacy and roles in the EU policy-making process. The Council, which consists of representatives of the Member States' governments, has prioritized security objectives, such as ensuring effective border management and fighting migrant smugglers. These objectives, rooted in the national governments' concerns over sovereignty, result in a more realist approach to asylum and migration whereby national leaders act with the next general election in mind. The European Parliament, by contrast, calls for a human rights-based approach to asylum and migration that would enable the EU to lead by example. Compared with the Member States' representatives, the Members of the European Parliament (MEPs) are much more distanced from day-to-day national politics and enjoy greater stability, which allows them to pursue more ambitious goals even if these might be unpopular with voters. Finally, the European Commission, institutionally positioned and commonly

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perceived as a mediator between the Council and the Parliament, tries to strike a balance between security concerns and more ambitious transnational goals. The Commission, similar to the Parliament, is relatively detached from national politics and is obliged to pursue the collective EU interest.

Disproving popular representations of the EU as a collection of unaccountable bureaucrats wielding power from Brussels, the EU's policy response to the intensified migratory flows over the past two years reveals the Union's most fundamental feature: policy-making in the EU, for all its differences, remains in the hands of states. The shortcomings of the Dublin system and the extremely slow progress in reforming it, the inadequate implementation of asylum legislation, the reluctance to trigger Article 7 TEU, the controversial aspects of the EU's partnerships with countries like Turkey and Libya, and the prevalence of security over non-security concerns all make it clear that it is the Council that sets the rules of the game. In those areas where it has no exclusive competences, as is the case with asylum and migration, the EU acts more as a coordinator and has only limited capacity to ensure the implementation and application of common EU norms, rules, and standards.[187] Under these circumstances, the EU's actions reflect the Council's prioritization of security-driven concerns over "full compliance with fundamental human rights standards and principles", which "constitutes one of the Achilles heels of the current European Agenda on Migration".[188]

The disconnect between aspirations and actions, or between expectations and capabilities, in the EU's asylum and migration policy is largely a by-product of the EU's move to "principled pragmatism".[189] According to the EU's 2016 global strategy, its external actions "will be guided by clear principles" which "stem as much from a realistic assessment of the current strategic

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[187] Personal interview with Marie Walter-Franke; Personal interview with Nicole Koenig
[188] Carrera et al., "The EU's Response to the Refugee Crisis," 2.
[189] European Union, *Shared Vision, Common Action: A Stronger Europe.*

environment as from an idealistic aspiration to advance a better world".[190] The justification provided for this move is that while the EU has taken and will continue to take pride in its soft power, "the idea that Europe is an exclusively 'civilian power' does not do justice to an evolving reality" in which the EU is engaged in civilian as well as military missions.[191] By taking this particular course, EU leaders acknowledge that the EU has punched above its weight in its normative aspirations. To adapt to the changes in the international environment, the EU, according to its leaders, has to shift its focus away from values such as human rights toward actions that bring concrete results.[192]

This shift has two direct implications for the EU's normative standing. First, the power dimension is increasingly taking over the normative dimension, or at least the normative dimension is significantly undermined by the EU's inconsistency.[193] Second, this shift puts the very concept of NPE into question: the securitization of migration in the EU through an emphasis on governmentality and territorial and administrative demarcation may well signal that the EU is absorbing rather than shaping the norms of the international society to which it belongs.[194] If this is the case, then the EU is not a sui generis enough, post-modern, international actor because it has not brought about a fundamental reconfiguration of the Westphalian, state-centered, border-demarcated international society and has thus failed to transform it into a world society based on universally shared norms.[195]

Finally, the analysis of the EU's response to the "refugee crisis" illuminates the (possibly) insurmountable difficulties in conclusively resolving the interests-versus-values debate. The EU's global strategy stresses that the Union's "interests and values go hand in hand": the EU has an

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[190] Ibid., 8.
[191] Ibid., 4.
[192] Personal interview with Lina Vosyliute.
[193] Personal interview with Jean Crombois, April 23, 2017.
[194] Diez, "Not Quite 'Sui Generis' Enough," 535.
[195] Ibid., 528-529.

interest in promoting its values worldwide but its leaders also recognize that "our fundamental values are embedded in our interests".[196] This vision, while consistent with the EU's principled pragmatism, does not fit with the EU's asylum and migration policies in terms of both values and interests. On the one hand, to be an effective and credible normative power, the EU needs to operate on the basis of an internal consensus over norms that is articulated in actions. The internal divisions over migration have made this consensus quite fragile.[197] On the other hand, identifying the EU's collective interests is even harder than identifying its core principles. For instance, open borders may be in the long-term interest of a country or the EU as a whole, yet national governments, exploiting the specificities of domestic politics, may and often oppose such a policy.

Many have accused the EU of backtracking on its values and norms in an attempt to realize its strategic interests. In reality, the EU may have pushed some of its principles aside without necessarily achieving its interests, as suggested by the limited progress in opening up legal channels for migration despite the negative demographic trends across the EU. Ironically, even if interests and norms could be clearly differentiated, it can be argued that the EU has undermined its own interests precisely by neglecting its values. The EU's move to "a transactional, normative-averse approach to partnership" with countries of origin and transit is a textbook example of an action's unintended consequences because the EU is thus signaling that offering international protection is optional, which will likely have serious repercussions for its international standing and relations with neighboring countries.[198]

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[196] European Union, *Shared Vision, Common Action: A Stronger Europe*, 13.
[197] Personal interview with Jean Crombois.
[198] Collett, "New EU Partnerships in North Africa."

Conclusion

By looking at both identity construction and the policies pursued by the EU, this paper gives answers to some important questions, while generating other, perhaps even more important questions that reveal the complexities related to NPE. If there is one conclusion to be drawn with a relatively high level of certainty, it is that Manner's claim that the EU has always been and will always be a normative power seems to go too far. On the one hand, this paper illustrates that the EU's actorness remains highly problematic: which actor or actors does the NPE concept encompass and why?[199] On the other hand, Manners' NPE implies that the EU is, acts as, and should be and should act as a normative power in all policy domains, setting the agenda, promoting its principles and values, and defining what passes for "normal". In reality, as its asylum and migration policy response indicates, the EU might more accurately be described as a normative actor that is "on a normative heading towards an ideal type of a normative power"[200] in a dynamic international environment in which becoming an effective and credible normative power is extremely difficult if not impossible.

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[199] Personal interview with Jean Crombois.
[200] Manners, "The European Union's Normative Power," 231.

Appendix I: Texts for Discourse Analysis

European Council/Council of the European Union

Period 1 (July-October 2015)

Council of the European Union. "Council Decision Establishing Provisional Measures in the Area of International Protection for the Benefit of Italy and Greece." September 3, 2015. Web. Accessed May 6, 2017. http://data.consilium.europa.eu/doc/document/ST-11161-2015-INIT/en/pdf.

Council of the European Union. Foreign Affairs Council – Council Conclusions on Migration. July 20, 2015. Web. Accessed May 6, 2017. http://www.consilium.europa.eu/en/press/press-releases/2015/07/20-fac-migration-conclusions/.

European Council President. "Address by President Donald Tusk at the Annual EU Ambassadors' Conference." September 3, 2015. http://www.consilium.europa.eu/press-releases-pdf/2015/9/40802201921_en.pdf.

European Council President. "Remarks by President Donald Tusk before his meeting with Prime Minister of Hungary Viktor Orban." September 3, 2015. http://www.consilium.europa.eu/press-releases-pdf/2015/9/40802201922_en.pdf.

European Council. European Council meeting – Conclusions. October 15, 2015. Web. Accessed May 6, 2016. http://data.consilium.europa.eu/doc/document/ST-26-2015-INIT/en/pdf.

Period 2 (November 2015 – February 2016)

European Council President. "Opening Statement by President Donald Tusk at the Valletta Summit on Migration." November 11, 2015. Web. Accessed May 6, 2017. http://www.consilium.europa.eu/press-releases-pdf/2015/11/40802204892_en.pdf.

European Council. "Valletta Summit on migration – Action Plan and Political Declaration." November 11-12, 2015. http://www.consilium.europa.eu/en/meetings/international-summit/2015/11/11-12/.

European council President. "Introductory Remarks by President Donald Tusk at the Meeting of EU Heads State or Government with Turkey, 29 November 2015." November 29, 2015. Web. Accessed May 6, 2017. http://www.consilium.europa.eu/en/press/press-releases/2015/11/29-introductory-remarks-eu-turkey/.

Council of the European Union. "Presidency Report – Managing Migration Flows. State of Play – Implementing Solutions and Remaining Gaps." December 16, 2015. http://www.consilium.europa.eu/en/press/press-releases/2015/12/17-presidency-report-managing-migration-flows/.

European Council. "European Council meeting (18 and 19 February 2016) – Conclusions." February 19, 2016. Web. Accessed May 6, 2017. http://data.consilium.europa.eu/doc/document/ST-1-2016-INIT/en/pdf.

Period 3 (March 2016 – November 2016)

European Council. "EU-Turkey Statement, 18 March 2016." March 18, 2016. Web. Accessed May 6, 2017. http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/.

Council of the European Union. "External Aspects of Migration – Council Conclusions (23 May 2016)." May 23, 2016. Web. Accessed May 6, 2017. http://data.consilium.europa.eu/doc/document/ST-9111-2016-INIT/en/pdf.

European Council. European Council meeting (28 June 2016) – Conclusions." June 28, 2016. Web. Accessed May 6, 2017. http://data.consilium.europa.eu/doc/document/ST-26-2016-INIT/en/pdf.

European Council President. "Speech by President Donald Tusk at the European Policy Center Conference." October 13, 2016. Web. Accessed May 10, 2017. http://www.consilium.europa.eu/en/press/press-releases/2016/10/13-tusk-speech-epc/.

European Council. "European Council Meeting (20-21 October 2016) – Conclusions." October 21, 2016. Web. Accessed May 6, 2017. http://data.consilium.europa.eu/doc/document/ST-31-2016-INIT/en/pdf.

Period 4 (December 2016 – March 2017)

European Council. European Council meeting (15 December 2016) – Conclusions." December 15, 2016. Web. Accessed May 7, 2017. http://data.consilium.europa.eu/doc/document/ST-34-2016-INIT/en/pdf.

European Council. "Malta Declaration by the Members of the European Council on the External Aspects of Migration: Addressing the Central Mediterranean Route." February 3, 2017. Web. Accessed May 7, 2017. http://www.consilium.europa.eu/press-releases-pdf/2017/2/47244654402_en.pdf.

European Council President. "Remarks by President Donald Tusk at the Informal Summit in Malta." February 3, 2017. http://www.consilium.europa.eu/press-releases-pdf/2017/2/47244654395_en.pdf.

Council of the European Union. "Council Conclusions on Libya – Council Conclusions (6 February 2017." February 6, 2017. Web. Accessed May 6, 2017. http://data.consilium.europa.eu/doc/document/ST-5321-2017-INIT/en/pdf.

European Council. "The Rome Declaration." March 25, 2017. Web. Accessed May 7, 2017. https://www.eu2017.mt/en/Press-Releases/Documents/PR250317_en.pdf.

European Commission

Period 1 (July-October 2015)

European Commission. "A European Response to Migration: Showing Solidarity and Sharing Responsibility." August 14, 2015. Web. Accessed May 7, 2017. http://europa.eu/rapid/press-release_SPEECH-15-5498_en.htm.

European Commission. "Refugee Crisis: European Commission Takes Decisive Action." September 9, 2015. Web. Accessed May 7, 2017. http://europa.eu/rapid/press-release_IP-15-5596_en.htm.

European Commission. "State of the Union 2015: Time for Honesty, Unity and Solidarity." September 9, 2015. Web. Accessed May 7, 2017. http://europa.eu/rapid/press-release_SPEECH-15-5614_en.htm.

European Commission. "Remarks by Commissioner Avramopoulos during his visit to Hungary." September 17, 2015. Web. Accessed May 7, 2017. http://europa.eu/rapid/press-release_SPEECH-15-5663_en.htm.

European Commission. "More Responsibility in Managing the Refugee Crisis: European Commission Adopts 40 Infringement Decisions to Make European Asylum System Work." September 23, 2015. Web. Accessed May 7, 2016. http://europa.eu/rapid/press-release_IP-15-5699_en.htm.

Period 2 (November 2015 – February 2016)

European Commission. "Transcript of Press Conference – G20 Summit in Antalya. November 15, 2015. Web. Accessed May 7, 2017. http://europa.eu/rapid/press-release_SPEECH-15-6091_en.htm.

European Commission. "Joint Statement on the International Migrants' Day." December 18, 2015. Web. Accessed May 7, 2017. http://europa.eu/rapid/press-release_STATEMENT-15-6376_en.htm.

European Commission. "Refugee Crisis: Commission Reviews 2015 Actions and Sets 2016 Priorities." January 13, 2016. Web. Accessed May 7, 2017. http://europa.eu/rapid/press-release_IP-16-65_en.htm.

European Commission. "Remarks by Commissioner Avramopoulos to the LIBE Committee at the European Parliament." January 14, 2016. Web. Accessed May 7, 2017. http://europa.eu/rapid/press-release_SPEECH-16-76_en.htm.

European Commission. "Keynote Speech by Commissioner Avramopoulos at the 2016 Harvard European Conference: Europe at the Crossroads of the Migration and Security Crises." February 20, 2016. Web. Accessed May 7, 2017. http://europa.eu/rapid/press-release_SPEECH-16-365_en.htm.

Period 3 (March 2016 – November 2016)

European Commission. "Remarks by Commissioner Avramopoulos During His Visit to Idomeni, Greece." March 15, 2016. Web. Accessed May 7, 2017. http://europa.eu/rapid/press-release_SPEECH-16-828_en.htm.

European Commission. "Communication from the Commission to the European Parliament, the European Council, and the Council: First Report on Relocation and Resettlement." March 16, 2016. Accessed May 7, 2017. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160316/first_report_on_relocation_and_resettlement_en.pdf.

European Commission. "Communication from the Commission to the European Parliament, the European Council, and the Council: Towards a Reform of the Common European Asylum System and Enhancing Legal Venues to Europe." April 6, 2016. Accessed May 7, 2017. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160406/towards_a_reform_of_the_common_european_asylum_system_and_enhancing_legal_avenues_to_europe_-_20160406_en.pdf.

European Commission. "Communication from the Commission to the European Parliament, the European Council, the Council, and the European Investment Bank on Establishing a New Partnership Framework with Third Countries under the European Agenda on Migration." June 7, 2016. Accessed May 7, 2017. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication_external_aspects_eam_towards_new_migration_ompact_en.pdf.

European Commission. "Remarks by Commissioner Dimitris Avramopoulos at the Round Table on Addressing Vulnerabilities of Refugees and Migrants on Their Journeys from Their Countries of Origin to Their Countries of Arrival at the UN Migration Summit." September 19, 2016. Accessed May 7, 2017. http://europa.eu/rapid/press-release_SPEECH-16-3121_en.htm.

Period 4 (December 2016 – March 2017)

European Commission. "Joint Statement on the Occasion of International Migrant Day on 18 December." December 16, 2016. Accessed May 7, 2017. http://europa.eu/rapid/press-release_STATEMENT-16-4440_en.htm.

European Commission. "Statement by Commissioner Avramopoulos During His Visit to Lesvos, Greece." January 18, 2017. Accessed May 7, 2017. http://europa.eu/rapid/press-release_SPEECH-17-87_en.htm.

European Commission. "Managing Migration Along the Central Mediterranean Route – Commission Contributes to Malta Discussion." January 25, 2017. Web. Accessed May 8, 2017. http://europa.eu/rapid/press-release_IP-17-134_en.htm.

European Commission. "Commission Calls for Accelerated Delivery Under the Migration Partnership Framework and Further Actions Along the Central Mediterranean Route." March 2, 2017. Web. May 8, 2017. http://europa.eu/rapid/press-release_IP-17-402_en.htm.

European Commission. "Remarks by Commissioner Avramopoulos following the Ministerial Conference on the Central Mediterranean Migration Route in Rome." March 20, 2017. Accessed May 7, 2017. http://europa.eu/rapid/press-release_SPEECH-17-689_en.htm.

European Parliament

Period 1 (July-October 2015)

European Parliament President. "Keynote at the Meeting of the G7 Speakers in Leipzig." September 5, 2015. Web. Accessed May 8, 2017. http://www.europarl.europa.eu/former_ep_presidents/president-schulz-2014-2016/en/press-room/parliamentary_responses_to_migration_crises.html.

European Parliament. "European Parliament Resolution of 8 September 2015 on the Situation of Fundamental Rights in the European Union (2013-2014) (2014/2254(INI))." September 8, 2015. Web. Accessed May 8, 2017. http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2015-0286.

European Parliament. "European Parliament Resolution of 10 September 2015 on Migration and Refugees in Europe (2015/2833(RSP))." September 10, 2015. Web. Accessed May 8, 2017. http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP8-TA-2015-0317%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN.

European Parliament. "European Parliament Resolution of 14 October 2015 on the Council Position on Draft Amending Budget No 7/2015 of the European Union for the Financial Year 2015, Managing the Refugee Crisis: Immediate Budgetary Measures under the European Agenda on Migration (12511/2015 – C8-0297/2015 – 2015/2252(BUD))." October 14, 2015. Web. Accessed May 8, 2017. http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0355+0+DOC+XML+V0//EN&language=EN.

European Parliament. "Migration Debate: The Real Divide." October 27, 2015. Accessed May 24, 2017. http://www.europarl.europa.eu/news/en/press-room/20151022IPR98824/migration-debate-the-real-divide.

Period 2 (November 2015 – February 2016)

European Parliament President. "Speech at the Valletta Summit on Migration." November 11, 2015. Web. Accessed May 8, 2017. http://www.europarl.europa.eu/former_ep_presidents/president-schulz-2014-2016/en/press-room/speech_at_the_valletta_summit_on_migration.html.

European Parliament. "European Parliament Resolution of 16 December 2015 on the Situation in Hungary (2015/2935(RSP))." December 16, 2015. Web. Accessed May 8, 2017. http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP8-TA-2015-0461%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN.

European Parliament. "MEPs Voice Concerns over Detention and Reception Conditions for Asylum Seekers." December 16, 2015. Accessed May 24, 2017. http://www.europarl.europa.eu/news/en/press-room/20151210IPR06848/meps-voice-concerns-over-detention-and-reception-conditions-for-asylum-seekers.

European Parliament. "European Parliament Resolution of 17 December 2015 on the Annual Report on Human Rights and Democracy in the World 2014 and the European Union's Policy on the Matter (2015/2229(INI))." December 17, 2015. Web. Accessed May 8, 2017. http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0470+0+DOC+XML+V0//EN&language=EN.

European Parliament. "European Parliament Resolution of 21 January 2016 on the EU's Priorities for the UNHRC Sessions in 2016 (2015/3035(RSP))." January 21, 2016. Web. Accessed May 8, 2017. http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0020+0+DOC+XML+V0//EN&language=EN.

Period 3 (March 2016 – November 2016)

European Parliament President. "Schulz on the EU-Turkey Summit." March 7, 2016. Web. Accessed May 8, 2017. http://www.europarl.europa.eu/former_ep_presidents/president-schulz-2014-2016/en/press-room/schulz_on_the_eu-turkey_summit.html.

European Parliament. "European Parliament Resolution of 12 April 2016 on the Situation in the Mediterranean and the Need for a Holistic EU Approach to Migration (2015/2095(INI))." April 12, 2016. Web. Accessed May 9, 2017. http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP8-TA-2016-0102%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN.

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Appendix II: Interviewees

Name	Biography
Jean Crombois	Jean Crombois is an associate professor in the Department of Political Science/International Relations and European Politics at the American University in Bulgaria (AUBG). He teaches courses on the history of European integration and EU law. His research interests include history and theories of European integration, comparative constitutionalism in Europe, European security, and the European Neighborhood Policy (ENP).
Lina Vosyliute	Lina Vosyliute is a researcher for the Justice and Home Affairs Research Program at the Center for European Policy Studies (CEPS). Previously, she worked as a researcher at Vilnius-based institute Visionary Analytics, where she acquired significant expertise in using qualitative methods. Since 2008, she has focused on migration policies and related human rights issues.
Marie Walter-Franke	Marie Walter-Franke is an associate research fellow at the Jacques Delors Institut – Berlin, working on EU migration and asylum policy. She holds an M.A. in European Studies from Sciences Po Paris and an M.Sc. in Politics and Government in the EU from the London School of Economics (LSE). She is writing her Ph.D. on "Human Rights under Pressure – Ethics, Law, and Politics" at the Free University of Berlin. Previously, she worked for the European Commission, the International Labor Organization (ILO), and the German Institute for International and Security Affairs (SWP).
Nicole Koenig	Nicole Koenig is a senior research fellow and deputy head of research at the Jacques Delors Institut – Berlin. She works on current political and institutional challenges confronting the EU and European foreign and security policy. She has worked, among other institutions, for the Trans European Policy Studies Association (Brussels), the Istituto Affari Internazionali (Rome), the Institute for Advanced Sustainability Studies (Potsdam), and the Department of War Studies at King's College (London).

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