

UNIVERSITY OF TWENTE

Faculty of Behavioural, Management and Social Sciences (BMS)

Bachelor Thesis

The EU – A crisis manager of the external dimension of the refugee crisis?

First supervisor: Prof. Dr. Ramses A. Wessel

Dr. Claudio Matera

Second supervisor: Dr. Shawn Donnelly

Kaja Waldmann

s1599852

Enschede, 30th June 2016

EU Crisis Management, Refugee Crisis, EU External Action, EU as a global actor

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LIST OF ABBREVIATIONS

AA	Association Agreement
AFSJ	Area of Freedom Security and Justice
CCP	Common Commercial Policy
CFSP	Common Foreign Security Policy
CPG	Conflict Prevention Group
CSDP	Common Security and Defence Policy
DCI	Development Cooperation Instrument
DG DEVCO	European Commission DG Development and Cooperation
DG ECHO	European Commission's Humanitarian Aid and Civil Protection department
DG HOME	Directorate-General for Migration and Home Affairs
DG NEAR	Directorate-General for Neighbourhood and Enlargement Negotiations
DGs	Directorate-General
ECJ	European Court of Justice
EDF	European Development Fund
EEAS	European External Action Service
EIDHR	European Instrument for Democracy and Human Rights
ENI	European Neighbourhood Instrument
ENP	European Neighbourhood Policy
ESDP	European Security and Defence Policy
ESS	European Security Strategy
EU	European Union
EUTF	EU Regional Trust Fund
FPI	Service for Foreign Policy Instruments
GSP	Generalized Scheme of Preferences
HIP	Humanitarian Implementation Plan
HR	High Representative of the Union for Foreign Affairs and Security Policy
IcSP	Instrument contributing to Stability and Peace
IDP	Internally Displaced People
IfS	Instrument for Stability
INSC	Instrument for Nuclear Safety Co-operation

IPA	Instrument for Pre-Accession Assistance
IPA	Instrument for Pre-Accession Assistance
IS	Islamic State
ISIL	Islamic State of Iraq and the Levant
ISIS	Islamic State of Iraq and Syria
ISIS	Islamic State of Iraq and Syria
MIP	Multiannual Indicative Programme
NGO	Non-governmental organization
OCHO	United Nations Office for Coordination of humanitarian affairs
OCHO	UN Office for the Coordination of Humanitarian Affairs
RHC	Regional Humanitarian Coordinator
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugee
WTO	World Trade Organization

ABSTRACT

This study is about the crisis management of the current refugee crisis by the European Union (EU) in non-European countries. The question to what extent the EU is able to manage the current refugee crisis in its external dimension, will be answered. Therefore this study evaluates which crisis management instruments the EU has, by regarding whether the external policies have (or can be used to achieve) the objective of crisis management: the promotion of security and stability. Furthermore, the question will be raised to what extent these instruments can be implemented in a coherent manner to address a crisis. In order to approach the main question, the instruments the EU used in practice to address the refugee crisis are analysed in five crisis-affected countries. Thus, the study addresses the crisis management actions of the EU in these countries and evaluates to what extent they contribute to the overall management of the refugee crisis. Through these steps the question to what extent the EU is able to manage the current refugee crisis will be answered.

1. INTRODUCTION

At the end of 2013 the world was faced with 51.2 million forcibly displaced people, the highest number of displaced people since World War II. Only one year later - at the end of 2014 - 59.5 million people were forcibly displaced due to conflict, violence and violation of human rights.¹ It has recently been reported that another year later – at the end of 2015 - 65.3 million people were forcibly displaced.² Whereas the total number of refugees at the end of 2011 amounted to 10.4 million, it increased within three and a half years by 45 per cent to 15.1 million refugees in June 2015.³ The United Nations (UN) Refugee Agency ‘United Nations High Commissioner for Refugee’ (UNHCR) predicts that the number of refugees, asylum-seekers and internally displaced people (IDP) will further increase.⁴

¹ Out of the 59.5 million people 38.2 million are displaced within their country of origin, 1.8 million are asylum seekers and 19.5 million have the status of a refugees.

UNHCR Mid-Year Trends 2015 (June 2015), available at <<http://www.unhcr.org/56701b969.html>>.

² This is available at <<http://www.unhcr.org/news/latest/2016/6/5763b65a4/global-forced-displacement-hits-record-high.html>>.

³ UNHCR Mid-Year Trends 2015, *supra* note 1.

⁴ The terms refugees, asylum-seekers and internally displaced people (IDP) need to be distinguished. According to Article 1 of the 1951 Geneva Convention and its 1967 Protocol a refugee, is someone ‘who is unable/unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.’ In the 1951 Geneva Convention and its 1967 Protocol furthermore the fundamental principles of non-discrimination, non-penalization and non-refoulement are laid down as well as the minimum standards for the treatment of refugees.

The terms ‘refugee crisis’ or ‘migration crisis’ are all over the Western media (among others such as the BBC, CNN, New York Times, the Guardian...). Many articles only refer to the fact that more than a million refugees crossed into Europe in 2015. The use of the word ‘refugee crisis’ is misleading as the scope of the crisis is broader and both causes and consequences of the crisis happen to be the largest outside of Europe. Among others, the UNHCR names the conflicts and crises in Afghanistan, Burundi, Central African Republic, Democratic Republic of Congo, Iraq, Mali, Somalia, South Sudan and Ukraine as the cause of the high number of displaced people worldwide. According to the UNHCR, the main contributing factor is the war in Syria, where the largest share of refugees originates (4.2 million by mid-2015), followed by people from Afghanistan and Somalia.⁵ In the ‘Joint Communication to the European Parliament and the Council Addressing the Refugee Crisis in Europe – The Role of EU External Action’ (further ‘Joint Communication addressing the Refugee Crisis’) the backgrounds of the crisis are elaborated and Afghanistan, Central African Republic, Eritrea, Iraq, Libya, Mali, Niger, Somalia, South Sudan, Syria and Yemen are named as origin countries of refugees. The main hosting countries of refugees are Turkey - currently hosting the greatest number of refugees worldwide – Lebanon and Jordan.⁶

‘This is not just a European crisis; it is a regional and global crisis’ emphasized Mogherini, the High Representative of the Union for Foreign Affairs and Security Policy (HR), in an interview.⁷ She stresses the importance of a European reaction (rather than single reaction of Member States) in order to manage the refugee crisis.⁸ In fact, Van Vooren and Wessel acknowledge that the EU has developed into a global security actor⁹ and hence affirm the

This is available at <<http://www.unhcr.org/3b66c2aa10.html>>.

An asylum seeker is a person who has applied for asylum under the 1951 Refugee Convention, meaning that the person has applied to be regarded as a refugee. IDP are persons that are displaced within their country of origin. In contrast to a refugee, an asylum seeker or an IDP migrants are people who voluntarily left their country of origin. This is available at <<http://www.unhcr.org/news/latest/2015/8/55df0e556/unhcr-viewpoint-refugee-migrant-right.html>>.

⁵ Excluding refugees from Syria the increase in the total number of refugees from 2011 to 2015 would only have been 5 per cent, including Syrians the increase is 45 per cent.

UNHCR Mid-Year Trends 2015, *supra* note 1.

⁶ As the thesis regards only the external dimension of the refugee crisis EU Member States are here excluded. European Commission, Joint Communication to the European Parliament and the Council, *Addressing the Refugee Crisis in Europe – The Role of EU External Action*, JOIN [2015] 40 final, 9.9.2015, available at <<http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A52015JC0040>>.

⁷ L. Weymouth, ‘E.U. foreign policy chief: Here’s what to do about the refugee crisis’, *The WashingtonPost*, 2 Oktober 2015, available at <https://www.washingtonpost.com/opinions/eu-foreign-policy-chief-heres-what-to-do-about-the-refugee-crisis/2015/10/02/0af01782-67a4-11e5-9ef3-fde182507eac_story.html>.

⁸ C. Amanpour, ‘Mogherini: European leaders must act on refugee crisis.’, *CNN*, 7 September 2015, available at <<http://edition.cnn.com/videos/tv/2015/09/07/intv-amanpour-federica-mogherini-europe-refugees.cnn>>.

⁹ B. Van Vooren and R. A. Wessel, *EU external relations law: Text, cases and materials*. (New York: Cambridge University Press 2014).

possibility of the EU managing the refugee crisis. According to its global objectives, the EU shall ‘in its relation with the wider world [...] contribute to peace, security and sustainable development of the world.’ These milieu goals are defined in Article 3 (5) of the Treaty on European Union (TEU).¹⁰ With their extraordinarily wide scope, they lead the EU in its external actions and thus in its crisis management. In regard to the current refugee crisis, the EU set three leading objectives, namely saving lives, ensuring protection of those in need and managing borders and mobility.¹¹ Even though Boin and Rhinard claim that the EU has developed growing capacities to manage complex, boundary-spanning threats¹² it remains questionable whether the EU is capable of managing a complex situation like the refugee crisis. Therefore this study approaches the question, to what extent the EU is able to manage the external dimension of the refugee crisis.

1.1 Theory and Conceptualization

In this section the underlying concepts of this study and existing research will be discussed. It will be clarified how the concepts of a crisis and thus the term refugee crisis, crisis management and coherence are defined.

To evaluate how the EU contributes to the management of the refugee crisis outside of the EU, firstly the term ‘crisis’ needs to be defined. ‘Crisis’ is widely understood as an ‘acute situation in which armed forces are (likely to be) used’ or an ‘existential threat allowing only a short time in which to react.’ The term is distinguished from the term ‘conflict’ which is broader defined as ‘every national or international situation where there is a threat or breach to priority value interests and goals’.¹³ In contrast to the widely accepted definition, Boin regards the concept of ‘crisis’ as ‘by nature extremely broad’. He identifies a ‘crisis’ by its key components namely the threat to important values, norms, and structures of society and

¹⁰ This is further defined in the General Provisions on the Unions external action (Title V TEU, especially Article 21 TEU).

¹¹ As I only regard the external dimension of the refugee crisis I will only focus on the first two objectives. ‘Joint Communication *Addressing the Refugee Crisis*’, *supra* note 6.

¹² A. Boin and M. Rhinard, ‘Managing Transboundary Crises: What Role for the European Union?’, 10(1) *International Studies Review* 2008, 1-26.

¹³ S. Blockmans and R. A. Wessel distilled this conceptualization out of a wide range of policy papers, legal documents, handbooks, and academic texts.

S. Blockmans and R. A. Wessel, ‘The European Union and Crisis Management: Will the Lisbon Treaty Make the EU More Effective?’, 14 (2) *Journal of Conflict and Security Law* 2009, 265-308.

the occurrence of uncertainty and urgency.¹⁴ Therefore, he defines a crisis as a ‘threat to core values or life-sustaining systems, which requires an urgent response under conditions of deep uncertainty.’ Additionally, Boin and Rhinard point out that the increasing number of transboundary threats - e. g. ‘waves of illegal immigrants washing up on European shores’ - leads to a transboundary nature of crises. Thus he describes the term ‘transboundary crisis’ as a threat to the ‘functioning of multiple, life-sustaining systems.’¹⁵

It remains questionable whether the above named definitions apply to the current refugee crisis. The terms ‘refugee crisis’ and ‘migrant crisis’ were primarily used by the media to illustrate the high number of people fleeing to Europe in a dramatic way. By now the term is used by both journalists and politicians to refer to both the causes and consequences of a variety of conflicts and crises rather than to a single ‘acute situation’. A journalist explains the use of this term as a convenient ‘catch-all that covers a multitude of inter-related issues’.¹⁶ This is why the widely understood concept of ‘crisis’ – as an acute situation in which armed forces are (likely to be) used - cannot be applied. The broader definition of Boin seems to be more suitable as it does not refer to one acute situation. Since the refugee crisis affects the stability and security of multiple systems¹⁷ it could be agreed that the refugee crisis is a transboundary crisis. Still the definition does not get to the heart of the matter. The term ‘refugee crisis’ refers to the sum of various conflicts and crises and their consequences, which result in the decreasing stability and security of a variety of systems. It accumulates all the conflicts and crises and their consequences to one crisis with an extremely wide scope which lead to the high number of displaced people worldwide.

Secondly, the term (European) ‘crisis management’ needs to be defined. According to Blockmans and Wessel, crisis management is the ‘organization, regulation, procedural framework and arrangements to contain a crisis and shape its future course while resolution is sought’.¹⁸ When speaking of crisis management the European External Action Service (EEAS) mostly refers to the policy fields Common Foreign Security Policy (CFSP) and Common Security and Defence Policy (CSDP).¹⁹ The EEAS also states that ‘the European

¹⁴ A. Boin et al., *The Politics of Crisis Management: Public Leadership under Pressure* (Cambridge: University Press 2005), 2-4.

¹⁵ A. Boin and M. Rhinard, *supra* note 12, 4.

¹⁶ T. King, ‘Crisis? What migration crisis’, *Politico*, 3 June 2016, available at <<http://www.politico.eu/article/migration-crisis-eu-turkey-balkan-summit/>>.

¹⁷ Please regard section 1.2 for a description which systems are affected.

¹⁸ S. Blockmans and R. A. Wessel, *supra* note 13.

¹⁹ The explanation of crisis management can be found under the tab of CFSP.

This is available at <http://eeas.europa.eu/cfsp/crisis_management/index_en.htm>.

Community is involved in all phases of the crisis cycle; from preventive strategies, to post-crisis rehabilitation and reconstruction'. Blockmans and Wessel argue that in the context of the EU the term crisis management 'serves as a catch-all phrase for both military and civilian ESDP [European Security and Defense Policy]²⁰ operations whether they are deployed to prevent conflict from bursting into a crisis, assist in enforcing the peace, keep the peace or build the peace.'²¹ The EU addresses crises not only with instruments from the policy fields CFSP and CSDP but with all its external policies that could have an impact on a crisis. This can be seen in the 'Joint Communication addressing the Refugee Crisis' where the role of all EU external actions is described. Also Blockmans and Wessel concluded that in fact not only actions under CFSP and CSDP are crisis management actions, but all measures the EU undertakes to provide security externally could be described as crisis management instruments.²² Therefore all instruments that in a wide scope promote security and stability²³ in the world are crisis management instruments.

To tackle the complexity of causes and consequence of a crisis efficiently, not only different instruments are required, but the actions need to be coherently implemented. Some scholars claim that external actions of the EU only work effectively if its actions are coherent. According to Portela and Raube, the European Council and the European Commission called coherence a 'precondition for efficacy' in external policies.²⁴ The obligation for coherence is also laid down in the TEU and Treaty on the Functioning of the European Union (TFEU). Article 21 (3) TEU establishes the legally binding 'lex generalis' coherence obligation as it legally connects all the objectives named in Article 21(2) TEU.²⁵ Article 205 of the TFEU makes a cross-reference to Article 21 TEU stating that on the international scene the actions of the EU should be guided by the objectives and provisions in Chapter 1 of Title V TEU.²⁶ In regard to crisis management, Boin identified the lack of coherence as one major problem the

²⁰ ESDP is the former name of the European Union's Common Security and Defence Policy (CSDP).

²¹ S. Blockmans and R. A. Wessel, *supra* note 13.

²² S. Blockmans, 'An Introduction to the Role of the EU in Crisis Management', in S. Blockmans (ed.), *The European Union and International Crisis Management: Legal and Policy Aspects* (The Hague: T.M.C. Asser Press 2009), 10-11.

²³ The term 'stability' refers to long-term security.

²⁴ Other scholars call the link between coherence and efficiency into questions because European foreign policy being unanimity has been effective in the past.

C. Portela and K. Raube 'Coherence in EU Foreign Policy: Exploring Sources and Remedies', 3-4. Available at <[http://aei.pitt.edu/33122/1/portela._clara_\(2\).pdf](http://aei.pitt.edu/33122/1/portela._clara_(2).pdf)>.

²⁵ Additionally this includes the cohesion between internal and external policies. Some authors claim that there is almost a total overlap of external and internal competences.

²⁶ Chapter 1 of Title V TEU is about 'General provisions on the Union's external action and specific provisions.

EU needs to overcome to be an efficient crisis manager.²⁷ Thus, the EU needs to implement its various external (crisis management) policies coherently in order to have a chance of eliminating a crisis. This is why the concept of coherence of the various external policies is essential throughout this research. The term ‘coherence’ needs to be defined and distinguished from the term ‘consistency’. Some scholars define ‘coherence’ as the absence of contradictions between policies.²⁸ Hoffmeister states ‘the notion of consistency refers to the absence of contradictions, whereas the notion of coherence relates more to create positive synergies.’²⁹ Within this thesis the definition of Orbie et al. will be used who regard coherence as ‘denoting both the absence of contradictions between different areas of external policy and the establishment of synergies.’³⁰ Wessel agrees with this distinction but refers to it as ‘negative and positive coherence’.³¹ Furthermore, I will focus on material/ substantive coherence of policy substance (in contrast to institutional coherence).³² In particular the subject to what extent the various instruments can be combined in a coherent manner will be raised, focussing on the possibility of their coherent implementation for crisis response.

1.2 Background information about the refugee crisis: Affected countries and crisis situation

In the previous section the term ‘refugee crisis’ was outlined on a theoretical basis. In the following section it will be summarized which countries are affected by the crisis (in practice) followed by a description of the situation of countries most affected. In order to determine the most affected countries, I will focus both on the countries where most refugees come from and the countries that currently host the most refugees.

²⁷ A. Boin and M. Rhinard, *supra* note 12, 1-26.

²⁸ C. Portela and K. Raube ‘The EU Polity and Foreign Policy Coherence’, 8(1) *Journal of Contemporary European Research* 2012, 3-20.

²⁹ F. Hoffmeister, ‘Interpillar coherence in the European Union’s civilian crisis management’ in Steven Blockmans (ed.), *The Policy and Legal Aspects* (The Hague : T.M.C. Asser-Press 2008), 157-180.

³⁰ Orbie et al derived their definition from an Article by P. Gauttier.

P. Gauttier, ‘Horizontal Coherence and the External Competences of the European Union’, 10 (1) *European Law Journal* 2004, 23-41.J.

Orbie et al., ‘Humanitarian Aid as an Integral Part of the European Union's External Action: The Challenge of Reconciling Coherence and Independence’, 22(3) *Journal of Contingencies and Crisis Management* 2014, 158-165.

³¹ Only the actions of the European Union and not the ones conducted by the single actions of the Member States will be included.³¹ That implies that I will only regard the horizontal coherence (rather than vertical cohesion between the EU and the Member States).

³² For an extensive discussion about the different types of coherence see B. Van Vooren and R. A. Wessel, *supra* note 9, xxxii.

In the 'Joint Communication addressing the Refugee Crisis' the countries affected by the crisis are listed as Afghanistan, Central African Republic, Eritrea, Iraq, Jordan, Lebanon, Libya, Mali, Macedonia, Niger, Serbia, Somalia, South Sudan, Syria, Turkey and Yemen.³³ Each of these countries either struggles with a crisis occurring on their territory or struggles to handle the influx of refugees fleeing to their country.

Syria is the country the most refugees come from fleeing from the violence by the Syrian government and the rising threat of the Islamic State of Iraq and Syria (ISIS), which is also known as ISIL (the Islamic State of Iraq and the Levant), Daish, Daesh or Islamic State (IS). ISIS gained control over parts of Iraq and Syria where it violently enforces its interpretation of the Sharia. The fight against ISIL is common to two countries: Syria and Iraq. Many refugees first flee to their neighbouring countries, in this case Turkey - hosting the largest share of Syrian refugees and overall the largest share of refugees worldwide - and Lebanon hosting the second largest number of (Syrian) refugees relative to its population. The second largest share of refugees from Afghanistan who have been fleeing from more than three decades of conflict (which is not directly linked to the conflicts in Syria and Iraq).³⁴ Thus the countries Syria, Iraq, Afghanistan. Turkey and Lebanon are the most affected by the refugee crisis. An extensive explanation of the background of the various conflicts and crises making up the refugee crisis would exceed the scope of this thesis. Therefore I presume knowledge about the backgrounds of these and give only a short overview of the situation in the most affected countries Syria, Iraq, Afghanistan, Turkey and Lebanon.³⁵

The *Syrian* crisis evolved from protest for freedom and democracy of the Syrian people in the context of the Arabic Spring in 2011. Repression by the Syrian government lead to an armed rebellion which resulted in civil war. Massive human rights violations were and are still denounced by the international community. The power of extremist groups like Jabhat al-Nusra (an arm of the Al-Qaeda) and ISIL increased which now poses a threat, especially to Syrians, Iraqi's and due to the terroristic activities of ISIS to the world. Thousands of people were internally and externally displaced. The conflict has developed into a multidimensional regional crisis affecting the whole region politically, socially and with regard to security. Over four million Syrian people have sought safety in neighbouring countries (Turkey, Lebanon,

³³ As I focus on the external dimension of the refugee crisis I will only regard non-EU Member States.

³⁴ UNHCR Mid-Year Trends 2015, *supra* note 1.

³⁵ The overview has no attempt to be all-comprehensive.

Jordan, Iraq and Egypt) affecting the whole region.³⁶

Iraq faces political insecurity and in many parts of the country armed conflict between government affiliated forces and a network of armed opposition groups occurs. Large areas remain outside the control of the government. Among others the Iraqi government fights against ISIL.³⁷ Due to the conflicts, over 3 million Iraqi have been displaced and additionally the country hosts a large share of Syrian refugees. Thus, Iraq is both an origin and hosting country of refugees. In Iraq refugees have received residency and work permits.³⁸ In the ‘Council Conclusion on the EU regional strategy for Syria and Iraq’ the Council underlines its ‘strong support for the Iraqi government’ to react to the crisis.

More than three decades of conflict resulted in the displacement of millions of people in *Afghanistan* and ongoing conflicts between government forces and armed opposition groups still pose a threat to the population. These conflicts made Afghanistan to the origin country of the second largest share of refugees. Parts of the country remain under the control of the Taliban, al-Qaeda or their allies. Even though since 2002 more than 5.8 million Afghan refugees returned to Afghanistan³⁹ – which alone is a challenge for the country - more than 1 million people remain internally displaced (according to UNHCR in December 2015)⁴⁰ and another 2.6 million Afghan refugees live in Iran, Pakistan and the world.⁴¹ Furthermore Afghanistan hosts refugees from Pakistan. In addition, natural disasters – floods, earth quakes and landslides affect the population.⁴²

Turkey is hosting the largest number of refugees worldwide, with over 3.1 million registered.⁴³ As a result to the current refugee stream, Turkey has implemented an ‘open-door’ policy towards Syrian refugees. Refugees have received a Temporary Protection Status and since January 2016 (when the ‘Regulation of Work Permits of the Foreigners Under

³⁶ Council of the European Union, ‘*Council Conclusion on the EU Regional Strategy for Syria and Iraq as well as the ISIL/Da’esh threat*’, Foreign Affairs Council Meeting of 16 March 2015 (7267/15). Available at <www.consilium.europa.eu/en/meetings/fac/2015/03/st07267_en15_pdf/>.

³⁷ ‘Council Conclusion on the EU regional strategy for Syria and Iraq’, *supra* note 36

³⁸ This is available at <<http://www.3rpsyriacrisis.org/wp-content/uploads/2016/01/Iraq---Regional-Refugee-Resilience-Plan-2016-2017.pdf>>.

³⁹ UNHCR, ‘Regional Overview: Solution Strategy for Afghan Refugees’, (2015), available at <<http://www.unhcr.org/protection/operations/542522922/afghanistan-regional-portfolio-solutions-strategy-afghan-refugees-20152016.html?query=afghanistan>>.

⁴⁰ ECHO Factsheet ‘Afghanistan’ (April 2016), available at <http://ec.europa.eu/echo/files/aid/countries/factsheets/afghanistan_en.pdf>.

⁴¹ UNHCR Mid-Year Trends 2015, *supra* note 1.

⁴² ECHO Humanitarian Implementation Plan (HIP) for Afghanistan, Pakistan (Ref. Ares(2016)2372005 - 23/05/2016), available at <http://ec.europa.eu/echo/files/funding/decisions/2016/HIPs/AS_HIP_EN.pdf>.

⁴³ ECHO Factsheet ‘Turkey: Refugee crisis’ (March 2016), available at <http://ec.europa.eu/echo/files/aid/countries/factsheets/turkey_syrian_crisis_en.pdf>.

Temporary Protection’ was enacted) refugees can apply for work permits in Turkey.⁴⁴ Furthermore, Turkey is establishing and implementing a state-owned asylum framework.⁴⁵ The situation for Syrian refugees in Turkey is still a rather grave one: according to DG ECHO 90 per cent of the Syrian refugees in Turkey live outside the official refugee camps and face ‘very challenging circumstances.’ In September 2015 the Turkish deputy prime minister stated that the total spending of the Turkish government for the refugee crisis amounts to 7.6 \$ million since the beginning of the crisis.⁴⁶

Over 1.1 million people fled from Syria to *Lebanon*. The Lebanese Government has implemented a ‘disassociation policy’ in regard to the conflict in Syria. By now, 25 per cent of the Lebanese population are refugees – most of them from Syria - which poses a challenge to the country. Hezbollah and Sunni terrorist groups were able to extend their power during the conflict. Since January 2015, access to Lebanon for people fleeing Syria is nearly impossible as borders are de facto closed for asylum seeking persons. Individuals who fled from Syria are recognized as displaced which reflects the Lebanon governments understanding that permanent settlement is not possible.⁴⁷ Additionally, around 70 per cent of the displaced Syrian people are pushed into illegality due to the expensive and complicated procedures of legal residence.⁴⁸

1.3 Research Questions

The aim of this study is to evaluate to what extent the EU is able to externally manage the current refugee crisis. Therefore the overarching research question is the following: *RQ: To what extent is the EU able to manage the external dimension of the current refugee crisis?*

This is a legal research question that concerns the interpretation and application of existing norms and competences. Following the categorization of Hoecke this is a logical, hermeneutic and evaluative research question which will be answered by the use of two explanatory sub-

⁴⁴ This information is available at <<http://whsturkey.org/side-events/employment-of-syrians-under-temporary-protection-status-in-turkey-and-their-access-to-labour-market>>.

⁴⁵ This information is available <<http://reporting.unhcr.org/sites/default/files/tmp/GR2016-Turkey-eng.pdf>>.

⁴⁶ This information is available at <<http://uk.reuters.com/article/uk-europe-migrants-turkey-idUKKCN0RION520150918>>.

⁴⁷ UNHCR Refugees Response Lebanon Briefing Document (March 2015), 2, available at <http://www.europarl.europa.eu/meetdocs/2014_2019/documents/droi/dv/95_finalbriefingkit_95_finalbriefingkit_en.pdf>.

⁴⁸ ECHO Humanitarian Implementation Plan (HIP) Syria Regional Crisis *(Ref. Ares(2016)1865591 - 20/04/2016), 3-4, available at <<http://ec.europa.eu/echo/files/funding/decisions/2016/HIPs/HIP%20V2%20FINAL.pdf>>. ECHO HIP

questions.⁴⁹

Evaluating and assessing which crisis management instruments the EU has and to what extent they can be implemented coherently will determine the extent the EU will be able to manage the refugee crisis theoretically. Thus, the first sub-questions shall be answered:

RSQ1: Which crisis management instruments does the EU have at its disposal and to what extent can these be combined in a coherent manner to address a crisis?

Secondly, it will be evaluated whether and how the EU used the available crisis management instruments in practice to address the crisis. Thus, the second sub-question emerges:

RSQ2: To what extent have the crisis management instruments been used regionally and in the respective countries to address the current refugee crisis?

The answers of the sub-questions about the theoretical and practical capability of the EU to address crisis will allow answering the overall research question which is, to what extent the EU is able to manage the external dimension of the current refugee crisis.

1.4 Research Methods

In the following I explain how I will answer my research question and sub-questions along with the data I will use. Furthermore it is displayed which cases will be studied to answer the research question. All in all, I will follow a more inductive than theoretical approach which is systematic and partly comparative to answer the research question(s).

Since I will conduct legal research, I do not need to develop my own inquiry. Instead, legal and institutional sources will present my data. The sources of data are mainly legal, institutional and policy documents that can be classified as primary and qualitative data. The Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) are used as a basis of my study because they contain the objectives and competences of the EU. Central for my research are the ‘Joint Communication addressing the Refugee Crisis’, the ‘Council Conclusion on the EU Regional Strategy for Syria and Iraq as well as the ISIL/Da’esh threat’ (further Council Conclusion on the EU regional strategy for Syria and Iraq)⁵⁰ and the ‘Communication to the European Parliament, the European Council and the Council Managing the refugee crisis: immediate operational, budgetary and legal measures

⁴⁹ M. van Hoecke (ed.), ‘Methodologies of Legal Research. Which kind of method for what kind of discipline?’ (Oxford: Hart Publishing Ltd 2011).

⁵⁰ ‘Council Conclusion on the EU regional strategy for Syria and Iraq’, *supra* note 36.

under the European Agenda on Migration’ (further ‘Communication Managing the refugee crisis under the European Agenda on Migration’)⁵¹. These EU documents will serve as starting points to analyse the activities of the EU in regard to the refugee crisis. The following will describe more extensively how I will conduct my research.

Chapter 1 of the bachelor thesis was the introduction. It included a short identification of the problem, a literature review and the research question and sub-questions. My literature section includes discussions about the terms ‘crisis’ and ‘crisis management’, the role of the EU in crisis management and about coherence in external actions of the EU. Furthermore, the term ‘refugee crisis’ is defined and it is outlined which countries are most affected by the crisis. Thereby, I bridged to the introduction of my overall research question and the sub-questions, and within this section explain how the research is conducted. In the end of Chapter 1 the social and scientific relevance of this study will be outlined.

In Chapter 2 I aim to answer my first sub-question: Which crisis management instruments does the EU have and to what extent can these be used in a coherent manner? Therefore I will present the policy fields of the Common Foreign and Security Policy (CFSP) and Common Defence Security Policy (CDSP), Area for Freedom Security and Justice (AFSJ), development cooperation, Common Commercial Policy (CCP), humanitarian aid, European Neighbourhood Policy (ENP) and EU enlargement policy and evaluate whether their objective is the promotion of security and stability. Thus I can prove whether they are crisis management instruments or not. For each policy field I will include some arguments regarding their coherent implementation and their nexus with the other policy fields. In the end, I will explain the role of the HR and the EEAS and draw conclusions about crisis management and coherence in EU external actions.⁵²

In Chapter 3 I will focus on the third sub-question to what extent the crisis management instruments have been used regionally and in the respective countries to address the current refugee. I aim to develop an overview of the action by the EU in regard to the refugee crisis in these countries. On this basis I will point out how these actions contributed to the management of the crisis.

To analyse all affected countries would exceed the scope of this thesis. Therefore in the

⁵¹ European Commission, ‘Communication to the European Parliament, The European Council and the Council Managing the refugee crisis: immediate operational, budgetary and legal measures under the European Agenda on Migration’, COM (2015) 490/2 final, 29.9.2015, available at <http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/communication_on_managing_the_refugee_crisis_en.pdf>.

⁵² Council Decision of 26 July 2010, ‘Establishing the organization and functioning of the European External Action Service’, OJ [2010] L201/30, 3.08.2010

following I present and justify the case selection for this study which is made according to logic. I will regard the countries most affected by the crisis. Therefore I will choose the two main origin countries of refugees – Syria and Afghanistan – and the main hosting countries – Turkey and Lebanon. Furthermore, Iraq is included in my study as both an origin and hosting country of refugees. To answer the question whether the EU is able to manage the external dimension of the refugee crisis the above named countries will be used.⁵³

Due to the extensive number of documents by the EU and the fact that documents are published under various jurisdictions, there is the threat of overlooking or not finding all relevant documents. To address this problem, I will use the Treaties Office Database of the EEAS where all bilateral and multilateral international treaties or agreements of the EU are published⁵⁴ and study an extensive number of EU documents that address the topic of the refugee crisis. Nonetheless the treat cannot be fully out ruled.

I will close my study with a concluding chapter in which I will answer the overarching research question by summarizing all the results from the sub-questions. Conclusively, I will outline to what extent the EU is able to manage the external dimension of the current refugee crisis.

1.5 Social and Scientific Relevance

The answers of the previously raised questions have both high social and scientific relevance. Millions of people are affected by the refugee crisis. Particularly the people living in countries where the conflicts and crises emerged, suffer from the violence occurring on their doorstep. The displaced people lost their home, mostly have bad living conditions and live in uncertainty about their future. Most of the hosting countries – both in European Member States and non-European countries – are over-whelmed by the task to accommodate and sustain millions of displaced persons.

From a scientific point of view it is interesting to examine whether the EU can shape the world for the better – as is required by Article 3(5) TEU – by managing the refugee crisis.

⁵³ Many other countries are also highly affected by the crisis e. g. Macedonia and Serbia as transit countries in the Western Balkan, Egypt and Jordan as hosting countries of a large share of refugees. Including all these countries would exceed the scope of this thesis. My outcomes can be used by scholars in the future to assess the crisis management of the EU in the other crisis-affected countries.

⁵⁴ This is available on < <http://ec.europa.eu/world/agreements/default.home.do>>.

Furthermore the analysis can be the basis to answer other questions e. g. whether the external competences of the EU are sufficient or should be expanded, or whether it is the responsibility of the nation states, the EU or the international community to manage crises. Therefore, it is very useful to receive new insights on the role of the EU as a polity being capable of addressing crises such as the current refugee crisis. The current crisis can be seen as a maturity test for the EU as it will be examined to what extent the EU is able to manage it.

2. EU CRISIS MANAGEMENT INSTRUMENTS

In Chapter 1, I concluded that all policy fields with the objective of promoting security and stability in the world and the ones promoting security and stability in a wide scope can contribute to crisis management. Therefore, in this Chapter I will regard the policy fields CFSP/CDSP, AFSJ, development cooperation, CCP, humanitarian aid, ENP and EU enlargement and evaluate whether their objective is security and stability in order to prove whether they can provide crisis management instruments. The first part of the second sub-question, which crisis management instruments the EU has will be answered. Simply having a number of crisis management instruments is indeed not enough for the EU to be a crisis manager. In order to be able to manage a crisis, the EU would need to be able to implement the various crisis management instruments coherently. Therefore, I will examine synergies and possible contradictions between the various policy fields possibly contributing to crisis management in order to address the extent to which the instruments can be combined in a coherent manner.⁵⁵ Furthermore the role of the HR and the EEAS, which is to ensure consistency of the EU's external actions, will be analysed. To conclude, an overview of all the existing crisis management instruments and their possible coherent implementation will be presented.

In the following I will present each of the policy fields, their possible contribution to crisis management and some arguments regarding their nexus with the other policy fields and issues about their coherent implementation.

⁵⁵ For the purpose of this study only an extract of arguments can be presented.

2.1 CFSP/CDSP and the issue of coherence

Article 24 TEU clearly states that the overall objective of the two policy fields CFSP and CSDP is (the promotion of) security.⁵⁶ For this reason, the policy fields CFSP and CSDP are the core policy fields of crisis management. Due to the occurrence of transnational threats, the need of cooperation between Member States - who firstly had been reluctant to fully transfer the competence of the foreign security policy to the EU⁵⁷ - became essential. In contrast to all other external policy fields the competence of CFSP is laid down in the TEU (Article 24(1), further defined in the Article 2(4) TFEU) and not in the TFEU. Also the nature of CSDP - which is an integral part of the CFSP (Article 42 (1))⁵⁸ - differs from other external policy fields and has an extremely wide scope as it covers 'all questions relating the Union's security and common defence (Article 24(1) TEU).' As both the nature and the procedures of both policies differ from the other external policies⁵⁹, the nature of the CFSP and CSDP is defined as 'sui generis'.⁶⁰ The European Council is responsible for identifying the strategic interest and general guidelines for the CFSP and the Council frames these by making decisions (Article 26 TEU). The instruments for crisis management are thus Council decisions (in which e. g. restrictive measures or the implementation of funding instruments can be adopted)⁶¹ or the conclusion of agreements (Article 37 TEU). Furthermore, under the CSDP civilian and military missions are major crisis management instruments (Article 43 TEU).⁶² Blockmans and Wessel argue that this competence enables the EU to become a global

⁵⁶ Security is furthermore an integral part of the general external objectives of the European Union laid down in Article 3(5) TEU.

⁵⁷ The policy field of security is highly sensitive because it touches the core of statehood.

⁵⁸ The distinction between the two policy fields both dealing with security is highly discussed. In practice the Foreign Affairs Ministers regard issues about CFSP and the Defence Ministers meet to discuss about the CSDP. This allows the conclusion that CSDP deals with 'military security' whereas CFSP is concerned with all other forms of security like environmental security, economic security etc. For an extensive discussion see B. Van Vooren and R. A. Wessel, *supra* note 9, 401.

⁵⁹ The CSDP is carried out by the conclusion of decisions and international agreements. Furthermore declarations are used as informal instruments 'especially to react to world events like earthquakes, conflicts, serious human rights violations' because they are relatively easy to draft and agree on. For an extensive description of the procedures of CFSP and CSDP see B. Van Vooren and R. A. Wessel, *supra* note 9, 346-436. For urgent access to budget for financing a CSPP mission - e. g. because of an acute need for a rapid crisis management - the Council can also adopt measures by qualified majority voting (Article 41 (3) TEU) see B. Van Vooren and R. A. Wessel, *supra* note 9, 371.

⁶⁰ For a full description see B. Van Vooren and R. A. Wessel, *supra* note 9, 347.

⁶¹ This is laid down in Article 25-26 TEU.

⁶² In Art 43(1) TEU - where the provision for civilian and military missions is laid down - the term 'crisis management' is used in the treaties. It is said that civilian and military missions 'shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation.'

security actor. I support their statement that the EU is facing its maturity test as an international crisis manager.⁶³

As the decision-making procedures of CFSP and CSDP differ from the ones of other policy fields it is hard to combine CFSP/CSDP actions with other policy fields. This can be seen as a legal obstacle to coherence. In Article 2 of the EEAS decision it is laid down that the EEAS 'shall support the HR to conduct the CFSP, including the CSDP, to ensure consistency of the Unions external action'.⁶⁴ A comparison of the objectives, synergies and contradiction of the CFSP/CSDP with the other policy fields is conducted in the following sections.

2.2 AFSJ and the issue of coherence

The overall objective of AFSJ is providing the citizens of the EU an area of freedom security and justice (Article 3(2) TEU, further defined in Article 67 TFEU). Therefore, the objective of the AFSJ is clearly the internal security of EU citizens. The external dimension of the AFSJ - including the policy fields of immigration, judicial cooperation in civil and criminal matters, approximation of criminal law, police cooperation and fundamental rights protection⁶⁵ - developed out of intense internal cooperation of the EU and the Member States in these matters.⁶⁶ Due to the transnational nature of the above named policy fields, it was acknowledged that internal security cannot be achieved through purely internal measures.⁶⁷ Rys underlines the overall diminishing of the division of internal and external security and the de-territorialisation of threats as a consequence of globalization.⁶⁸ Thus it is necessary to

⁶³ According to B. Van Vooren and R.A. Wessel the EU already acted like a crisis manager in e.g. Aceh (as a broker of peace between the parties to a conflict), in e.g. Moldova/Ukraine (as an assistant to border management), in Georgie (as an adviser in justice reform), in Iraq (as a trainer of police and prison staff), in Guinea-Bissau (as a security sector reformer, in the Democratic Republic of Congo (as a security guarantor during elections), in FYROM (as a peacekeeper), in as a regional arrangement operating under a mandate by the United Nations Security Council, to counter the threat to international peace and security and to assist peacekeeping operations carried out by other international organizations and in Kosovo as a component of an international transitional administration. See B. Van Vooren and R. A. Wessel, *supra* note 9, 426-427.

⁶⁴ 'Council Decision on Establishing the EEAS', *supra* note 52.

⁶⁵ In this thesis I will concentrate on the policies of border checks, asylum and migration because these are most affected by the refugee crisis.

⁶⁶ As these policies are highly sensitive and indeed touch fundamental dimensions of statehood namely the public order and internal security the competences of the AFSJ are limited by Article 4(2) TEU, Article 67 and Article 72 TFEU. Except for immigration policy - which is an expressed external competence - the external dimension of the AFSJ is an implied competence. The declaration *OJ* [2010] C83/349 confirms the possibility of the EU to conclude international agreement in the AFSJ.

⁶⁷ J. Monar, *The External Dimension of the EU's Area of Freedom, Security and Justice: Progress, Potential and Limitations after the Treaty of Lisbon* (Stockholm: SIEPS Report 2012/1)

⁶⁸ W. Rys, 'The External Face of Internal Security', in C. Hill and N. Smith (eds.), *International Relations and the European Union*, 2nd ed. (Oxford: Oxford University Press, 2011), 227.

address security externally in order to achieve it internally. AFSJ is clearly a policy field of crisis management. That is why specific agreements or clauses in general agreements of the EU and third states, that promote cooperation of the EU and the third state in the field of AFSJ, can be used as crisis management instruments. In regard to the refugee crisis the important policy fields of the AFSJ are migration, asylum and readmission policies. For this reason I will focus in the following sections on these aspects of the AFSJ as important crisis management instruments.

There is a strong link of the AFSJ and other external policies. Matera argues that the objectives of the AFSJ can only be achieved with ‘a broader strategy that aims at integrating the different fields of EU external action in a coherent manner.’⁶⁹ This is also communicated by the Commission in the document ‘A Strategy on the External Dimension of the Area of Freedom.’⁷⁰ Furthermore the European Council underlined that the objectives of the AFSJ should be ‘fully coherent with all other aspects of the Union’s foreign policies.’⁷¹ The EU has concluded many agreements in other external policies like development cooperation and the ENP, including ASFJ clauses.⁷²

2.3 Development Cooperation and the issue of coherence

The primary objective of the EU’s development cooperation is the reduction, and in the long-term, the eradication of poverty (Article 208 TFEU). Therefore, security is not per se an objective of development cooperation and it is at first glance not a crisis management instrument. However, there is a strong nexus of development policies and other external actions. The focus of the policy field of development aid used to address trade and aid issues for former Member States colonies. Nowadays the scope of the policy field widened and today a ‘broader development agenda incorporating human rights, sustainable development aspects such as environment and social issues, and most recently links to security policy’,

⁶⁹ C. Matera, ‘The European Union Area of Freedom, Security and Justice and the Fight against New Security Threats. New Trends and Old Constitutional Challenges’, in M. Arcari and L. Balmond (eds.), *La Gouvernance Globale Face aux Défis de la Sécurité Collective – Global Governance and the Challenges of Collective Security* (Naples: Editoriale Scientifica, 2012), 69–88.

⁷⁰ Commission Communication, *A Strategy on the External Dimension of the Area of Freedom, Security and Justice*, Brussels, 12 October 2005, COM(2005) 491, 3.

Also see B. Van Vooren and R. A. Wessel, *supra* note 9, 501.

⁷¹ Council Document No. 17024/09: *The Stockholm Programme – An open and secure Europe serving and protecting the citizen*. European Council, *The Stockholm Programme – An Open and Secure Europe serving and protecting Citizens*, OJ [2010] C115/1, 4.05.2010

⁷² B. Van Vooren and R. A. Wessel, *supra* note 9, 480.

should be implemented in developing countries.⁷³ Both the EU and many scholars regarded the nexus of development cooperation with other European external policies especially with security policies. Merket emphasizes the great agreement of the importance of coherent development and security policies due to the correlation of insecurity and underdevelopment.⁷⁴ He criticizes the great complexity when it comes to a coherent implementation and questions whether the decision of the ECJ - that there cannot be a dual legal basis - is still applicable today.⁷⁵ Within the 'European Security Strategy' (ESS) of 2003⁷⁶ and the 'Consensus on Development of 2005',⁷⁷ the EU officially acknowledged that sustainable development is not possible without peace and security, nor is peace sustainable without development.⁷⁸ Therefore the scope of the EU development policy is widened to security-orientated policy initiatives and as development cooperation is essential to make long-term security possible. Thus the policy field can be used for crisis management.⁷⁹

The issue of coherence is addressed in the treaties in Article 208 TFEU which indicates that the development cooperation of the EU must be coherent to a) the general principles and objectives of the EU (Article 21 TEU), b) to the central goal of the reduction of poverty and c) to the development objectives of other policies.⁸⁰ Thus, the coherent implementation of development aid with other external policies is envisaged in the treaties. The funding (crisis management) instruments of development cooperation are the Development Cooperation Instruments (DCI) and the European Instrument for Democracy and Human Rights (EIDHR).⁸¹

⁷³ The policy field of development cooperation developed out the responsibility of some Member States to deal with their former colonies.

B. Van Vooren and R. A. Wessel, *supra* note ?, 311.

⁷⁴ H. Merket, 'The European External Action Service and the Nexus between CFSP/CSDP and Development Cooperation', 17 *European Foreign Affairs Review* 2012, 625-652.

⁷⁵ This decision was made by the ECJ in regard to the ECOWAS case (Case C-91/05). Many scholars result that the decision is not applicable any more.

B. Van Vooren and R. A. Wessel, *supra* note 9, 355.

⁷⁶ European Council, 'A secure Europe in a better world European Security Strategy, 12 December 2003. Available at <<http://www.eeas.europa.eu/csdp/about-csdp/european-security-strategy/>>.

⁷⁷ More information about the Consensus on Development of 2005 is available at <<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Ar12544>>.

⁷⁸ H. Merket, *supra* note 74.

⁷⁹ Therefore the Instrument contributing to Stability and Peace was established. More information about the IcSP is available at <https://ec.europa.eu/europeaid/how/finance/ifs_en.htm_en>.

⁸⁰ Furthermore the development cooperation of the EU and the Member States 'should complement and reinforce each other' - and the EU and the Member States must proactively collaborate with each other. The Commission should take initiative to promote this cooperation (Article 210(2)). More about the three C's Complementarity, Coherence and Coordination can be found in B. Van Vooren and R. A. Wessel, *supra* note 9, 313-314.

⁸¹ Additionally the policy field of development cooperation provides the European Development Fund (EDF) as a financing instrument. As the EDF is only eligible for African, Caribbean and Pacific (ACP) countries it will

One other special crisis management instrument is the Instrument contributing to Stability and Peace (IcSP). The IcSP is a funding instrument that the EU established in regard to Article 209 TFEU and 213 TFEU⁸² ‘to prevent and respond to actual or emerging crises around the world.’ Therefore, it is clearly an important crisis management instrument of the EU. In contrast to the DCI and the EIDHR, it is not run by the DG DEVCO, but by the Service for Foreign Policy Instruments (FPI), in collaboration with other services of the European Commission (especially the DG DEVCO) and the EEAS.⁸³ It fulfils a bridging function between CFSP interventions and development support in countries that were affected by a crisis or at risk of crises or natural disasters.⁸⁴

2.4 Trade and the issue of coherence

The overall objective of the common commercial policy CCP - laid down in Article 3(5) TEU and Article 21(2) - is the promotion of free and fair trade.⁸⁵ Even though the objective of the external dimension of the CCP does not concern security ‘the EU considers CCP to be an instrument of foreign policy linked to development issues, environmental policies [...]’⁸⁶ The CCP is used to impact the development and security of states worldwide and thus targets the objectives of the policy fields like development cooperation and CFSP. For example, the EU aims to promote the reduction of poverty and thus the objective of development cooperation through CCP policies like preferred trade conditions for developing countries.⁸⁷ The fact that restrictive measures falling under the policy field of CFSP but forming the economic relations of the EU with third states significantly shows the strong link of security and trade policies of the EU.⁸⁸

not further be regarded. This information is available at <https://ec.europa.eu/europeaid/funding/funding-instruments-programming/funding-instruments_en>.

⁸² Regulation No 230/2014, OJ [2014] L 77/1, 15.03.2014.

⁸³ This information is available at <http://ec.europa.eu/dgs/fpi/what-we-do/instrument_contributing_to_stability_and_peace_en.htm>.

⁸⁴ Regarding the IcSP under the policy field of development cooperation is a simplification because the IcSP cannot directly be assigned to any of the policy fields regarded in this Chapter. Indeed it falls under the Service for Foreign Policy Instruments (FPI). This is available at <http://ec.europa.eu/dgs/fpi/announcements/news/20140403_en.htm>.

⁸⁵ Internal and external competence are extremely linked in the policy field of CCP. The exact provisions are in Title II of the TFEU.

⁸⁶ B. Van Vooren and R. A. Wessel, *supra* note 9, 278.

⁸⁷ These are possible due to the Enabling Clause of the WTO (1979). This approach is called ‘Aid through trade’. B. Van Vooren and R. A. Wessel, *supra* note 9, 286.

⁸⁸ For information about restrictive measures see B. Van Vooren and R. A. Wessel, *supra* note 9, 395.

In fact, most agreements of the EU with third states concern trade or trade-related issues.⁸⁹ As trade policies of the EU have an impact on third countries that go beyond economic aspects it can be a powerful instrument to achieve the overall objectives of the EU like security. That is why trade agreements adopted under Article 207 TFEU are by nature not a crisis management instrument but can and are used as such.

As the CCP needs to be conducted ‘in the context of the principles and objectives of the Union’s external action’ (Article 207(1) TFEU) the need for a coherent implementation of the CCP with other external and thus crisis management actions is laid down in the treaties.

2.5 Humanitarian Aid and the issue of coherence

The objective of humanitarian aid is laid down in Article 21(2) g TEU ‘to assist populations, countries and regions confronting natural or man-made disasters.’ Even though the objective of humanitarian aid is not the promotion of security, it is used to address the current needs of human beings to decrease their suffering ‘after a disaster’ or – using another word - a crisis.⁹⁰ Therefore, humanitarian aid operations are a crisis management instrument that is necessary to react to a crisis in the short run. The implementation of humanitarian aid operations is accomplished by NGOs, international organizations and agencies or specialist bodies from Member States. The Commission (DG ECHO) is responsible for appraisal, management, monitoring and evaluation of these operations.⁹¹

Humanitarian aid operations alone cannot eliminate a crisis but humanitarian aid is essential to provide short-term help before and during the timeframe other instruments (like CFSP or development cooperation), which can be used for the promotion of security and stability in the long-term. This emphasizes the need of a combination of various instruments to efficiently address a crisis. Orbie et al. argue that the causes and consequences of (humanitarian) crises are so interconnected that policies of humanitarian aid, development cooperation, CFSP and trade policies need to be linked to effectively deliver aid. The strong link between the policies can also be seen through e. g. the fact civilian and military missions

⁸⁹ See B. Van Vooren and R. A. Wessel, *supra* note 9, 277.

⁹⁰ The legal basis of humanitarian aid is Article 214 TFEU.

⁹¹ Humanitarian Aid by the EU is grant-financed and non-refundable. For information about the procedures of humanitarian aid see *OJ* [2009] L 87/109, 31.3.2009.

(CSDP instruments) can be used to pursue humanitarian tasks.⁹² The ‘European Consensus on Humanitarian Aid’ (2007) underlines the desire for a ‘more coordinated and coherent approach to deliver aid linking humanitarian and development aid’ and laid down the four principles of humanitarian aid - neutrality, impartiality, humanity and independence.⁹³ The EU is challenged to simultaneously deliver aid independently and neutrally while achieving more coherence with other EU external policies – like development cooperation which has a political (non-neutral) aspect.⁹⁴ Therefore, the coherent implementation of the policy fields can be problematic even though both share a wide scope of objectives for promoting security and stability.

2.6 ENP and Enlargement and the issue of coherence

Article 8 TEU states that the EU ‘shall develop a special relationship with neighbouring countries.’⁹⁵ This is realized through both the Enlargement Policy and the European Neighbourhood Policy.⁹⁶ The overall aim of the ENP is promoting security and stability in the EU’s neighbouring countries. Increasing the security of the surrounding countries should enhance the security of the EU itself. Rather than being connected with a concrete policy field or competence the ENP is an ‘umbrella policy’ with the focus of providing synergies between different policy fields.⁹⁷ Therefore, the framework of the ENP can be used to promote security and stability and thus conduct crisis management. The funding instruments for crisis management are the European Neighbourhood Instrument (ENI) and Instrument for Pre-

⁹² This information is available at

<http://www.europarl.europa.eu/aboutparliament/en/displayFtu.html?ftuId=FTU_6.3.2.html>.

⁹³ The overall policy framework for humanitarian assistance is outlined in the ‘European Consensus on Humanitarian Aid’ (2007), signed by the three EU institutions (the Commission, the Council and Parliament). It defines the EU’s common vision, policy objectives and principles on topics like international humanitarian cooperation; good donor ship; risk reduction and preparedness; civil protection; and civil and military relations. The Consensus aims at a more coordinated and coherent approach and also the link of humanitarian and development aid enabling the EU to respond more effectively to e. g. crises. For more information see <http://ec.europa.eu/echo/who/humanitarian-aid-and-civil-protection/european-consensus_en>.

⁹⁴ This problem is also known as the politicization of humanitarian aid. J. Orbie et al., *supra* note 30, 158-165.

⁹⁵ It can be discussed whether this Article shall be seen as an objective of the EU like Article 3(5) TEU and Article 21 TEU. For the purpose of this thesis I regard it as the objective of ENP and enlargement policy. B. Van Vooren and R. A. Wessel, *supra* note 9, 537.

⁹⁶ The procedures of the EU’s enlargement policy are laid down in Article 49 TEU and the process of familiarizing the candidate countries with the activities of the EU can be followed on the website of the Commission regarding the European Neighbourhood Policy and the enlargement negotiations. This is available at <http://ec.europa.eu/enlargement/countries/check-current-status/index_en.htm>.

⁹⁷ See B. Van Vooren and R. A. Wessel, *supra* note 9, 544.

Accession Assistance.⁹⁸

The European Security Strategy ‘A secure and better world’ (ESS) stated that the EU should both share its benefits with its neighbours and help tackle political problems in the neighbouring countries.⁹⁹ Once more the ESS reflects the fact that security can only be tackled by the coherent use of all external instruments of the EU. The ENP was explicitly ‘drawn up’ to enhance the coherence of EU’s external actions.¹⁰⁰ The agreements conducted under the ENP can include the above described policy fields and therefore can provide a framework that enhances the coherent implementation of crisis management instruments.

2.7 The role of the HR and the EEAS: Enhancing coherence of EU external policies?

Blockmans and Wessel argue that the position of the HR potentially allows for a more coherent and effective role of the EU in international affairs.¹⁰¹ Thus the HR could improve the crisis management of the Union. Beside the task of contributing to the CFSP (Article 24 TEU) the ‘HR is assigned to assist the Council and the Commission to ensure consistency between the different areas of its external action’ (Article 21 (3)). The HR is assisted by the EEAS, which is mentioned in Article 27(3) TEU.¹⁰²

Portela and Raube argue that coherence needs to be achieved through deeply institutionalized mechanisms of coordination.¹⁰³ Thus, an institution responsible for establishing coordination and cooperation would contribute to coherent crisis management. In fact, the EEAS was created to assist the HR and to ‘overcome the fragmentation of the Union looking for a strong and coherent voice in the international scene’.¹⁰⁴ The former HR of the European Union, Ashton, stated that the establishment of the EEAS is a ‘once-in a generation opportunity’ to ‘finally’ promote joined-up actions and bring together ‘all the instruments of our [the EU’s] engagement – economic and political instruments, development and crisis

⁹⁸ Another instrument that is available for countries under the ENP is the Macro-Financial Assistance Instrument. E. g. Jordan benefited from the instrument since the beginning of the crisis. As none of the countries included in my study benefits from the instrument it is excluded from this study. For more information see <http://ec.europa.eu/economy_finance/international/neighbourhood_policy/jordan_en.htm>.

⁹⁹ ‘A secure Europe in a better world European Security Strategy’, *supra* note 76.

¹⁰⁰ B. Van Vooren, *EU External Relations Law and the European Neighbourhood Policy: A Paradigm for Coherence* (Abingdon/New York: Routledge, 2012).

¹⁰¹ S. Blockmans and R. A. Wessel, *supra* note 13, 31.

¹⁰² The EEAS was officially established by the ‘Council Decision on Establishing the EEAS.’ For a description of all the tasks of the EEAS see Article 2.

‘Council Decision on Establishing the EEAS’, *supra* note 52.

¹⁰³ C. Portela and K. Raube, *supra* note 25, 4.

¹⁰⁴ B. Van Vooren and R. A. Wessel, *supra* note 9.

management tools – in support of a single political strategy.’¹⁰⁵ In the preamble of the ‘Council Decision on Establishing the EEAS’ the importance of ensured consistency in the EU’s external action is explicitly underlined. Therefore, the EEAS can contribute to the coherent implementation of crisis management. The instruments identified in Chapter 2 are under the jurisdiction of different actors. The policy fields like development, humanitarian aid, trade, ENP and enlargement policy are outside of the remit of the EEAS. The responsibility for these policy fields have various Commission Directorate Generals (DGs). There is a potential inner-institutional conflict especially between the EEAS and the Commission since they are responsible for overlapping policy fields that should be implemented coherently. This is regarded as an essential obstacle of coherent external actions¹⁰⁶ because deeply institutionalized mechanisms of coordination are difficult to implement if the policies that should be a joint effort remain under the jurisdiction of different bodies. For this reason, a high inter-institutional cooperation between the EEAS and the Commission (thus the various DG’s) is essential to implement crisis management coherently.

The impact of HR in its functions as the head of the EEAS, the chair of the Foreign Affairs Council – which deals with all EU external actions - and Vice-President of the Commission, is potentially high.¹⁰⁷ It is the HR’s task to steer the cooperation between the DGs (DG ECHO, DG DEVCO etc.) and the EEAS. Therefore, especially ‘where borders between policies are fuzzy, such as in crisis management’ the HR can enhance the coherence of EU external actions and therefore make coherent crisis management possible.¹⁰⁸

The HR is assisted by the EEAS which stated that the EU can react to a crisis diplomatically, economically, financially, militarily, judicially or through development aid. For a coherent response to a crisis the EU applies the ‘crisis response cycle’¹⁰⁹ including conflict prevention, crisis management (which refers mainly to military and civilian missions), stabilization and longer-term recovery, reconciliation, reconstruction and development.¹¹⁰ In the ‘Draft European Union Programme for the Prevention of Violent

¹⁰⁵ C. Ashton, *Speech to the Committee on Foreign Affairs*, SPEECH/10/120, Brussels, 23 March 2010, available at <http://europa.eu/rapid/press-release_SPEECH-10-120_en.htm?locale=es>.

¹⁰⁶ European Peacebuilding Liaison Office (EPLO) Briefing Paper 1/2012 on *Common Foreign and Security Policy structures and instruments after the entry into force of the Lisbon Treaty*, Brussels, 1 April 2012, available at <www.eplo.org/assets/files/2.../EPLO_Briefing_Paper_1-2012_CFSP_After_Lisbon.pdf>.

¹⁰⁷ Additionally the HR remains subject to vote by the European Parliament.

¹⁰⁸ B. Van Vooren and R. A. Wessel, *supra* note 9, 373.

¹⁰⁹ Please see Annex 1.

¹¹⁰ To coordinate the conflict prevention an inter-institutional Conflict Prevention Group (CPG) was set up including all players that can be involved in crisis prevention. The CPG is responsible for ‘gathering and reviewing early warning information, identifying early response options, developing conflict risk analysis

Conflicts the Instruments for Conflict Prevention’ both structural long-term and preventive short-term actions are defined, which need to be implemented coherently.¹¹¹ Thus, the EEAS acknowledges the importance of coherence in EU external actions.

2.8 Sub-conclusion: EU’s (coherent) crisis management instruments

The purpose of this Chapter was to analyse which crisis management instruments the EU has and to what extent these can be combined in a coherent manner to address crises. Knowing on one hand which crisis management instruments the EU has and on the other hand which potential obstacles exist for their coherent implementation – which potentially could hinder the crisis management of the EU - is essential to answer the main question of this study, to what extent the EU is able to manage the current refugee crisis. Therefore, the answer of both questions will be summarized in the following.

In Chapter 1 it was concluded that all instruments of the EU that promote security and stability in the wide scope are crisis management instruments. It can be concluded that the policy fields CFSP and CSDP, AFSJ, development cooperation, CCP, humanitarian aid, and

methodologies and broadly mainstreaming conflict prevention into EU external action’. It is chaired by the Conflict Prevention and Security Policy Directorate and representatives from the geographic divisions including the EU Special Representatives (EUSRs), CSDP departments and directorates, Crisis Response Department, Coordination Division of PSC and FAC and the Chairs of CIVCOM and the Politico-military Group, Foreign Policy Instruments Service, the European Commission Development and Cooperation Directorate (DEVCO) and the Humanitarian Aid and Civil Protection Directorate (ECHO) are present. Additionally in given cases EEAS thematic divisions, other Commission directorates such as DG Enlargement, civil society organizations and Members of the European Parliament can take part in the meetings.

This information can be found in the EPLO Briefing Paper 1/2012, *supra* note 106, 5.

Within the EEAS the ‘Crisis Response and Operational Coordination Department’ is responsible for European crisis response systems. To establish effective coordination of civilian and military crisis management instruments the Crisis Platform was introduced to establish room the communication and coordination of crisis response actions. Please see Annex 2 for an overview of the Crisis Platform.

Furthermore the EU Situation Room acts like an information hub that collects and provides crisis related information for all European stakeholders via worldwide monitoring. This is available at http://eeas.europa.eu/crisis-response/what-we-do/eu-situation-room/index_en.htm.

¹¹¹ The structural long-term and preventive short-term actions are defined as ‘*the Union has an extensive set of instruments for structural long-term and direct short-term preventive actions. The long-term instruments include development co-operation, trade, arms control, human rights and environment policies as well as political dialogue. The Union also has a broad range of diplomatic and humanitarian instruments for short-term prevention. Structures and capabilities for civil and military crisis management, developed within the framework of the ESDP, will also contribute to the capabilities of the EU to prevent conflicts.*’ Even though the Programme was already concluded in 2001 it remains important as it is the first official prove of the nexus of the policy field of development cooperation and CFSP. This is further more elaborated in H. Merket, *supra* note 74. That is why the EEAS still refers to the document which is available at

Council of the European Union, ‘*Draft European Union Programme for the Prevention of Violent Conflicts*’, 9537/1/01 (2001), 7.06.2001, available at http://eeas.europa.eu/cfsp/conflict_prevention/index_en.htm.

the ENP and enlargement policy provide crisis management instruments because each of the policy fields either has the objective of promoting security and stability as such or can be used to achieve it. Thus, as each of the policy fields named above provides crisis management instruments the EU overall has a wide range of crisis management instruments.

To sum these up there are a) agreements in which cooperation is established between the EU and a third state in the fields of CFSP, AFSJ, CCP and ENP, b) specific funding instruments of the policy fields development cooperation (DCI, EIDHR, IcSP), humanitarian aid and ENP and enlargement (ENI, IPA), c) Council decisions of the CFSP in which specific crisis management instruments are determined and d) civilian and military mission of the CSDP.

As all of the named instruments in the wide scope can promote the same objective they can possibly be implemented in a coherent manner. To summarize, this is impeded by a) the different legal basis of the policy fields and b) different bodies being responsible for them. Thus, the EU is challenged to implement its crisis management instruments coherently in order to address crises. The position of HR and the EEAS assisting the HR were established to enhance the coherent implementation of the various external policies and thus crisis management instruments. Thus, the HR and the EEAS can contribute to a coherent implementation of all crisis management instruments.

My findings are verified by ‘European Security Strategy’ (ESS) which states the *‘full spectrum of instruments for crisis management and conflict prevention [...includes] political, diplomatic, military and civilian, trade and development activities.’* This quote shows the awareness by the EU of the overlapping of several policy fields, which can all contribute to the prevention of and reaction to a crisis. The nexus of these policy fields strengthens the need for intense cooperation or coordination between the different policies. Even though *‘the European Union has made progress towards a coherent foreign policy and effective crisis management [...] we need to be more active, more coherent and more capable.’*¹¹²

The following table summarizes my findings of Chapter 2. The first sign in the chart summarizes my findings in regard to the question which crisis management instrument the EU has (identified by the objective of promoting security and stability). Thus, an X displays that the objective of the respective policy fields is the promotion of security or stability, (X) indicates that the policy fields have in a wide scope the objective of security and stability and

¹¹² The European Security Strategy was adopted by the European Council in 2003 and is a conceptual framework for the CFSP and the CSDP.

‘A secure Europe in a better world European Security Strategy’, *supra* note 76.

Y means that the objective of the policy fields is not the promotion of security and stability but can be used to achieve it. The second sign in the chart summarizes my findings in regard to the question to what extent the policy fields can be achieved in a coherent manner. **X** displays that the policy fields can easily be implemented coherently, **(X)** means that the coherent implementation requires effort of the EU due to either a) the different legal basis of the policy fields and/or b) different bodies being responsible for them and **Y** indicates that the coherent implementation of the policy fields is impossible.

	CFSP/CSDP	AFSJ	Develop.	CCP	Humanit.	ENP
CFSP/CSDP		X (X)	(X) (X)	Y (X)	(X) (X)	X (X)
AFSJ	X (X)		(X) (X)	Y (X)	(X) (X)	X X
Develop	(X) (X)	(X) (X)		Y (X)	(X) (X)	(X) (X)
CCP	Y (X)	Y (X)	Y (X)		Y (X)	Y (X)
Human	(X) (X)	(X) (X)	(X) (X)	Y (X)		(X) (X)
ENP	X (X)	X (X)	(X) (X)	Y (X)	(X) (X)	

Key		
Objective Is the objective of the policy fields the promotion of security and stability?	X	The objective is the promotion of security and stability
	(X)	The objective is not directly but in a wider scope the promotion of security and stability
	Y	Objective is not the promotion of security and stability
Implementation Can the policy fields be combined in a coherent manner?	X	Coherent implementation is easily possible
	(X)	The coherent implementation requires effort due to either the different legal basis of the policy fields and/or different bodies being responsible for them.
	Y	There cannot be coherence of the policy fields

3. EU CRISIS MANAGEMENT IN PRACTICE

Since the EU can only manage a crisis if it applies a proactive approach of combined actions¹¹³, the various crisis management instruments – identified in Chapter 1 - need to be implemented coherently in practice. Therefore, in the next Chapter it will be analysed to what extent the crisis management instruments have been used regionally, in Syria, Iraq, Afghanistan, Turkey and Lebanon to address the current refugee crisis. The answer for this question will be the basis for the conclusion as it makes judgements to the extent the EU is able to manage the external dimension of the overall refugee crisis possible. Thus, it will already be referred to the impact single actions have for the overall crisis management of the refugee crisis. Since the ‘EU Regional Strategy for Syria and Iraq as well as the ISIL/Da’esh threat’ provides an overview of the crisis management the EU intends to implement, I will begin by outlining the EU’s strategy. There are both regional approaches to address the crisis and actions that have only been implemented in certain countries. The main regional action of the EU – the establishment of the Madad Fund - will be analysed. The relationship of the EU with each country will be presented before an overview of all the actions implemented in the respective country is outlined. After each section, a sub-conclusion about the role of the EU managing or not managing the crisis in the respective country will be drawn. The goal of this Chapter is not to compare how the crisis management was conducted in the respective countries, but to describe how the crisis management actions in all the countries have been used to draw a conclusion on how each of the actions contributed to the overall management of the refugee crisis. Comparative elements can be found throughout this Chapter.

The EU stated they overall have contributed over 5 million Euros for humanitarian, development, economic and stabilization assistance and that the EU collectively with its Member States is the leading donor in the international response to the crisis.¹¹⁴ The final detailed reports about the monetary contribution of the EU to the refugee crisis for 2015 and 2016 are not published yet. Thus, financial considerations are not part of this study. Only in cases where the final monetary commitment was published, the respective monetary values

¹¹³ Furthermore to address a crisis in its core geographic policies covering various countries can become necessary. See B. Van Vooren and R. A. Wessel, *supra* note ?, 351.

¹¹⁴ European Commission, Fact Sheet EU support in response to the Syrian Crisis (05. February 2016), available at < http://europa.eu/rapid/press-release_MEMO-16-222_en.htm>.

can be found in the footnotes.¹¹⁵

3.1 An EU strategy for the region

The overall strategy of the EU to address the refugee crisis is explained below. The EU published an extensive number of documents and reports that touched on the topic of the refugee crisis. Most of the documents only outline the difficult crisis situation(s) and state general objectives of the EU. For example, in the ‘Joint Communication Addressing the Refugee Crisis’ the objectives of saving lives and ensuring protection of those in need is stated¹¹⁶ and in the ‘Communication Managing the refugee crisis under the European Agenda on Migration’ the objective of creating conditions in which refugees can stay close to their homes is named.¹¹⁷ In which way the crisis shall be addressed is (if at all) only broadly outlined in these documents. In contrast, the ‘Council Conclusion on the EU regional strategy for Syria and Iraq’ includes an extensive description of the crisis situation, the objectives of the EU, and a concrete on strategy how the objectives shall be implemented. The Council conclusion was adopted by the Foreign Affairs Council on the 16 of May 2015. It names the overall objective of achieving lasting peace, stability and security in Syria, Iraq and the wider region. Furthermore the parallel fight against ISIL and other terroristic groups, inclusive political transition in Syria and inclusive political governance in Iraq, is regarded as crucial to end the crisis.¹¹⁸ In the Annex 2 of this study a table with the regional objectives and the respective instrument for implementation is provided. Rather than to further elaborate on the extensive list of objectives, I will focus on the instruments and actions that have been implemented – and not only stated - to address the refugee crisis in practice. Out of the

¹¹⁵ Additionally, in Annex 3 the commitments and disbursements of the European Union's development and external assistance policies of 2014 can be found. The table presents an overview of the (monetary) extent of external aid in 2014.

¹¹⁶ The ‘Joint Communication Addressing the Refugee Crisis’ is a document by the Commission and the HR that was meant to inform the European Parliament and the Council. It was published on the 9 September 2009. ‘Joint Communication Addressing the Refugee Crisis’, *supra* note 6.

¹¹⁷ The ‘Communication Managing the refugee crisis under the European Agenda on Migration’, published on the 29 September 2015, is also a Commission document informing the European Parliament, the European Council and the Council. It mostly focusses on the internal dimension of the refugee crisis. In regard to the external dimension it states that the EU should react to the crisis ‘by strengthening our [the EUs] partnerships with neighboring states providing temporary protection to key transit countries, ensuring funding for UNHCR and the World Food Programme and other relevant agencies, by stepping up the fight against traffickers and smugglers and by increased diplomatic engagement in key crises such as Syria.’

‘Communication Managing the refugee crisis under the European Agenda on Migration’, *supra* note 51.

¹¹⁸ ‘Council Conclusions on the EU Regional Strategy for Syria and Iraq as well as the ISIL/Da’esh treat’, *supra* note 36.

Council Conclusion on the EU regional strategy for Syria and Iraq’ one can conclude that the following instruments should be used:¹¹⁹

- a) CFSP financing
- b) Development Cooperation Instrument
- c) EIDHR
- d) Instrument contributing to Stability and Peace
- e) Humanitarian Aid Operations
- f) European Neighbourhood Instrument
- g) Instrument for Pre-Accession Assistance
- h) Madad Fund¹²⁰

In the strategy it is stated that these ‘several instruments shall be used to tackle the crisis from different angles’¹²¹ and that an effective, coordinated crisis response is essential. It includes both regional and country-related action of the EU.

All in all the instruments that are named in the strategy concur with the ones outlined in Chapter 2.¹²² Only the two policy fields of AFSJ and CCP cannot be found in a Council conclusion because the crisis management instruments of these policy fields are agreements establishing long-term cooperation of the EU and a crisis-affected third state.¹²³ Whether the policy fields have been used in some countries will be analysed in the country-related sections.

The fact that the EU has this regional strategy shows the awareness of the EU that a) a multi-dimensional approach including various policy fields is necessary to address the refugee crisis, b) that there is the need to coordinate these various actions (otherwise each jurisdiction accountable for one of the policy field would have had its own strategy) and c) that the refugee crisis is a transboundary crisis that needs to be addressed regionally.

The fact that the Foreign Affairs Council – which consists out of the Foreign Affairs Ministers of the Member States and the HR – concluded this strategy shows the power of the Member States in the field of crisis management. Neither the HR nor the EEAS have the

¹¹⁹ That these instruments also have been used already will be proved throughout this Chapter.

¹²⁰ The Madad fund will be explained in the following section.

¹²¹ ‘Council Conclusions on the EU Regional Strategy for Syria and Iraq as well as the ISIL/Da’esh treat’, *supra* note 36, Page 36.

¹²² Additionally a loan guarantee (ECFIN) and an Emergency Aid Reserve (EAR) are named. These will not be regarded further.

¹²³ The two do not provide (financing) instruments that can be activated as soon as a crisis occurs. The policy fields of AFSJ and CCP can provide crisis management instrument by establishing long-term cooperation in these fields by the EU and the crisis-affected third state. Therefore these crisis management instruments cannot be found in a Council Decision but in bilateral agreements of the EU and third states.

power to decide on such a strategy. As the HR is part of the FAC and its task is to assist the Council, it can be assumed that the EEAS was insolvent in drafting this strategy. Thereby, the HR and the EEAS would have contributed to a coherent plan for the implementation of the crisis management instruments. My inquiry to the EU about the extent the EEAS was involved in the preparation of this strategy, remained without answer.

All in all, the presented information proves that the EU is aware of the need for a multi-dimensional, coordinated and regional crisis response.

3.2 Regional Action(s)

In the following the regional action(s) will be outlined. The Madad Fund, according to the ‘Council Conclusion on the EU regional strategy for Syria and Iraq’, is the primarily regional instrument that should be used to address the refugee crisis. Furthermore, the EU supports UN sanctions, including designations and measures targeting the finances of ISIS.¹²⁴ Moreover, some humanitarian aid operations and development cooperation programmes are implemented regionally. These will be presented within the country-related sections. In the following the major regional action in regard to the refugee crisis – the establishment of the Madad Fund – will be presented. On this basis, conclusions about the meaning of these actions for the crisis management in the region will be drawn.

In December 2014 the ‘European Union Regional Trust Fund (Madad Fund)’ was established.¹²⁵ A Trust fund is a ‘tool that pools together resources from different donors in order to enable a quick, flexible, and collective EU response to the different dimensions of an emergency situation.’¹²⁶ Madad, the Arabic name of the fund, means ‘providing aid and help jointly with others’. It was established to ‘provide a coherent and reinforced aid response to the Syrian crisis on a regional scale.’¹²⁷ It is designed for emergency and post-emergency situations ‘for effective crisis response’, as a single instrument for the common European

¹²⁴ UN Security Council Resolution 2170 [2014]

¹²⁵ European Commission, ‘Decision amending Decision C(2014) 9615 final on the establishment of a European Union Regional Trust Fund in response to the Syrian crisis, “the Madad Fund”’, C [2014] 9615 final from 10.12.2014.

¹²⁶ The EU also established the ‘EU Emergency Trust Fund for Africa’ to foster stability in countries across Africa to respond to the challenges of irregular migration and displacement.’ As I do not regard the countries that benefit from the ‘EU Emergency Trust Fund for Africa’ I will exclude it from this study. Information about the Trust Fund for Africa and the definition of the term trust fund is available at <http://ec.europa.eu/europeaid/regions/africa/eu-emergency-trust-fund-africa_en>.

¹²⁷ See Article 1 of the ‘Decision on the establishment of the *European Union Regional Trust Fund in response to the Syrian crisis*’, *supra* note 125.

strategy. The Trust Fund should primarily address the resilience needs of refugees from Syria in Syria itself, but also in Lebanon, Turkey, Iraq and other countries in the region that are affected.¹²⁸ Mogherini emphasis that there is ‘an enormous amount of concrete projects that can be implemented if we [the EU] have [has] the resources.’ Therefore she urgently requests the Member States to contribute to the Fund and thereby ‘share the challenge’ of the refugee crisis. The EU contributions¹²⁹ are provided on the basis of the European Neighbourhood Instrument.¹³⁰ In the future the fund could become a major funding tool for reconstruction resettlement and governance support in the region, providing long-term sustainable solutions.¹³¹ According to the European Commission, the Madad Fund includes ‘upstream coordination which insures that the EU services EEAS, ECHO, DevCo, HOME, NEAR, and EU Delegations are fully involved’ by the use of ‘Commission Quality Support Group procedures’¹³² These Office Quality Support Groups bring together the different actors involved in Commission funded projects and through the discussion of all actors involved, quality can be ensured.¹³³ It remains questionable in which intervals and in which compositions the meeting(s) in regard to the Madad Fund will take place. My inquiry to the EU about clarification how the meeting were held in the past and how they will be held in the future remains unanswered.¹³⁴

The establishment of the Madad Fund shows the EU’s acknowledgement of the lack of a facility for pooled resources which can be made available fast (and faster than the usual EU procedures). The EU used its current instrument – the European Neighbourhood Instrument – to contribute to the newly established tool. Furthermore, the implementation seems very flexible as countries that usually do not benefit from ENP or enlargement policies like Iraq can benefit from the Madad Fund. The establishment of an upstream coordination that ensures the involvement of the above named actors – if it is implemented in a way that it really enhances the quality of the projects – would institutionalize the cooperation of different

¹²⁸ Additionally Jordan and Equip are named as countries that can benefit from the Fund.

¹²⁹ Contributions to the Madad Fund should make up at least 1 billion Euro equally shared by the EU and the Member States.

¹³⁰ Which was established by Regulation No 232/2014. *OJ* [2014] L 77/27, 15.03.2014

¹³¹ European Commission, EU Regional Trust Fund in Response to The Syrian Crisis, the ‘Madad Fund’, State of Play and outlook 2015/2016. Available at <http://ec.europa.eu/enlargement/neighbourhood/pdf/key-documents/syria/madad_info_note_en.pdf>.

¹³² ‘EU Regional Trust Fund in Response to The Syrian Crisis’, *supra* note 131

¹³³ This information is available at <<http://capacity4dev.ec.europa.eu/article/european-commission-systems-office-quality-support-groups>>.

¹³⁴ It remains questionable under which conditions the meeting of the Office Quality Support Group should take place. Whether there are meetings for every project that is financed by the Madad Fund or general overview meetings is not clear.

actors. According to Portela and Raube this is a precondition of effective crisis management.¹³⁵ The establishment of the Madad Fund can therefore be viewed as a positive step of the EU towards becoming capable of managing the refugee crisis.

In the following country-based actions will be outlined, analysed and judged. The relation of the EU and the respective country is illustrated, before the actions the EU implemented are outlined and analysed in regard to their contribution to the crisis management in the respective country. The actions will be presented according to the policy fields that provide crisis management instruments identified in Chapter 2.¹³⁶ This will enable me to answer the question to what extent the crisis management instruments have been used regionally and in the respective countries to address the current refugee crisis.

3.3 EU relations with and actions in Syria

In the following the relation of the EU and Syria is illustrated and the crisis management actions of the EU in Syria are outlined, analysed and judged in regard to their contribution to the overall crisis management.

a) General relations: In Mai 2011, the EU suspended all its bilateral cooperation with the Government of Syria due to ‘the unacceptable violence’ and extended its restrictive measures.¹³⁷ In the past the EU and Syria cooperated under the ENP. An Association Agreement was negotiated (between 1997 and 2004 and in 2008) but never signed.¹³⁸ The suspension of cooperation was meant to pressure the Syrian Government to end the violence and to develop a political solution.¹³⁹ However, the violence in Syria has continued. Therefore, the objective of the EU - ending the conflict to enabling Syrians to live in peace in their country – has not been achieved. In the ‘Council Conclusion on the EU regional strategy

¹³⁵ C. Portela and K. Raube, *supra* note 25, 4.

¹³⁶ The important policy fields of the AFSJ in regard to the refugee crisis are migration, asylum and readmission policies. Therefore I will focus in the following sections on these aspects of the AFSJ as important crisis management instruments.

¹³⁷ The suspension was decided in the ‘Council Decision of 2 September 2011 partially suspending the application of the Cooperation Agreement between the European Economic Community and the Syrian Arab Republic’, *OJ* [2011] L 228/19, 3.09.2011. The restrictive measures were taken under the ‘Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria’, *OJ* [2013] L 147, 1.6.2013. An overview of all restricted measures is available on

<http://eeas.europa.eu/cfsp/sanctions/docs/measures_en.pdf>.

¹³⁸ Thus information is available at

<http://eeas.europa.eu/delegations/syria/eu_syria/political_relations/agreements/index_en.htm>.

¹³⁹ European Commission Fact Sheet – EU support in response to the Syrian crisis, *supra* note 114.

for Syria and Iraq', the Council emphasizes the need for a Syrian-led inclusive political process leading to transition. In this conclusion it is underlined that due to the brutal war against Syrians the Assad regime cannot be a partner in the fight against ISIL.¹⁴⁰ The EU participated in the International Syria Support Group and 'fully supports UN-led process in regard to Syria (e. g. UN resolution 2254). It emphasises that it wants to support all efforts to reach a political solution (based on the Geneva Communiqué of 30 June 2012) and do so in line with the resolutions of the UN Security Council.¹⁴¹

b) Security: The EU implemented restrictive measures targeting the regime and its supporters following UN Security Council decision 2161 and 2199. The above-mentioned suspension of the cooperation was a measure of the CFSP.

c) AFSJ: As all bilateral cooperation was suspended, there is no cooperation in migration, asylum or readmission policies between the EU and Syria.¹⁴²

d) Development Aid: In 2014 disbursements were made through both the DCI and the EIDHR in Syria but no new commitments have been made.¹⁴³ It is striking that development cooperation, which is usually conducted in cooperation with the third state, was conducted in Syria even though the cooperation was suspended. It can be assumed that this is the reason no new commitments were made and that the means were used in projects where no direct governmental cooperation was necessary. Another reason why this is striking is that Syria is a country under the ENP. The fact that funds were provided through both the DCI and the ENI leads to the need of cooperation of DG NEAR and DG DEVCO. Unfortunately, until now neither the DG DEVCO Website nor DG NEAR website (which usually would be the platform for information about the ENP country Syria) provides any information about this topic. Furthermore the IcSP was and is used in Syria.

¹⁴⁰ 'Council Conclusions on the EU Regional Strategy for Syria and Iraq as well as the ISIL/Da'esh treat', *supra* note 35, 6.

¹⁴¹ This information is available at <http://eeas.europa.eu/syria/index_en.htm>.

¹⁴² *OJ* [2011] L 228/19, 03.09.2011, *supra* note 134

¹⁴³ European Commission, 'EU Annual report 2015 on the European Union's development and external assistance policies and their implementation in 2014' available at https://ec.europa.eu/europeaid/sites/devco/files/2015-annual-report-web_en.pdf.

e) *Trade*: The Association Agreement (AA) negotiated by the EU and Syria - which included measures on trade - has never been signed. Due to the implementation of the EU restrictive measures¹⁴⁴, bilateral trade volumes have decreased significantly.¹⁴⁵

f) *Humanitarian aid*: In Syria many humanitarian aid operations are in place, attempting to provide humanitarian aid for the Syrian population. DG ECHO states that there is ‘almost a universal disregard of the rules of war and international humanitarian law’ in Syria. Access to people in need is very limited due to security reasons and sometimes also intentionally denied. DG ECHO’s response in Syria is a four-pillar strategy: a) negotiated access, b) emergency response, c) protection, d) accountability and e) support to partnerships. The humanitarian aid of the EU is channelled through the UN, international organizations and international NGO partners.¹⁴⁶ The needs of humans ‘largely outweigh and surpass the capacity of humanitarian actors’ stated DG ECHO. In DG ECHO’s Humanitarian Implementation Plan (HIP) it is stated that ‘whenever possible [...] DG ECHO and DG NEAR will plan gradual and combined transitions towards more resilience orientated activities.’¹⁴⁷

g) *ENP*: Even though the EU and Syria do not cooperate anymore under the ENP the European Neighbourhood Instrument is used to provide funds.¹⁴⁸ These are partly channelled through the Madad Fund. DG ECHO and DG NEAR stated that they cooperate with each other in Syria.

The implementation of the Council conclusion to suspend all cooperation with Syria which is a crisis management instrument of the CFSP, was meant to pressure the Syrian Government. The suspension of cooperation eliminates political cooperation and cooperation in AFSJ and CCP.¹⁴⁹ It may have been an internationally powerful sign, but now the suspension has been in place for 5 years and the violence in Syria has continued, despite ‘the pressure’. Until now neither a political transition nor peace has developed in Syria. The denial of the EU to

¹⁴⁴ OJ [2013] L 147, 1.6.2013, *supra* note 137

¹⁴⁵ In 2013 imports from Syria dropped by 53% and exports to Syria by 36% as compared to 2012. More information and statistics regarding the trade of the EU with Syria are available at <http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113451.pdf> where. Furthermore see OJ [2013] L 147, 1.6.2013, *supra* note 137

¹⁴⁶ European Commission Fact Sheet – EU support in response to the Syrian crisis, *supra* note 114.

¹⁴⁷ ECHO HIP Syria Regional Crisis, *supra* note 48.

¹⁴⁸ ‘EU Annual report 2015 on the European Union's development and external assistance policies and their implementation in 2014’, *supra* note 143.

¹⁴⁹ The restrictive measures harm the Syrian economy.

cooperate with the violently acting Syrian Government limits the possibilities of the EU to further address the situation in Syria because the implementation of the crisis management instruments of AFSJ and development cooperation would require some extent of cooperation. In fact due the suspension and the ongoing violence the active crisis management contribution of the EU are mostly its humanitarian aid operations which are restricted due to the insecurity in Syria.¹⁵⁰ Thus even implementation of humanitarian aid remains problematic. However, it is striking that the EU still provides financial contributions of the ENP and development cooperation. As proper development cooperation can currently not be implemented in Syria – and thus the ‘normal use’ of these instruments - it can be assumed that the funds are used to support ongoing humanitarian operations in Syria. The fact that the EU stated that the Assad regime cannot be a partner of the EU does not pose an incentive to the Assad regime to cooperate with the EU. Thus the chance of political dialogue resulting in peace is unlikely. The ambitioned political transition and the end of violence was and will most likely not be enforced through any of the implemented instruments. An instrument that can enforce security would need to be implemented to manage the crisis.¹⁵¹ Unfortunately, due to the suspension political dialogue is excluded and thus the only instrument that could be used to conquer the insecurity – a military mission – would require a UN resolution which will most likely not be concluded.¹⁵²

All in all the EU had to choose from two very poor options in Syria: Either it cooperates with the Assad regime that violently tyrannizes its citizens or it suspends the cooperation and thus has to accept that its influence within the country is very limited. It choose the second option.

3.4 EU relations with and actions in Iraq

In this section the relation of the EU and Iraq is illustrated, followed by a description of the crisis management actions implemented by the EU in Iraq. These will be analysed and judged

¹⁵⁰ Furthermore in the HIP it is stated that the implementing partners and donors in Syria face constraints to provide the needed help. The difficulties are in fact the implementation of the ‘Whole of Syria’ approach, which is an international coordination system of measures in regard the refugee crisis. This will further be regarded in the Section 4 of this study.

ECHO HIP Syria Regional Crisis, *supra* note 48, 19.

¹⁵¹ Even though it is questionable whether security can or should be enforced.

¹⁵² Drafts of UN Security Council Resolution against the violence of Syrian authorities and pro-government militias were vetoed by Russia and China. The Security Council - Veto List is available at < <http://research.un.org/en/docs/sc/quick>>.

in regard to their contribution to the crisis management in Iraq.

a) *General relations*: In May 2012 the EU and Iraq signed a Partnership and Cooperation Agreement (PCA)¹⁵³ which shall - as soon as ratified¹⁵⁴ - establish the first contractual framework between the two parties for advanced dialogue and cooperation. The EU wants to promote Iraq 'on its way to democracy'¹⁵⁵ and therefore supports the Iraqi Government and Government of the Kurdistan Region¹⁵⁶ in Iraq. The Joint Communication states that the EU wants to help introduce peacebuilding initiatives, transparency and accountability measures (including in the security sector and the judicial system) and counter-terrorism cooperation.¹⁵⁷ The PCA agreement includes provisions important in regard to crisis management. A provisional application of certain provisions is enforced.¹⁵⁸

b) *Security*: In Title 1 of the PCA political dialogue in regard to security that 'shall cover all subjects of common interest, and in particular peace, foreign and security policy, national dialogue and reconciliation, democracy, the rule of law, human rights, good governance and regional stability and integration' is established.¹⁵⁹ The security provisions do not fall under the provisional application and are therefore not applied yet.

c) *AFSJ*: In Title IV of the PCA 'Justice, Freedom and Security' includes the provision for a joint management of migration flows and a comprehensive dialogue on all migration-related issues based on a specific needs assessment conducted in mutual consultation. These provisions do not fall under the provisional application and are therefore not applied yet.

¹⁵³ 'Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Iraq, of the other part', *OJ* [2012] L 204/22, 31.07.2012, available at <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:204:0020:0130:EN:PDF>>.

¹⁵⁴ As of June 2016, 22 countries have ratified the Agreement. Details can be found on <<http://www.consilium.europa.eu/en/documentpublications/agreementsconventions/agreement/?aid=2011007>>.

¹⁵⁵ This is available on <http://www.eeas.europa.eu/iraq/index_en.htm>.

¹⁵⁶ The Government of the Kurdistan Region has governmental responsibility in the federal region of Northern Iraq.

¹⁵⁷ 'Joint Communication addressing the Refugee Crisis in Europe – The Role of EU External Action', *supra* note 6.

¹⁵⁸ Council Decision of 21 December 2011 on the signing, on behalf of the European Union, and provisional application of certain provisions of the Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Iraq, of the other part (2012/418/EU), *OJ* [2012] L 204/18.

¹⁵⁹ Title 1 of the PCA is about 'Political Dialogue and Cooperation in the field of Foreign and Security Policy'. The above quoted provision can be found in Article 2 of the PCA. *OJ* [2012] L 204/22, 31.07.2012, *supra* note 153.

d) Development Aid: The EU and Iraq cooperate under the provisional application of the PCA in regard to development cooperation. There are several projects currently under implementation.¹⁶⁰ Furthermore the Instrument contributing to Stability and Peace is used in Iraq.¹⁶¹

e) Trade: In Title II of the PCA the promotion of trade and investment among the partners is laid down. The trade relations of the EU and Iraq are conducted under the provisional application of the PCA agreement. For the EU Iraq is an interesting trading partner, especially in regard to energy.¹⁶²

f) Humanitarian Aid: The delivery of humanitarian aid is constrained due to insecurity and especially outside the governmental control, the access to the population in need is highly contracted. In the HIP it is stated that humanitarian funding is far from matching growing needs and therefore ECHO's response will be far from sufficient to cover all of the most urgent needs in Iraq. That is why ECHO prioritized life-saving activities.¹⁶³ Furthermore, DG ECHO demands a more effective operationalization of all the international provided help.¹⁶⁴

g) ENP: Iraq is not an ENP country but still benefits from the Madad Fund.

In contrast to the situation in Syria, the EU actively collaborates with the government of Iraq. Unfortunately the provisions of the AFSJ and in regard to security are not in force yet as the PCA is not ratified yet. The agreement of the PCA may enhance future crisis management. Currently, the EU and Iraq cooperate in trade, development cooperation and humanitarian aid. The implementation of humanitarian aid is highly restricted due to the insecurity in the

¹⁶⁰ For the period of 2014 – 2020 75 million Euro were committed for development support to Iraq. This is available at <https://ec.europa.eu/europeaid/news-and-events/eu-announces-future-commitments-development-cooperation-iraq_en>. The description of several projects can be accessed here <https://ec.europa.eu/europeaid/search/site/iraq_en>.

¹⁶¹ There is no implementation report about the implementation of the IcSP in Iraq available.

¹⁶² In 2014 bilateral trade between the EU and Iraq amounted to over €16.3 billion. More information and statistics about the trade of the EU and Iraq is available at <<http://ec.europa.eu/trade/policy/countries-and-regions/countries/iraq/>>.

¹⁶³ In 2015 104.65 million were allocated for humanitarian assistance in Iraq.¹⁶³ In the HIP for 2016 50 million are scheduled.

ECHO Humanitarian Implementation Plan (HIP) Iraq Crisis Ref. Ares(2015)5762110 - 11/12/2015 available at <http://ec.europa.eu/echo/files/funding/decisions/2016/HIPs/IRQ_HIP_EN.pdf>.

¹⁶⁴ The Iraq Humanitarian Response Plan can be found here <https://www.humanitarianresponse.info/en/system/files/documents/files/final_iraq_2016_hrp_0.pdf>.

country and the insufficient funding. Parts of the country remain under the control of armed (terroristic) forces while the government attempts to contain them. With the instruments implemented, the ongoing violence and the threat of ISIS cannot be addressed. As in Syria, an instrument that can enforce security would need to be implemented in order to manage the crisis in Iraq.¹⁶⁵

3.5 EU relations with and actions in Afghanistan

Hereafter the relation of the EU and Afghanistan is illustrated and the crisis management actions of the EU in Afghanistan are outlined, analysed and judged in regard to their contribution to the overall crisis management.

a) General relation: The EU has, in its own words, ‘a long-term commitment to Afghanistan and the Afghan people.’¹⁶⁶ In the ‘Council conclusions on Afghanistan’ a strategy is laid down which includes the main objective of: a) promoting peace, security and regional stability, b) reinforcing democracy, c) encouraging economic and human development and d) fostering the rule of law and respect for human rights, in particular the rights of women in Afghanistan.¹⁶⁷ The European Commission adopted a proposal for a Council Decision on signing the Cooperation Agreement on Partnership and Development (CAPD), which will be the first official, conceptual framework between the European Union and the Islamic Republic of Afghanistan.¹⁶⁸ It will include a range of areas, including ‘political cooperation, human rights, gender equality, civil rights, peace building, counter-terrorism, development, trade, rule of law, policing, migration, education, energy and the environment.’ The legal basis for the conclusion of this Agreement are a) Article 37 TEU regarding the Union’s competence to conclude agreement with third states covered by the Chapter 2 on common foreign and security policy, b) Articles 207 TFEU concerning the CCP and c) 209 TFEU regarding development cooperation and all objectives of Article 21 TEU (Article 209(2)).¹⁶⁹ Therefore

¹⁶⁵ Here the fact that the EU does not have an army is referred to. The questions whether an army can enforce peace or whether peace is something that cannot be enforced could be raised.

¹⁶⁶ This is available on <http://eeas.europa.eu/afghanistan/index_en.htm>.

¹⁶⁷ Council conclusion, on ‘Afghanistan’, Foreign Affairs Council meeting, 23.06.2014, available at <http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/143322.pdf>.

¹⁶⁸ More information is available at <http://eeas.europa.eu/afghanistan/index_en.htm>.

¹⁶⁹ Furthermore Article 218(6) (a) and Article 218(8) TFEU lay down the procedure for the conclusion of the agreement.

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this agreement will establish the conceptual framework for the cooperation of the EU and Afghanistan in the policy fields of CFSP, AFSJ, development cooperation, trade and humanitarian aid, which can all be used as crisis management instruments.¹⁷⁰ As the Cooperation Agreement on Partnership and Development is not in force yet, it was not used for the management of the current crisis. Even-though the agreement could serve as a conceptual framework for crisis management in the future, it does not contain self-executive provisions and is therefore a rather weak basis.

b) Security: In 2007 the EU established a European Union Police Mission (EUPOL) in Afghanistan. It is a civilian Common Security and Defence Policy (CSDP) mission to support ‘Afghan police force in local ownership that respects human rights and operates within the framework of the rule of law.’¹⁷¹ The goal of the mission is to contribute to the EU’s overall political and strategic objectives in Afghanistan. The mission was subsequently extended until the end of 2016. Even though it should contribute to peace, security and regional stability, which is also the aim of crisis management, it did not prevent Afghans from fleeing their country of origin. Further cooperation will be established as soon as the CAPD is enforced.

c) AFSJ: According to the restricted document ‘Joint Commission-EEAS non-paper on enhancing cooperation on migration, mobility and readmission with Afghanistan’, the CAPD includes a specific provision on increased cooperation on migration, which includes the possibility to conclude a legally binding readmission agreement. Prior to the enforcement of the CAPD dialogue will be held on migration issues. The Joint-Commission-EEAS non-paper furthermore includes a note that this political dialogue is difficult since some members of the Afghan government do not want to facilitate the return of irregular migrants.¹⁷²

Agreement on Partnership and Development between the European Union and the Islamic Republic of Afghanistan, JOIN(2015) 35 final. It is available at http://eur-lex.europa.eu/resource.html?uri=cellar:4bf2e541-a4ba-11e5-b528-01aa75ed71a1.0012.03/DOC_1&format=HTML&lang=EN&parentUrn=CELEX:52015JC0036

¹⁷⁰ By not the wording of the CAPD cannot be accessed.

¹⁷¹ Council Joint Actions 2007/369/CFSP of 30 May 2007, ‘*on establishment of the European Union Police Mission in Afghanistan (EUPOL Afghanistan)*’, OJ L 139, 31.05.2007, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007E0369&from=EN>. (extended through OJ L 333/118, 2015 to 31 December 2016)

¹⁷² The ‘Joint Commission-EEAS non-paper on enhancing cooperation on migration, mobility and readmission with Afghanistan’ is an EU document that is marked with label ‘RESTREINT UE/EU RESTRICTED’. It was found via google and accessed via the website of statewatch.org. Joint Commission-EEAS non-paper on enhancing cooperation on migration, mobility and readmission with Afghanistan, available at <http://statewatch.org/news/2016/mar/eu-council-afghanistan-6738-16.pdf>.

d) *Development Aid*: The development objectives for Afghanistan are laid down in the Strategy for Afghanistan 2014-2016.¹⁷³ Development Cooperation is conducted in Afghanistan with the Development Cooperation Instrument (DCI).¹⁷⁴ It benefits from regional and thematic programmes. Furthermore both the European Instrument for Democracy and Human Rights (EIDHR) and the Instrument contributing to Stability and Peace are implemented in Afghanistan.¹⁷⁵

e) *Trade*: Afghanistan is eligible for the generalized tariff preferences.¹⁷⁶

f) *Humanitarian Aid*: In the ‘Humanitarian Implementation Plan (HIP) Afghanistan, Pakistan’¹⁷⁷ it is stated that humanitarian aid in Afghanistan is significantly underfunded.¹⁷⁸ Therefore, DG ECHO concentrated on emergency help. ECHO furthermore points out the possibilities to help are restricted due to insecurity. Overall both national and international help is limited due to insecurity, limited capacity, weak governance, high staff turnover and districts challenged by armed opposition groups, stated DG ECHO.

g) *ENP*: Afghanistan does not fall under the ENP.

The most striking crisis management instruments implemented in Afghanistan are the EUPOL mission and development cooperation projects. To fully judge the mission would exceed the

¹⁷³ This is available on <http://www.eeas.europa.eu/delegations/afghanistan/documents/content/eu-strategy-2014-2016_en.pdf>.

¹⁷⁴ For the period of 2014-2020 €19.6 billion are allocated for different programmes for all the developing countries (except the countries eligible for the Pre-Accession Instrument). This is available on <https://ec.europa.eu/europeaid/how/finance/dci_en.htm_en>.

In the Multiannual Indicative Programme (MIP) which is agreed on with the government of Afghanistan the spending priorities for EUR 1.4 billion allocated to Afghanistan in the period 2014-2020 are defined. Therefore on average EUR 200 million per year are allocated for development cooperation in Afghanistan until 2020. The Multi-annual Indicative Programme 2014-2020 is available at <http://eeas.europa.eu/delegations/afghanistan/documents/content/multi-annual-indicative-programme-2014-2020_en.pdf>.

¹⁷⁵ This can be found at <https://ec.europa.eu/europeaid/countries/afghanistan_en>.

¹⁷⁶ Regulation No 978/2012, OJ [2012] L 303, 31.10.2012

¹⁷⁷ The European Commission authorizes ECHO to spend money from the EU budget for humanitarian actions by adopting yearly a worldwide decision (ECHO/WWD/BUD/2016/01000 for 2016). On this basis Humanitarian Implementation Plans are prepared which define for which region and purpose the money is spend. For more information see <http://ec.europa.eu/echo/funding-evaluations/funding-decisions-hips_en>.

ECHO HIP for Afghanistan, Pakistan, *supra* note 42

¹⁷⁸ For 2015 the Humanitarian Response Plan by UN OCHA requested 405 million for humanitarian help in Afghanistan in 2015. The actual funding only made 38% of the requested money. ECHO HIP Afghanistan, *supra* note 42, 6.

scope of this thesis.¹⁷⁹ Whether or not the EU mission reduced, increased or had an impact on the number of refugees at all cannot be absolutely examined (as we do not know what the situation would have been without the mission). Since 2002¹⁸⁰ more than 5.8 million Afghan refugees returned to Afghanistan.¹⁸¹ Positively thinking it can be assumed that the EUPOL mission contributed to this development. Cooperation in the fields of AFSJ and further cooperation in regard to security will be possible as soon as the CAPD is into force. Afghanistan benefits under the generalized tariff preference.¹⁸² By the use of development cooperation it attempts to rebuild the country in order ensure long-term security and stability. Humanitarian aid is provided but significantly underfunded. Both development cooperation and humanitarian aid operations are restricted due to the insecurity in the country. Parts of the country remain outside of the control of the Afghan government but are controlled by the Taliban, al-Qaeda or their allies. Thus, just as in the case of Syria and Iraq, an instrument that can enforce peace would be needed to successfully manage the situation in Afghanistan.

3.6 EU relations with and actions in Turkey

In the following section the long-established relation of the EU and Turkey will be illustrated and the actions the EU implemented in regard to the refugee crisis in Turkey are outlined, analysed and evaluated in regard to their contribution to the overall crisis management.

a) General relation: In 1963 the EU and Turkey signed an Association Agreement which was amended in 1973, with the aim of establishing a privileged relationship. Since 1999 Turkey has been a candidate country for EU membership and the accession negotiations started in

¹⁷⁹ Blockmans and Wessel describe the process of EUPOL stating that EUPOL's credibility and effectiveness was undermined. See S. Blockmans and R. A. Wessel, *supra* note 13, 15-18.

Furthermore they name the failed leadership in regard to (a) the political drive to crystalize the idea of a security policy, b) institutional responsibility within EU structures and c) practical administration of EU policy led to a failure in the crisis management of the Afghanistan mission. See S. Blockmans and R. A. Wessel, *supra* note 13, 25.

More information on the EUPOL mission is available on <<http://www.eupol-afg.eu/>>.

¹⁸⁰ Even though this is 5 years before the start of the mission this number is used to illustrate the improvement that millions of Afghans decided to return to their country of origin.

¹⁸¹ UNHCR, 'Regional Overview: Solution Strategy for Afghan Refugees', *supra* note 39.

¹⁸² The Generalized Scheme of Preferences (GSP) authorize defined developing countries to pay less or no duties on their exports to the EU. This should contribute to their economic growth and thus promote the development of the respective countries. This information is available at <<http://ec.europa.eu/trade/policy/countries-and-regions/development/generalised-scheme-of-preferences/>>.

2005.¹⁸³ The EEAS states that Turkey is a key partner to the EU especially because of its ,strategic location and Turkey being an active regional foreign policy player. It underlines that the EU is committed to intensify the political dialogue in particular ‘on foreign policy issues of mutual interests.’ In regard to the refugee crisis in November 2015 an EU-Turkey Joint Action Plan was established.¹⁸⁴ On 18 March, the Members of the European Council decided on the so-called EU-Turkey Agreement to end the irregular migration from Turkey to the EU.¹⁸⁵ It is not a formally adopted agreement but a political deal that was decided by the head of Member States of the EU and Turkey. The agreement includes accords on migration and the arrangement that the EU and its Member States will allocate €3 billion (over two years) under the Facility for Refugees for funding humanitarian and development aid projects in Turkey. A joint coordination mechanism should make sure that the help is provided in a ‘comprehensive and coordinated matter’. The first package was contracted in April of this year.¹⁸⁶

b) Security: In regard to crisis management the EU and Turkey agreed on the possibility for Turkey to participate in crisis management actions. Thereby, Turkey can contribute to EU-led civilian and military missions, e. g. like in Afghanistan.¹⁸⁷

c) AFSJ: In the EU-Turkey Agreement it was agreed that irregular migrants crossing from Turkey to the Greek islands will be returned to Turkey and that for every Syrian being returned to Turkey from the Greek islands, another Syrian will be resettled to the EU. Furthermore Turkey should prevent new sea or land routes. As soon as irregular crossings between Turkey and the EU have been reduced the EU will activate a Voluntary

¹⁸³ The Accession partnership was three times revised. The latest version is the Council Decision 2008/157/EC of 18 February 2008 on the principles, priorities and conditions contained in the Accession Partnership with the Republic of Turkey and repealing Decision 2006/35/EC. More information regarding the accession progress is available at < http://ec.europa.eu/enlargement/countries/detailed-country-information/turkey/index_en.htm>.

¹⁸⁴ Since the beginning of the crisis, the EU spent over €445 million including humanitarian aid as well as longer-term assistance. This is available in the ECHO Fact Sheet. ‘Turkey: Refugee crisis’. *supra* note 43

¹⁸⁵ The deal is not publically available which is why it can only be referred to the Fact Sheet of the European Commission which is available at < http://europa.eu/rapid/press-release_MEMO-16-963_en.htm>.

¹⁸⁶ ECHO Factsheet. ‘Turkey: Refugee crisis’. *supra* note 43

¹⁸⁷ Agreement between the European Union and the Republic of Turkey establishing a framework for the participation of the Republic of Turkey in the European Union crisis management operations, *OJ* [2006] L 189/17, 12.07.2006. Available at <<http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=1543>>.

Humanitarian Admission Scheme.¹⁸⁸ In 2014 Turkey and the EU established a readmission agreement.¹⁸⁹

d) *Development Aid*: Turkey does not receive funding by the EDF or by the DCI. This is not striking as it is a neighbouring country which is eligible for funds under the enlargement policy. Under the jurisdiction DG ECHO, the EIDHR is used in Turkey to further promote democracy and human rights.¹⁹⁰ Furthermore Turkey benefits from the Instrument contributing to Stability and Peace.

e) *Trade*: In 1995 the EU established a Customs Union with Turkey and since then the volume of trade significantly increased.¹⁹¹

f) *Humanitarian aid*: The humanitarian assistance of the EU will partly be channelled via the Facility for Refugees in Turkey. In April 2016 the first package was provided for humanitarian aid. As a large share of refugees in Turkey lives outside of the official refugee camps and thus barely benefits from Turkish humanitarian aid. Thus, ECHO's focus lies on the provision of help for these off-camp refugees. Especially at the Southern borders of Turkey, humanitarian aid is highly needed.¹⁹² ECHO states that the absence of a clear national policy for off-camp refugees has 'impacted the coherence and pace of a much needed response slowing down the design and implementation' of humanitarian aid operations.¹⁹³

¹⁸⁸ As a political condition which are not directly linked to the refugee crisis it was furthermore discussed about the lifting of visa requirements for Turkish citizens, a possible upgrading of the Customs Union and a re-energized accession process. A report of the progress of the implementation can be found COM (2016) 231 final.

¹⁸⁹ Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorization, *OJ* [2010] L134/3, 07.05.2014. Available at <<http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=10201>>.

¹⁹⁰ In fact the funds are not necessarily provided via the DG DEVCO but can also be allocated through the Delegation of the European Union to Turkey. Therefore the presentation of the EIDHR is a simplification. This information is available at <<http://avrupa.info.tr/eu-and-civil-society/what-is-the-european-instrument-for-democracy-and-human-rights-eidhr.html>>.

¹⁹¹ This is available at <http://ec.europa.eu/enlargement/candidate-countries/turkey/eu_turkey_relations_en.htm>.

¹⁹² ECHO Humanitarian Implementation Plan (HIP) for Turkey (Ref. Ares(2016)2580378 - 03/06/2016). available at <http://ec.europa.eu/echo/sites/echo-site/files/hip_turkey_2016.pdf>.

¹⁹³ ECHO HIP Syria Regional Crisis, *supra* note 48,20.

g) *ENP*: Turkey is a candidate country and therefore receives benefits channelled through the Instrument for pre-accession assistance (IPA).¹⁹⁴

In regard to the refugee crisis, Turkey is recognized as a hosting country of refugees. Therefore the crisis situation in Turkey is different compared to the above described countries.¹⁹⁵ Thus, the implemented crisis management instruments are also different. Until March 2016 the main actions of the EU were the provision of humanitarian aid and development cooperation to aid Turkey in handle the influx of refugees. Today the main action of the EU to address the refugee crisis in Turkey is the EU-Turkey agreement respectively the therein agreed cooperation in regard to migration and borders and the provision of further funding for humanitarian aid and development cooperation.

Due to the establishment of the deal, two conclusions can be drawn. Firstly, the agreement is not a formal instrument of the EU in crisis management. Political dialogue resulted in an agreement (here this term is not used as a legal term!) between the EU and Turkey in which both parties agreed on cooperation in regard to the refugee crisis. Thus, in the case of a crisis informal instruments can be used in addition to the identified formal crisis management instrument in Chapter 2. Secondly, conclusions about the position of Turkey can be drawn. It is a threat to the EU that millions of refugees were able to enter the EU unregulated. To prevent irregular migration, Turkey is - because of its strategic geographic position - the partner the EU and needs to cooperate with. The deal contains arrangements regarding the 're-energised' accession process and the visa liberalisation for Turkish citizens, which are both interests Turkey claimed and are not directly linked to the refugee crisis. Therefore, Turkey seems to be in a demanding position – demanding for both help to address the refugee crisis and issues not related to the crisis. Regarding the identified, formal crisis management instruments the main instruments are the provision of funding for humanitarian aid and help provided through the IPA. There are no measures needed in regard to establishing inner security within Turkey.¹⁹⁶

¹⁹⁴ Further information about the process of familiarizing the candidate countries with the activities of the EU can be followed on the website of the Commission regarding the European Neighbourhood Policy and the enlargement negotiations. This is available at <http://ec.europa.eu/enlargement/countries/detailed-country-information/turkey/index_en.htm>.

Information about the financial implementation of IPA in Turkey is available at <http://ec.europa.eu/enlargement/instruments/funding-by-country/turkey/index_en.htm>.

¹⁹⁵ This will be regarded more extensively in the conclusion.

¹⁹⁶ Even though this could be seen critical because of the conflicts in regard to the Kurdish population in Turkey.

3.7 EU relations with and actions in Lebanon

In this section the relation of the EU and Lebanon is illustrated followed by a description of the crisis management actions implemented by the EU in Lebanon. These will be analysed and judged in regard to their contribution to the crisis management in Lebanon.

a) General relations: Lebanon is one of the countries the EU cooperates with under the ENP. Therefore, the typical ENP objectives like for instance increased stability, democracy and political and economic strength persist. Since April 2006 a Lebanon Association Agreement (AA) has been in force.¹⁹⁷ In regard to the refugee crisis, Lebanon, as is Turkey, a host country of refugees. As a neighbouring country of Syria, Lebanon hosts a large share of Syrian refugees (1.2 million in mid-2015¹⁹⁸). Since every fourth person living in Lebanon is a refugee, the government is overwhelmed in providing aid.

b) Security: The Association Agreement includes general clauses in regard to security. E. g. political dialogue to contribute to security and stability in the region is intended (Article 3-4).¹⁹⁹

c) AFSJ: The Association Agreement includes general clauses in the AFSJ. The parties agreed to conduct dialogue in regard to migration (Article 64) and to cooperate for the prevention and control of illegal immigration. Furthermore, they agreed on the readmission of nationals (Article 68-70).²⁰⁰ In fact, one of the priorities of the bilateral cooperation of the EU and Lebanon is a justice and security system reform.²⁰¹

d) Development Aid: In Lebanon both the EIDHR and the Instrument contributing to Stability and Peace are implemented. Furthermore Lebanon receives funding under the DCI. This is striking as Lebanon is a country eligible for ENI funding. Due to the provision of funding of the DCI cooperation between DG DEVCO and DG NEAR becomes necessary. Furthermore it

¹⁹⁷ OJ [2006] L143/2, 30.05.2006.

¹⁹⁸ UNHCR Mid-Year Trends 2015, *supra* note 1.

¹⁹⁹ OJ [2006] L143/2, 30.05.2006, *supra* note 197.

²⁰⁰ This is further defined in the European Neighbourhood Policy EU-Lebanon Action Plan. This is available at <http://eeas.europa.eu/enp/pdf/pdf/lebanon_enp_ap_final_en.pdf>.

²⁰¹ Programming of the European Neighborhood Instrument (ENI) 2014-2020 Single Support Framework for EU support to Lebanon (2014-2016), available at <http://ec.europa.eu/europeaid/sites/devco/files/ssf-lebanon-2014-2016_en_0.pdf>.

is remarkable that neither on the DG DEVCO website nor on the DG NEAR Website anything is posted about the implementation of the DCI. Only under the heading Syrian refugee crisis it is noted that development assistance was provided to Lebanon.²⁰²

e) Trade: Article 6 of the Association Agreement provides the framework for a free trade area of the EU and Lebanon. Therefore, Lebanese industrial products as well as most agricultural products benefit from free access to the EU market.²⁰³

f) Humanitarian Aid: Humanitarian aid operations are implemented in Lebanon to support the large number of refugees. DG ECHO identified high humanitarian needs in Lebanon.²⁰⁴ According to ECHO, the Government of Lebanon has ‘struggled to play a leading role’ and needs significant support from the international community to respond to the humanitarian needs. With its humanitarian interventions, ECHO targets all refugees in Lebanon irrespective of their country of origin. The major constraint of ECHO’s work is the deterioration of the security environment. Especially the north of Lebanon, where a large number of refugees live, it is difficult to access due to insecurity.²⁰⁵

g) ENP: Lebanon benefits from the European Neighbourhood Instrument. In regard to the refugee crisis, additional funding is channelled via the Madad Fund.²⁰⁶

Lebanon is like Turkey recognized as a hosting country of refugees.²⁰⁷ As Lebanon is a country under the ENP funding, help to the government to manage the influx of refugees is provided through the ENI. Moreover, humanitarian aid operations are conducted. The EIDHR and the Instrument contributing to Stability and Peace are implemented in Lebanon.

²⁰² This is available at <http://ec.europa.eu/enlargement/neighbourhood/countries/lebanon/index_en.htm>. The fact that the DCI is used in Lebanon is available here <<http://data.europa.eu/euodp/data/dataset/europeaid-iati-lebanon>>.

²⁰³ This is available on <<http://ec.europa.eu/trade/policy/countries-and-regions/countries/lebanon/>>.

²⁰⁴ European Commission, *Commission staff working document General Guidelines for Operational Priorities on Humanitarian Aid in 2015*, SWD(2014) 345 final, 4.12.2014, available at <http://ec.europa.eu/echo/files/policies/strategy/strategy_2015_en.pdf>.

²⁰⁵ ECHO HIP Syria Regional Crisis, *supra* note 48.

²⁰⁶ This information is available at

<http://ec.europa.eu/enlargement/neighbourhood/countries/lebanon/index_en.htm>.

²⁰⁷ This will be regarded more extensively in the conclusion.

3.8 Sub-conclusion: Crisis management in the region, Syria, Iraq, Afghanistan, Turkey and Lebanon

In the following section, the question to what extent the crisis management instruments have been used regionally and in Syria, Iraq, Afghanistan, Turkey and Lebanon to address the current refugee crisis will be answered.

All in all the existence of a regional strategy, outlining how the refugee crisis should be addressed, can be judged positively as it shows the EU's acknowledgement of the need for an multidimensional, coordinated and regional approach to address the crisis.

To address the crisis regionally the Madad Fund, as a new tool, was established and the existing instrument, the ENI, is used to contribute to this facility for pooled fast-available resources. If the incorporated upstream coordination is implemented efficiently, which future research should elaborate on, it institutionalizes the cooperation of different actors and makes effective crisis management possible.²⁰⁸ Thus, regionally the EU used an existing instrument to establish a new tool for crisis management and thereby designed good conditions to regionally manage the refugee crisis.

The table summarizes my findings what crisis management instruments have been used in Syria, Iraq, Afghanistan, Turkey and Lebanon to address the refugee crisis.

	CFSP/CSDP	AFSJ	Develop.	CCP	Hu. Aid	ENP
Syria	Cooperation Suspended	Cooperation suspended	Cooperation suspended, but DCI funding	Restrictions	In action	Cooperation suspended, but ENI funding
Iraq	PCA to be ratified	PCA to be ratified	In action	Cooperation	In action	/
Afghanistan	European Union Police Mission	CAPD to be ratified	In action (DCI and EIDHR)	Cooperation (GTP)	In action	/
Turkey	Cooperation (external)	Cooperation EU-Turkey Agreement	In action (EIDHR)	Cooperation (Customs Union)	In action	Candidate Country (AA)

²⁰⁸ C. Portela and K. Raube, *supra* note 25, 4.

Lebanon	Cooperation	Cooperation	In action DCI	Cooperation	In action	ENP country (AA)
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Thus, a variety of crisis management instruments has been used in each country to address the crisis. Which instruments have been used varies among the countries.

In Syria the suspension of cooperation was meant to pressure the Syrian Government to end the violence and examine a political solution.²⁰⁹ This can be considered failed as the violence in Syria has continued despite ‘the pressure’. The implementation of further crisis management instruments is limited due to the suspension, as cooperation is needed for their implementation. Thus, the main actions of the EU are the provision of humanitarian aid, which is limited due to insecurity and limited resources. Consequently, in Syria the EU attempts to address the crisis by pressuring the Syrian government. Since this can be considered failed the EU can address the crisis in Syria only insofar that it reacts to the consequences of the crisis, namely the humanitarian needs of Syrians. All in all, the EU’s measures have not managed the crisis in Syria.

In Iraq, the EU and Iraq cooperate to manage the crisis. The EU does not directly tackle the problem of remaining insecurity in the country but mainly reacts to the consequences of the crisis by providing assistance (humanitarian and development) to the Iraqi populations.

In Afghanistan the EU tries to address the crisis by implementing the EUPOL mission. Thus, it tries to tackle the insecurity, which remains present in parts of the countries, indirectly. Furthermore, the EU provides development and humanitarian assistance, which is judged as underfunded. Thus, the EU tries to address the crisis insofar that it addresses both the cause (the insecurity) of the crisis indirectly with its EUPOL mission and provides assistance. The conflict, which has persisted since decades, is ongoing.

In Turkey the EU addresses the consequences of the refugee crisis by attempting to aid Turkey in managing the refugee influx especially, through humanitarian aid. In contrast to the other regarded countries, Turkey seems to be in the position to demand help of the EU (whereas e. g. Iraq and Lebanon kindly have to ask for it). Thus, it can be argued that the EU is not managing the crisis in Turkey but that Turkey pressures the EU to contribute financially. Furthermore, the cooperation in regard to migration was agreed on. It is a way of ‘managing’ the threat of refugees coming ‘irregularly’ to the EU. Thus, with the EU-Turkey

²⁰⁹ European Commission Fact Sheet – EU support in response to the Syrian crisis, *supra* note 114.

agreement the EU does not manage the external dimension of the crisis but the internal dimension by preventing the threat the EU itself is facing.

In Lebanon, the consequence of the crisis – the needs of over a million displaced people – needs to be addressed. Since the EU provides humanitarian and development assistance it addresses the needs that exist in Lebanon. The only problem that remains is the insufficient funding. Thus, the EU could manage the refugee crisis if more funding is made available.

To what extent each of the instruments has been used in the different countries needs to be further assessed as soon as detailed implementation reports and financial records are published. On the basis of the documents that are available now, it can be concluded, that the crisis management of the EU in none of the countries where insecurity occurs, established security and stability. Furthermore, it is striking that in all countries the funding for assistance, especially for humanitarian aid, is insufficient.

4. CONCLUSION

The EU Commission states it has been working for a coordinated European response on the refugee and migration front and that ‘we [the EU] have [has] achieved a great deal in a short space of time.’²¹⁰ ‘As an important actor in the region, the EU has a responsibility to ensure that it uses its influence and its numerous instruments effectively and coherently to defend human lives, human dignity and rights, and help resolve these crises, in close coordination with regional and international partners’, is stated in the ‘Council Conclusions on the EU Regional Strategy for Syria and Iraq’.²¹¹ From this quote it can be derived that the EU acknowledges its responsibility to address the current refugee crisis and at first glance, it seems like a powerful statement. The cautious formulation ‘helping to resolve’ and the supplement of ‘together with partners’ undermines the impression that the EU could be the crisis manager of the refugee crisis. Thus, the research questions ‘to what extent is the EU able to manage the current refugee crisis?’ will be answered in the following. Therefore the results of all chapters of this thesis are summarized.

²¹⁰ ‘Communication Managing the refugee crisis under the European Agenda on Migration’, *supra* note 51.

²¹¹ Council Conclusion on the EU regional strategy for Syria and Iraq, *supra* note 36, 13.

As outlined in Chapter 1, the European Union shall ‘in its relation with the wider world [...] contribute to peace, security and sustainable development of the world.’²¹² Therefore, the EU, which is facing its maturity test as an international crisis manager, could act as a crisis manager of the current refugee crisis. The refugee crisis affects the stability and security of multiple systems. The term ‘refugee crisis’ refers to the sum of various conflicts and crises and their consequences, the decreasing stability and security for a variety of systems. It accumulates all the conflicts and crises and their consequences to one transboundary multi-dimensional crisis with an extremely wide scope. Addressing – or even solving – this crisis is a highly difficult task. Thus, it’s questionable whether or not the EU is capable of managing it.

To address the refugee crisis, the EU could use a variety of policy fields promoting in the wide scope stability and security and therefore provide crisis management instruments. It can be concluded that the policy fields CFSP and CSDP, AFSJ, development cooperation, CCP, humanitarian aid, and the ENP and enlargement policy provide crisis management instruments because each of the policy fields either has the objective of promoting security and stability as such or has the means to achieve it. These instruments are mainly a) agreements in which cooperation is established between the EU and a third state in the fields of CFSP, AFSJ and ENP, b) specific funding instruments of the policy fields development cooperation (DCI, EIDHR, IcSP), humanitarian aid and ENP and enlargement (ENI, IPA), c) Council decisions of the CFSP in which specific crisis management instruments are determined and d) civilian and military missions of the CSDP. The coherent implementation of these policy fields, which is essential to address crises sufficiently, is impeded by a) the different legal basis of the policy fields and b) different bodies being responsible for them. The HR and the EEAS can contribute to the coherent implementation of the various crisis management instruments. This shows the EU has an extensive number of crisis management instruments that can be implemented coherently. Thus, theoretically the EU should be able to manage the refugee crisis if it applies a regional, multi-dimensional and coordinated approach of all of these instruments.²¹³

²¹² These milieu goals are defined in Article 3 (5) and Article 21 TEU.

²¹³ Especially due to enforcement of the Lisbon treaty the EU received competences that enable it to address crises more effective than before is argued by S. Blockmans and R. A. Wessel, *supra* note 13, 1.

In Chapter 3 the practical implementation of the crisis management was analyzed. The EU established a regional strategy for the practical crisis management outlining how it wants to address the refugee crisis. According to the strategy, various crisis management instruments should be implemented, which shows the EU's awareness that a multi-dimensional, coordinated and regional approach is necessary to address the refugee crisis. To what extent the HR and the EEAS have been involved in the preparation of the strategy, remains unclear.

The practical implementation of the crisis management instruments of the EU was analyzed in Chapter 3. For a regional crisis response, the EU established the Madad Fund as a facility for pooled resources. The implementation of the various crisis management instruments in Syria, Iraq, Afghanistan, Turkey and Lebanon was elaborated. To name a few striking examples, security measures are used in Syria and Afghanistan, cooperation between the EU and Turkey in the AFSF was extended, along with development cooperation implemented in Iraq and Afghanistan. Furthermore, the trade relations have been used to pressure Syria, while Turkey and Lebanon benefit from the ENP and enlargement policy. Moreover, all countries in the whole region benefit from the IcSP and the implementation of humanitarian aid operations. Conclusively, all crisis management instruments outlined in Chapter 2 and additional informal instruments (like the EU-Turkey agreement) were used. The only exception is the instrument of a military mission for which a respective UN resolution would be needed. All in all, the EU used its crisis management instruments to a large extent in the region and in the countries. Therefore, one might assume that the EU manages the refugee crisis.

According to Blockmans, managing a crisis means 'to contain a crisis and shape its future course while resolution is sought'.²¹⁴ Thus, to manage the refugee crisis the EU would need to contain the displacement of people and influence the region in a way that shapes the further course of the refugee crisis.

Unfortunately, despite the various EU lead or EU financed crisis management actions, the displacement of people was not contained, but instead rose. Since 2011 the number of displaced people worldwide continuously increased. In 2011 42.5 million people were forcibly displaced, in 2012 45.2 million, in 2013 51.2 million, in 2014 59.5 million²¹⁵ and 65.3 million people were forcibly displaced in the end of 2015. According to UNHCR, every

²¹⁴ S. Blockmans and R. A. Wessel, *supra* note 13.

²¹⁵ This information is available at <<http://www.unhcr.org/news/latest/2015/6/558193896/worldwide-displacement-hits-all-time-high-war-persecution-increase.html>>.

minute of 2015 24 people were newly forcibly displaced and this trend is continuing²¹⁶ as insecurity, which is the cause of the displacement of people, among others in Syria, Afghanistan and Iraq remains.

Unfortunately, it has become apparent that the security measures of the EU in none of the countries established security and stability. Thus, security issues remain the largest problem especially in Syria, Iraq and Afghanistan. Furthermore, it is striking that in all the countries the funding for assistance, especially humanitarian aid, is insufficient.

Thus, it can be assumed that the EU neither contained the crisis significantly²¹⁷, nor did it shape its future course significantly. The EU attempts to address the causes of the crisis in Syria, Iraq and Afghanistan but its measures are insufficient. Even-though they might contribute in some cases to the provision of security and stability – they until now have not achieved security and stability in the discussed countries. Thus, the causes of the refugee crisis – the issues of security- are not managed sufficiently by the EU. The consequences of the crisis, especially the humanitarian needs of the displaced people, are addressed by the EU. The provided assistance was essential for thousands of refugees and is thus highly appreciated. Therefore, the EU contributes to address the consequences of the crisis. Nevertheless, as the resources are insufficient to fully address the needs faced by the refugees, the EU does not manage the consequences of the refugee crisis neither.

Thus, the overall question of this research, to what extent the EU is able to manage the external dimension of the current refugee crisis, can be answered: Rather than managing the crisis, it seems the EU only tries to react to the causes and consequences of the crisis. Ultimately the EU addresses the refugee crisis but until now its efforts are not enough to actually manage it. Thus, the crisis is not managed by the EU – nor is it by anybody else – instead it is ongoing.

The conclusion that the EU is not managing the refugee crisis raises questions future research should examine. The practical impact, each of instruments in the different countries had, needs to be further analysed as soon as detailed implementation reports and financial records are published. Thus, further research should be conducted on the effectiveness of each crisis management action and the coherent implementation of the various crisis management

²¹⁶ This information is available at <<http://www.unhcr.org/news/latest/2016/6/5763b65a4/global-forced-displacement-hits-record-high.html>>.

²¹⁷ Whether or not the EU contained the displacement of people cannot be proved as we do not know what would have happened without the EU actions. As the number of displaced people still rose we can conclude that the EU did not contain the displacement significantly.

instruments as soon as the data is available. Furthermore, the question whether the fragmentation of competences of the different policy fields harmed the effectiveness of the overall crisis management could be regarded.

Moreover, if the EU does until now not manage the crisis, future research could analyse how the EU could manage the crisis efficiently. Throughout this study, four challenges crystalized which the EU would need to meet to manage the crisis. These could serve as a starting point to access how the EU could efficiently manage the crisis. The challenges the EU needs to meet are:

Firstly, the EU needs to implement its crisis management actions coherently. As outlined in Chapter 1 and 2 a crisis needs to be addressed by the use various, coherently implemented actions. In the HIP it is stated complementarities between ENI/IcSP supported actions and humanitarian aid operations are constantly carefully examined. Even-though coordination has already been established it has been stated the ‘coordination needs to be improved for a coherent respond.’²¹⁸

Secondly, enough resources need to be provided to deliver assistance. The EU is the leading donor of the response to the Syrian crisis and so far spent (collectively with the Member States) over 5 million for humanitarian, development, economic and stabilization assistance.²¹⁹ Despite the provided help, the United Nations estimates that the total unmet humanitarian needs for the Syrian crisis for 2015 in monetary values amounts to 4 billion Euros.²²⁰ Especially documents published by DG ECHO show that the needs of humans affected by the crisis ‘largely outweigh and surpass the capacity of humanitarian actors’ is underlined. The budgets of humanitarian aid are described as pale in comparison to the identified needs.²²¹ This is why some needs although ‘recognised as crucial are beyond the scope of ECHOs [the EUs] resources’²²² Thus, if the EU seriously wants to help the majority of refugees, funding needs to be increased.²²³

Thirdly, political dialogue or other effective security measures need to be established to address the political dimension of the crisis. The violence in Syria is the main cause of the

²¹⁸ ECHO HIP Syria Regional Crisis, *supra* note 48.

²¹⁹ European Commission Fact Sheet – EU support in response to the Syrian crisis, *supra* note 114.

²²⁰ This information is available in the ‘Communication Managing the refugee crisis under the European Agenda on Migration’, *supra* note 51, 8.

It was derived of the Financial Tracking Service of the UN Office for the Coordination of Humanitarian Affairs (OCHA).

²²¹ ECHO HIP Syria Regional Crisis, *supra* note 48, 13.

²²² ECHO HIP Syria Regional Crisis, *supra* note 48, 13-14.

²²³ ‘Communication Managing the refugee crisis under the European Agenda on Migration’, *supra* note 51, 8.

refugee crisis. Additionally ISIS threatens the world.²²⁴ Thus the EU needs to find a way to address these problems in order to promote security and stability in the region. Military measures cannot be conducted against the Syrian Government due to the lack of a respective UN resolution, but EU Member States already conduct military missions to fight ISIL.²²⁵ Mogherini states that, ‘money [...] is not the magic solution for everything’, but that a political solution needs to be found. Therefore she communicated with the UN Special Envoy for the conflict in Syria.²²⁶ Unfortunately it seems nobody knows how such a political solution should look like.

Fourthly, as the EU itself is not able to manage the refugee crisis, it needs to cooperate with others in order to appropriately address the crisis. This means the EU must work closely together with governments from all over the world and the key international organizations. The EU is already an active participant of the International Syrian Support Group which consists of 20 states and international organisations who discussed how to accelerate an end to the Syrian conflict.²²⁷ Furthermore the EU has already intensified cooperation with the UNHCR²²⁸ and supports the ‘2016 Syria Humanitarian Response Plan & 2016 2017 Regional Refugee and Resilience Plan’ which was set up by UNHCR and the United Nations Development Programme (UNDP). Internationally the ‘Whole of Syria’ approach, which is a coordination system of measures in regard the refugee crisis, strives to ensure strategic and operational coherence to deliver humanitarian assistance in Syria.²²⁹

The need for international cooperation is also underlined by Mogherini stating ‘we need a global coming together in order to face the crisis [...] we are confronted with] a challenge that is not only European, but it is indeed a global one [...] and we have to find ways of managing the challenge together.’²³⁰

²²⁴ See Council Conclusion on the EU regional strategy for Syria and Iraq, *supra* note 36, 10.

²²⁵ This information is available at < <https://www.tagesschau.de/ausland/bundeswehr-tuerkei-111.html>>.

²²⁶ F. Mogherini, ‘*Read-out of the Commission College meeting: opening remarks by High Representative/ Vice President Federica Mogherini*’, available at <http://eeas.europa.eu/statements-eeas/2015/150923_02_en.htm>.

²²⁷ Statement of the International Syrian Support group (5. February 2016), available at <http://eeas.europa.eu/statements-eeas/2015/151114_03_en.htm>.

²²⁸ ‘Communication Managing the refugee crisis under the European Agenda on Migration’, *supra* note 51.

²²⁹ This is available at

<https://www.humanitarianresponse.info/en/system/files/documents/files/2016_hrp_3rp_chapeau_syria_final_hi_res.pdf>-

Internationally the EU supports the Global Coalition to counter ISIL Da’esh which has the following 5 objectives a) providing military support to partners; b) impeding the flow of foreign fighters; c) stopping ISIL's financing and funding; d) addressing humanitarian crises in the region; and d) exposing ISIL's true nature. More information can be found here <<http://www.state.gov/s/seci/>>.

Furthermore it will contribute to implement the UN Security Council resolutions 2161, 2170, 2178, 2199.

²³⁰ F. Mogherini, *supra* note 226.

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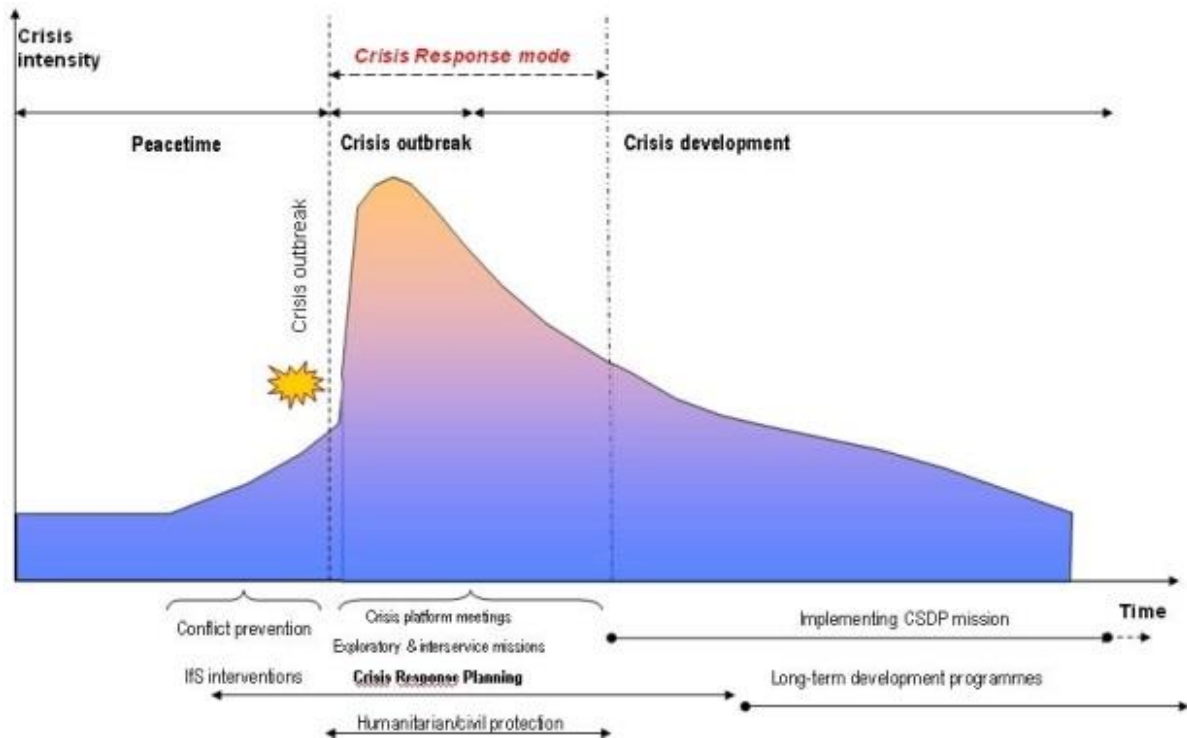
UN Security Council Resolution 2170 [2014]

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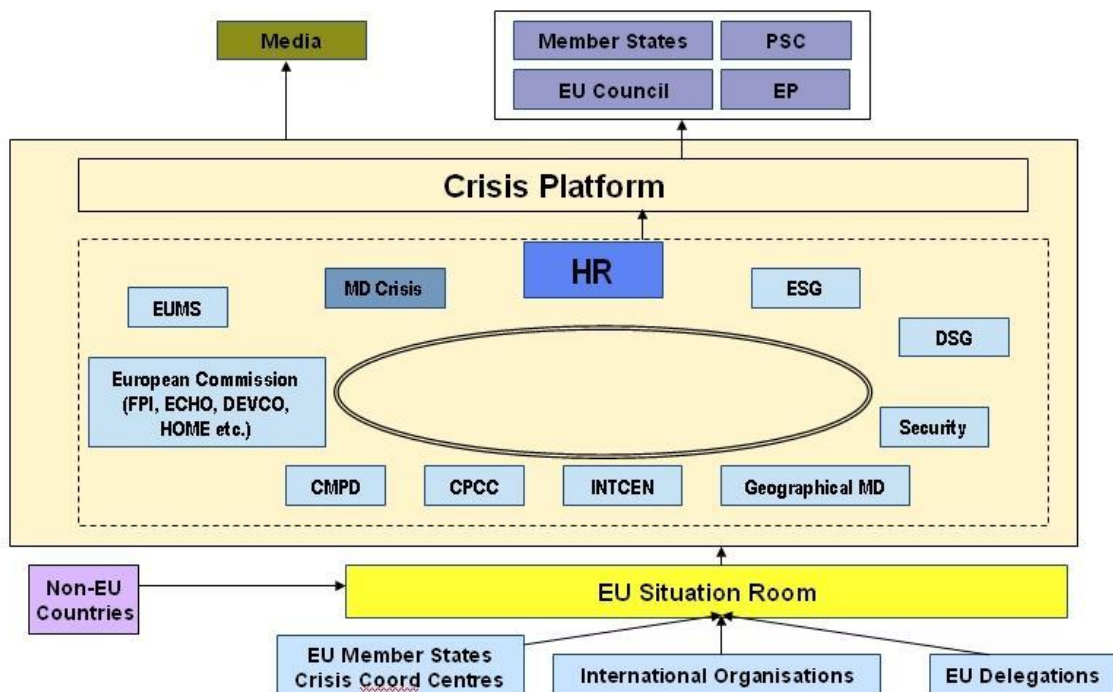
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ANNEX

Annex 1: Crisis Management Cycle²³¹



Annex 2: European Crisis Platform²³²



²³¹ This is available at <http://eeas.europa.eu/crisis-response/what-we-do/response-cycle/index_en.htm>.

²³² This is available at <http://eeas.europa.eu/crisis-response/what-we-do/crisis-platform/index_en.htm>.

Annex 3: EU Annual report 2015 on the European Union's development and external assistance policies and their implementation in 2014²³³

Country: Commitment 2014/Disbursement 2014	European Neighbourhood Instrument	Development Cooperation Instrument - Geographic programmes	Development Cooperation Instrument Thematic programmes	European Instrument for Democracy and Human Rights EIDHR	Instrument for Stability IFS	Instrument for Nuclear Safety Co- operation INSC	CFSP	Instrument for Pre- Accession Assistance (IPA)	ECHO	Other	European Development Fund EDF	Total
Turkey				0/3,19	17,000			554,76/488,05	0/23,16			554,76/514,40
Iraq		0/8,49		0/1,42	6/6,94	1,5			47/43,92			54,5/60,77
Lebanon	143,33/67,08		0/2,32	0/1,27	0,03/26,44				0/64,04	0/0,40		143,35/161,56
Syria	59,05/3,29	0/0,27	0/0,07	0/2,01	21,99/19,96				201,05/120,57			282,09/146,18
Afghanistan		207,5/145,09	0/7,71	0,19/9,18	0/10,88		79,14/64,95		11,03/32,70			297,9/270,50

²³³ The report is available at <https://ec.europa.eu/europeaid/sites/devco/files/2015-annual-report-web_en.pdf>.

Annex 4:Regional objectives, EU Engagement and Instruments of the EU regional strategy for Syria and Iraq as well as the ISIL/Da'esh²³⁴

Country	Objective	EU Engagement	Instrument
Syria, Iraq and other affected countries	Promote regional engagement in support of security and long-term peace	political and diplomatic engagement with the countries of the region (bilaterally and collectively through the Arab League, the Gulf Cooperation Council and the Organisation of Islamic Cooperation, as well as with other supporting countries and organisations)	
Syria, Iraq and other affected countries	Isolate and defeat Da'esh as a military force and as a terrorist organisation and counter its ideological influence	political and expert-level engagement with the relevant institutions of the countries of the region;	EU Member States contributions; EU: IcSP, ENI, CFSP financing
Syria, Iraq and other affected countries	Prevent regional spill-overs and enhance border security	increase in the level of assistance provided to neighbouring countries to help them cope with the refugee influx	IcSP, ENI, IPA and Member States contributions.
Lebanon		Support in the field of security and border management (Dialogue on migration, mobility and security with Lebanon started in December 2014) continued support to Lebanon's security sector reform and the implementation of EU support to the Lebanese Armed Forces (LAF) in areas such as civil-military cooperation, maritime security, border security, counter terrorism and military training and education further support aimed at (i) enhancing capacity to plan and conduct operations; (ii) enhancing LAF's logistical system; (iii) setting up a training cycle for the LAF; (iv) assisting the LAF with Border Management and Border Security; (v) development of a future-oriented LAF border forces security concept; (vi) improvement of LAF role in counter-terrorism with a focus on legislative, strategic and institutional	EU and Member States

²³⁴ This is an overview of the EU regional strategy for Syria and Iraq as well as the ISIL/Da'esh which was shortened. The wording remains the original. See Council Conclusion on the EU regional strategy for Syria and Iraq, *supra* note 36, 17-24.

Turkey		aspects; and (vii) reviewing the LAF education and training system;	
		continued support for the implementation of its National Action Plan for the establishment of Integrated Border Management, including through the reform and modernisation of surveillance techniques along its land borders and controls at border crossing points; and dialogue on counter-terrorism to identify areas where specific EU support could be offered to Turkish authorities with the aim of strengthening their capacity to control the flow of persons and materials across their borders and to identify and detect persons requiring close surveillance, firearms, explosives and other dangerous substances.	
	Provide life-saving humanitarian aid and international protection	<p>Coordination:</p> <p>Continue to provide support to the UN-led coordination system, in accordance with the EU consensus on Humanitarian Aid and International Humanitarian Law.</p> <p>Access:</p> <p>Use of all possible models of delivery (including cross-border and cross-line assistance) to ensure access to all people in need including those in hard-to-reach areas</p> <p>Proactive engagement with all parties to the conflict to increase the humanitarian space in Syria and Iraq and access to all people in need.</p> <p>Reinforce the UN's capacity to negotiate access, in particular in Syria and Iraq through OCHA, and ensure better coordination, in particular between cross-border and cross-line operations.</p> <p>Strengthen capacity-building of local non-governmental organisations (NGOs) to deliver assistance.</p> <p>Protection:</p> <p>Ensure the protection of affected populations; promote international, refugee and humanitarian law.</p> <p>Insist with the authorities of affected countries that government policies must comply with International Humanitarian Law, guarantee that proper registration and documentation mechanisms for IDPs and refugees are set up, and that vulnerable displaced persons and refugees have access to legal advice and adequate</p>	

		<p>protection.</p> <p>support the UNHCR's and other actors' efforts to ensure government policies meet these standards.</p> <p>Continue to advocate for the safety and protection of humanitarian aid workers and the inviolability of health and educational facilities.</p> <p>Civil/military relations</p> <p>Reinforce UN-led civil/military coordination and liaison to ensure compliance with International Humanitarian Law and the respect of humanitarian principles while mitigating risks for the security of humanitarian actors and improving access to populations in need.</p> <p>Country-specific approaches :</p> <p>Encourage the UN to pursue non-discriminatory and all-inclusive country-specific approaches ("Whole of Syria" and "All of Iraq").</p> <p>Continue to advocate for integrated and prioritised humanitarian and development appeals and joint gap analysis, as well as the implementation of the 3RPs (Regional Refugee and Resilience Plan) through national response plans in neighbouring countries.</p> <p>Rapid Response Capacity and monitoring</p> <p>Strengthen a country wide and multi-sectoral early warning system.</p> <p>Scale-up preparedness and rapid response capacities by integrating greater flexibility into existing agreements with partners, in order to respond better to emerging needs, establish contingency stock arrangements, and considering contributions to existing emergency response funds.</p> <p>Public diplomacy and visibility of aid</p> <p>Enhance communication about EU humanitarian and development assistance both in the region and in the EU, if needed on the basis of reviewed communication/visibility guidelines</p> <p>Cater to displaced persons longer-term development needs</p> <p>Focus part of the EU's development assistance in Syria and Iraq as well as in neighbouring countries on</p>	
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		<p>displaced persons' needs, in particular education for children and vocational training or retraining for adults focusing on the jobs needed in a post conflict environment. Such vocational training should include training for women in order to boost their economic and social role in post-conflict reconstruction.</p> <p>Resettlement and asylum</p> <p>Continue to support the long-term capacity of host states to address refugee flows in particular through the Regional Development and Protection Programmes (RDPPs) in Jordan, Lebanon and Iraq, and by helping Turkey to provide humanitarian assistance to Syrian refugees and supporting it in the establishment and operation of a modern and stable asylum system.</p> <p>Continue to offer resettlement prospects to Syrian refugees (and where appropriate Iraqis) in the EU. While UNHCR made a call to the international community for the resettlement/humanitarian admission of at least 130,000 Syrians, in particular the most vulnerable individuals. EU Member States have pledged some 36,000 places, making it the largest pledge in the history of EU resettlement efforts. The Commission supports resettlement efforts under the Asylum, Migration and Integration Fund.</p>	
Syria, Iraq and the affected neighbouring countries	Strengthen local resilience capacities	<p>Resilience/recovery assistance and support to local communities and social actors in Syria, Iraq and the neighbouring countries through the, in particular:</p> <p>build upon existing joint humanitarian aid/development frameworks in the field and establish joint programming in Syria, Iraq, Jordan, Lebanon and Turkey;</p> <p>use the 'Madad fund' for stabilisation and resilience aid to refugee and host communities in Iraq, Lebanon, Jordan, Turkey, and Egypt. This needs to be achieved in a holistic way, in coordination with existing funding mechanisms and in line with current national government planning and the UN 3RP approach;</p> <p>support governments of the region to pursue policies conducive to enhanced economic resilience among refugee and host communities, promote prospects for young people and respect gender equality; and</p> <p>implement the programme of additional assistance to Turkey announced following the Kobani crisis, aimed at supporting the effort of Turkish authorities to provide long-term hospitality and assistance to the Syrian</p>	'Madad fund', IcSP, and direct Member States contributions

		<p>refugees sheltered in Turkey.</p> <p>More generally, engagement with relevant diaspora organisations in Europe should be envisaged to enhance the EU's outreach and boost the effectiveness of its actions.</p>	
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