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THE COHERENCE OF THE EU'S COOPERATION ON MIGRATION IN THE CONTEXT OF ITS DEVELOPMENT COOPERATION POLICY

On the cases of Senegal and Uganda



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Abstract

This bachelor thesis presents the research on the question *To what extent is the current mainstreaming of the EU's own migration agenda coherent with the objectives of the EU's development cooperation policy?* It proposes an inductive research design with a regional focus on Africa, where the practice of the EU's mainstreaming of its own migration agenda through its development cooperation is first observed in two case studies. The two selected cases are Senegal, a country of transit migration towards the EU, and Uganda, a country of immigration. By analysing the practices observed in the case studies on the back drop of the theory of *Normative Power Europe*, this research then seeks to identify the incentives for the EU's mainstreaming. To answer the descriptive research question of coherence, the scope of the EU's development cooperation policy as well as possible constraints due to institutional fragmentation on the matter of migration will be investigated.

This qualitative research follows a hermeneutic approach by analysing development cooperation agreements and other policy documents, but also includes evaluating components, to assess the coherence of the pursued objectives of EU's development cooperation with its development cooperation policy.

List of Abbreviations

ACP	African, Caribbean and Pacific
CAMM	Common Agenda on Migration and Mobility
CCP	Common Commercial Policy
DC	Development Cooperation
DCA	Development Cooperation Agreement
DCP	Development Cooperation Policy
DG	Directorate-General
DG DEVCO	Directorate-General for International Cooperation and Development
DG HOME	Directorate-General for Migration and Home Affairs
EBA	Everything but Arms
EC	European Commission
ECJ	European Court of Justice
EDF	European Development Fund
EEAS	European External Action Service
EU	European Union
EUTF	Emergency Trust Fund for Africa
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union / European Border and Coast Guard Agency
GAMM	Global Approach to Migration and Mobility
GSP	Generalized System of Preferences
GSP+	Generalized System of Preferences Plus
MDGs	Millennium Development Goals
MP	Mobility Partnership
MPF	Migration Partnership Framework
NPE	Normative Power Europe
PCD	Policy Coherence for Development
SDGs	Sustainable Development Goals
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees

UNICEF	United Nations International Children's Emergency Fund
UNCTAD	UN Conferences on Trade and Development

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1st Chapter: Introduction

1.1 Introduction

At the end of the year 2017 68.5 million people worldwide were forced to leave their homes, because of conflicts, violence and violations of human rights (UNHCR, 2018). While the majority were internally displaced people, the number of refugees was the highest in the world's history with 25,4 million refugees (UNHCR, 2018). Due to globalization as well as modern technology and transportation, the worldwide interconnection increased, distances became less deterrent and migration no longer stops at regional borders. Thus, migration is an increasingly important topic and challenge of global politics.

This research aims at defining the EU's role as a global actor in the context of the ongoing African migration. With a number of 1,2 billion people, African citizens made up one sixth of the world population in 2016. By 2050 its population is expected to have doubled (UNICEF, 2017). Additionally, the African continent includes some of the poorest countries in the world, is subject to armed conflicts and threatened by the consequences of climate change. In the hope for a better life, many African citizens already left and still leave their home countries. While the majority of Africans migrates to other African countries, some of them also try to reach the EU. Therefore, African migration is not only broadly discussed in the European Union (EU) and its member states, but also influences their policy-making. In accordance to the increasing demand for policy advice in this field, the academic sphere has published extensive literature on the externalisation of EU borders and migration control to third countries.

Consequently, Africa is an important partner for the implementation of the EU's migration policy. Nevertheless, the African continent also includes some of the main recipient countries of EU development cooperation (DC) which is the implementation of the EU's development cooperation policy (DCP). This raises the question if and to what extent the EU uses its DC to mainstream its own migration agenda in certain African countries, and whether this is coherent with the EU's DCP.

In order to analyse the externalisation of EU borders and migration control through the EU's DC, this paper will analyse the EU's multilateral development cooperation agreements (DCAs) as well as bilateral agreements regarding the DC between the EU and two African countries. In the course of these two case studies, the role of the geographical location and predominant type of migration of the respective African countries (immigration and transit migration) will be taken into consideration. Moreover, this research will investigate the overall incentives of such actions as well as legal requirements of DCP and migration policy, respecting the regional together with the international laws on migration and DC, with the following research question:

To what extent is the current mainstreaming of the EU's own migration agenda coherent with the objectives of the EU's development cooperation policy?

1.2 Scientific and Societal Relevance

The scientific relevance of analysing to what extent the EU's migration agenda is mainstreamed through its DC starts with the requirements needed for the EU, as a global actor, to solve or steer the global challenge of migration with the help of DCP. Here, the coherence of the EU's migration policy in the contexts of its DCP as well as the regional and international legal frameworks are of scientific interest. There are many publications on how interstate cooperation may be used to deter onward migration, but only few elaborate how the EU actually applies such mitigating methods through DC. Therefore, the comparison of case studies on the DC between the EU and an African country of transit migration and an African country of immigration will contribute to the academic discussion.

In regard to the societal relevance, DC makes up a big share of the EU's external actions and thus must be subject to public scrutiny. The EU's DC is guided by overall principles such as the eradication of poverty (Art. 208 (1) TFEU), the promotion of human rights and the rule of law (Art. 21 TEU). Still, poverty, unemployment and violations of human rights shape large parts of the African continent, are hotbeds for conflicts and drive migration flows. These flows might overwhelm the EU and its member states and threaten their economic stability or even their national security. Thus, it is important to consider how migration can be mitigated in the long run without contradicting the EU's principles for external relations (Art. 3 (5) TEU).

1.3 Research Design and Methodology

As the research question indicates, the EU's mainstreaming of its own migration agenda in African countries through DC will be investigated. Accordingly, the general framework of this research is the EU's DCP and migration policy. Therefore, the EU-African relations will be analysed under the umbrella of the current DCA between the EU and the African, Caribbean and Pacific (ACP) countries in relation to the EU's migration agenda. More precisely, this refers to soft law measures, such as EU policies or partnership agreements, adopted within the EU's DC concerning migration. In order to answer the overall research question of coherence, this research follows an inductive research design following the subsequent research questions presented in this section.

To elaborate to what extent the EU mainstreams its own migration agenda through DC in an African country of transit migration and an African country of immigration, the DC between the EU and two African countries will be analysed in two case studies. Senegal was selected for the case study of an African country of transit migration and Uganda for the case study of an African immigration country. Besides the differing types of migration, the strongly varying distances between the case studies and the EU borders were a selection criterion. Finally, as the research's intention is to only assess DCAs and policy documents regarding the case studies' DC with the EU, the case studies were selected due to their independence of the *European Neighbourhood Policy* (Art. 8 TEU). By looking at these two case studies, this research aims at showing the EU's impact on these countries' migration management and if this impact differs substantially. Senegal functions as transit country for migrants who are trying to enter the EU by reaching the Canary Islands. The intended final destination of migrants is of importance, as it might induce the EU to treat Senegal differently in comparison to Uganda, as Uganda is under the top three migrant recipient countries of the world (UNHCR, 2018). The migrants immigrating to Uganda often left their homes (mainly due to armed conflicts) in neighbouring countries and seek a life in peace in Uganda - remote from the EU's borders.

This research does not imply that no other types of migration are present in these countries, but it will focus on the one mentioned type of migration in the particular country, as formulated in the first two subsequent research questions:

1) To what extent is development cooperation used by the EU to mainstream its own migration agenda in African countries of transit migration?

2) To what extent is development cooperation used by the EU to mainstream its own migration agenda in African countries of immigration?

To answer these two sub-questions and investigate whether and how the EU's mainstreaming of its own migration agenda differs in African countries which deal with different types of migration, the EU's policy framework for the cooperation on migration under its DC will be investigated. This refers to a wide scale of hard and soft law measures - from international treaties (like the *Cotonou Agreement*) over EU policy plans and documents to bilateral agreements (like partnerships) - developed in the context of the EU's DC to influence migration. These measures will be outlined in a timeline to reveal whether migration has always been or just became a political priority of the EU's DCP due to recent developments. The comparison

of the hard and soft law measures passed before and after immigration peaks (such as the so-called refugee crisis in 2015) may indicate if these migration flows influenced or even incentivised the mainstreaming of the EU's migration agenda through its DCP. Finally, the analysis of the continental, regional and bilateral measures that have been applied in each case study, will underline or contradict substantial changes within DCP in regard to the cooperation on migration.

After looking at these two case studies, the observed practices and possible differences in the EU's mainstreaming of its own migration agenda through DC will be traced back to the theory of the EU as a normative power. By analysing the practices observed in the case studies on the backdrop of the theory *Normative Power Europe* (NPE), potential incentives for the mainstreaming and the externalisation of border and migration control will be investigated, to answer the third subsequent research question:

3) *Why does the EU mainstream its own migration agenda through its development cooperation?*

Here, the norms guiding the EU's DCP as well as migration policy will be identified to investigate whether and how these norms have been spread by the EU through its DC and cooperation on migration with the wider world.

Through the analysis of the two case studies and the objectives of the EU's DCP, the fragmentation in the policy field of DC becomes conspicuous. Besides the substantial fragmentation of hard and soft law within DCP, it also brings along several institutions in charge of migration management, development cooperation and the implementation of EU actions abroad. Hence, the last subsequent research question seeks to clarify the roles of the *European External Actions Service* (EEAS) and the *Directorate-Generals* (DGs) in charge of migration policy and DCP as well as the impact of the substantial fragmentation.

4) *To what extent does the substantial and institutional fragmentation constrain a coherent approach on migration?*

In order to investigate the triangular relationship between the mentioned institutions, DCP and the mainstreaming of the EU's migration agenda, the competences and resources of these institutions to establish and implement policies in regard to the cooperation on migration will be analysed.

Overall, this inductive approach from case studies to theory will indicate if the practice of the EU's DC (observed in the case studies) is coherent with its DCP. Since the cooperation on migration under the EU's DC is observed first, the two case studies do not follow a path indicated by international relations theories (such as NPE). The comparison of the case studies promises instructive insights on the extent of the EU's mainstreaming of its own migration agenda in each case. This approach might be less biased on how the EU's DC on migration is ought to function and could lead to the identification of further contradictions or coherences of migration concerns within DCP, by referring back to the analysis of the two case studies. Eventually, this research anticipates that the rather unconventional approach from practice to theory is intellectually stimulating and more comprehensible for the reader and researcher.

1.4 Key Concepts

In this section the core concepts for this research will be shortly introduced. The relation of these concepts becomes evident, when asking what is influenced through which instrument and why. The first core concept is migration which might be influenced by the second core concept, DC (development cooperation). The reasons to influence migration through DC might fall within the third concept, the EU as a normative power. Finally, the question whether the EU's mainstreaming of its own migration agenda is coherent with the goals of its DCP will be addressed with the last concept, the concept of coherence.

a) Migration

Based on Everett Lee's definition of migration as the "permanent or semi-permanent change of residence" (1966: p. 49), this research specifies its concept of migration as moving across international borders for a longer period of time. This conceptualisation includes emigration, immigration and transit migration, but excludes domestic mobility (or internal displacement) as it does not cross international borders. Further, this research does not seek to differentiate between the reasons of migration nor its policy or legal basis. Therefore, the conceptualisation used by this research includes all types of migrants, refugees and asylum seekers as long as they are migrating across borders for a longer period of time.

Academic literature has extensively analysed how migration can be controlled or deterred through interstate cooperation. Thereby, migration is often described as something undesirable, a problem or even a threat to national security. This politicization as well as stereotypes and biases pose a threat to objective migration research (Düvell, 2012).

With the case study on Senegal this research analyses how and to what extent the EU tries impact transit migration in order to prevent onward migration of transit migrants to the EU as final destination. The comparison to the EU's DC on the matter of migration with an African country of immigration may then imply if the EU only focuses on migrants whose destination is the EU or if the EU takes the same measures towards all migrants no matter their final destination.

b) Development Cooperation

The EU's DC originated from the member states' (and especially France's) aim to have a special relationship with their colonies and oversea territories. The central goals were preferential trade conditions (through the inclusion to the *European Common Market*) accompanied by economic and social development. This relationship remained after the decolonisation and developed into a general cooperation between the EU and developing countries. Nowadays, DC is generally shaped by activities that improve economic development or living standards in developing countries. This research assumes that the DC with certain African countries is instrumentalised by the EU to mainstream its own migration agenda in these countries. It understands DC as the implementation of DCP. The specific objectives of the EU's DCP are stated in Art. 208 (1) TFEU, indicating that the eradication of poverty and the promotion of human rights as well as the rule of law are three of its main goals (Art. 21 TEU). In line with its objectives for external relations (Art. 21 TEU), the EU supports a sustainable development and involves developing countries in its DC which consists of financial and technical assistance (Van Vooren and Wessel, 2014: pp. 314-315).

Still, the EU does not have exclusive competences in the field of DCP. Instead the EU has shared and non-preemptive competences in DC and humanitarian aid (Art. 4 (4) TFEU). Hence, the EU and its member states have to coexist and coordinate their actions in this policy field (Art. 208 (1), 209 and 214 (1) TFEU). They can individually or collectively make an international commitment under DC and decide who is responsible for the financing (Art. 231 Lomé Convention). (Van Vooren and Wessel, 2014: pp. 324-325)

c) The EU as a Normative Power

Manners (2002) conceptualises normative power as the power of the EU's principles and values and how they may spread. Thereby he seeks to primarily define the EU's value nature and how it can lead to the improvement of the international system (p.252). Although the importance of military and civil power is not questioned, Manners states that only normative power may

change the understanding of what is regarded as ‘normal’ in the context of international relations (p. 239).

In opposition to Manners, Hyde-Price (2006) challenges the perception of the EU as a normative power from a neorealist perspective. He argues that the cooperation on political values (democracy, human rights and multilateralism) is no more than a “second-order issue” (p. 225). The theory of structural realism is based on the realist assumption that the overall aim of the EU is its survival and thus its security maximisation (Waltz, 1979). This would imply that all actions taken by the EU, even in the context of DC, have been measures to secure the EU’s survival. Accordingly, Hyde-Price (2006) claims that the EU is a foreign and security actor rather than a normative power. Manners’ (2002) assumption of the *Normative Power Europe* (NPE) generally challenges the assumptions of structural realism and would argue that DC is based on the EU’s principles and norms such as the eradication of poverty and the promotion of human rights.

d) Coherence

The principle of coherence in DCP is based on the obligation of the EU and its member states to mutually reinforce their DC through complementary policies and coordinated actions. Firstly, it demands that all actions taken by the EU and its member states in DC must be coherent with the EU’s overall principles for external relations written down in Art. 21 TEU and Art. 3 (5) TEU together with its founding values (Art. 2 TEU). Secondly, the main objective of DCP must be the eradication of poverty. Finally, all non-DCPs affecting developing countries must also be in accordance to the objectives of DCP. Additionally, all rules passed by the UN and other competent international organisations must be taken into account (Art. 208 (2) TFEU). Overall, coherence avoids conflicts and safeguards positive synergies. (Van Vooren and Wessel, 2014: pp. 311-314)

In regard to this principle, Van Vooren and Wessel (2014) mention human rights and security concerns (under the EU’s *Common Foreign and Security Policy*) as two legal aspects that must be coherent with DCP and fall within the EU’s development competences (pp. 327-330). While the respect for human rights has been integrated in the EU’s DCP as a precondition for the DC with third parties 1986 (with the *Lomé Convention III*) (p. 328), the *European Court of* (ECJ) rather recently confirmed that security concerns fall within the EU’s development competences if they contribute to the eradication of poverty (p. 330).

1.5 Body of Knowledge

This section outlines ways in which the EU could mainstream its migration agenda through DC. Therefore, it constructs an overview of the academic discourse on the externalisation of the EU's migration and border control through interstate cooperation. These scientific theories and observations will serve as indications for instruments and approaches which might be used by the EU to mainstream its migration agenda via its DC in African countries.

As outlined in the concept of the EU as a normative power (section 1.4 c), the EU's incentives to mainstream its migration agenda through DC can be explained through different theories. Although the academic literature implies that the EU has an interest of using the cooperation with non-EU countries to control migration, different effects of interstate cooperation on the number of migrants are described.

While one could argue that a logical approach to tackle the number of migrants is to influence the cause of emigration, there is no strong evidence that DC mitigates emigration (Clemens and Postel, 2018). This might be because DC favours youth employment but challenges child mortality rates and low wages (Clemens and Postel, 2018). While the first factor deters emigration, the second and third encourage it. So, positive effects might compensate negative effects of DC on emigration.

However, the cooperation with countries of transit migration could affect the numbers of migrants heading towards the EU more effectively. Different literature suggests that the cooperation between the EU and transit countries is a more effective manner to deter migrants on their way to Europe than strengthening the EU's own border and immigration controls (Djajić, 2017 and Djajić & Michael, 2014). Such a cooperation can provide transit countries with money to strengthen their border and immigration controls which leads to higher costs of transit migration and consequently deters migrants (Djajić, 2017). Another deterring effect on transit migration are internal measures taken by transit countries (such as punishments for employing transit migrants) that constrain the social and economic opportunities of transit migrants (Djajić, 2017). Based on this, one can conclude that the cooperation between countries of transit migration and immigration is far more effective than measures solely taken by the countries of immigration (such as stronger border controls) (Djajić, 2017: p. 1034). This leads to the following implication for the cooperation between these states: An immigration country can best deter increasing migration flows by providing the transit migration countries with money for immigration control, regardless to possible budgets cuts for the immigration country's own immigration control as a consequence of such actions (Djajić & Michael, 2014:

p. 820). Yet, internal measures to deter migrants taken by countries of transit migration can simply encourage onward migration of transit migrants or the splitting up of migration flows (Düvell, 2012).

Eventually, the academic debate implies that the EU's DC could be used to mainstream its migration agenda and affect numbers of migrants migrating towards the EU. It provides a first insight on possible approaches for the externalisation of migration and border control as well as the mainstreaming of migration agendas through DC. More specifically, the literature suggests that transit migration can be easier affected through DC than emigration. It indicates that certain factors, which may be influenced through DC, facilitate or mitigate migration. For example, a higher level of income, a lower child mortality rate and a higher level of youth unemployment in emigration countries occur with increasing numbers of emigrants (Clemens and Postel, 2018). Here is to add that higher wages in emigration countries may only encourage migration if the wages in the transit countries are high enough to pay the costs for further migration (such as border crossings, transportation or smuggling fees) (Djajić, 2017: p. 1029). Additionally, internal policies of African transit migration countries can affect the migration of African citizens to the EU by constraining their opportunities in the particular African country (Djajić, 2017). Still, the possibility, that countries of transit migration towards the EU use this type of migration as leverage in negotiations with the EU, must be taken into consideration (Düvell, 2012: p. 420).

2nd Chapter: EU Relations with African Countries of Migration

This chapter takes an in-depth look at the EU's cooperation on migration in the context of its DC with African countries of migration. To demonstrate the EU's impact on migration as well as its management in African countries, the formal framework of the EU's cooperation on migration under its DC with Africa will be analysed in a chronological order. This framework, constructed as a time line, consists of measures that connect the EU's DC to migration management. These can be hard law measures, like international or bilateral treaties, as well as soft law measures, such as policy documents and plans or other types of agreements between the EU and African countries. Next, Senegal and Uganda will serve as case studies to assess to what extent and how the EU mainstreams its own migration agenda through its DC in African countries dealing with different types of migration. First, the cooperation on migration under the EU's DC with Senegal, a country of transit migration towards the EU, will be analysed. Afterwards, the cooperation on migration under the EU's DC with Uganda, a country of immigration, will be analysed. Finally, the extent of the EU's DC on migration in the two African countries with differing types of migration and geographical distances to the EU will be compared.

Eventually, this sets the basis to assess the identified policies and instruments of the EU's DC on migration under the objectives of NPE and the principle of coherence (in chapter three and four), in order to answer the overall research question of this research.

2.1 The EU Policy Framework for the Cooperation on Migration under Development Cooperation

In a rough timeline, this section seeks to reveal the evolution of the EU's policy framework to manage migration outside of the EU under the umbrella of its DCP. This framework includes multilateral and bilateral legal measures as well as autonomous policy plans and instruments, addressing only the EU's policy objectives.

With the *Treaty of Rome*, the *European Development Fund* (EDF) was created in 1957 and launched in 1959. The EDF provides the financial assistance for ACP countries as well as overseas countries and territories. The current (eleventh) EDF addresses the period from 2014 to 2020 with an amount of about 34 billion euros which have been contributed by the EU member states and are not included in the EU budget (Van Vooren and Wessel, 2014: p. 337). The following conventions and agreements defining the EU's cooperation with developing countries put more and more emphasis on the sustainable development of these countries. Whereas the exclusive focus on economic aspect changed in favour of social and environmental

concerns, migration was not yet addressed in these hard law measures defining the previous relationship between the EU and ACP countries (which will be outlined in section 3.1).

Currently, the *Cotonou Agreement* from the year 2000 (and revised every five years) sets the fundamental framework and legal basis for the DC between the EU and ACP countries (including the EDF) until 2020. Art. 13 of this international treaty states that less poverty and subsequently better living conditions as well as more employment will decrease emigration from the ACP countries in the long-term. Furthermore, it addresses the issue of migration towards the EU and declares the obligation of the signing ACP countries to readmit the countries' citizens who have no legal status to be in the EU (Art. 13 (5c) Cotonou Agreement). The *Hague Programme* is the successor of the *Tampere Programme* (of 1999) and the predecessor of the *Stockholm Program* (of 2010). While all these programmes mention the necessity of a common approach to the migration towards the EU, the *Stockholm Programme* provided common security and home affair guidelines. However, before that, the *Hague Programme* already calls to assist third countries on the matter of migration management, mentioning root causes and push factors as well as possible linkages to DC (Council, 2005: p. 5). This call is also reflected in the *Global Approach to Migration and Mobility* (GAMM) formulated in 2005 in the course of an influx of African immigrants arriving in Europe (and revised in 2011) which connects the EU's DCP with its migration management on an international level (Vives, 2017: p. 209). As the title implies, the GAMM aims at steering migration on a large scale through dialogues with partner countries on this matter. The four formulated goals of the GAMM are 1) the promotion of legal migration, 2) the fight against irregular migration and human trafficking, 3) the strengthening of international protection and 4) the promotion of development through migration and mobility (EC, 2011: p. 7). The EC stresses that these aims should be promoted within the EU's foreign policy, namely its external migration policy and development cooperation policy, and should be aligned with its internal policy priorities (EC, 2011: p. 5).

Eventually, the EU formulated specific measure to implement its GAMM in cooperation with third countries on a bilateral level. Both the *Mobility Partnerships* (MP) and the *Common Agenda on Migration and Mobility* (CAMM) offer the possibility of tailor-made cooperation under the GAMM between the EU and third countries of priority. While both measures address the four goals of the GAMM, the CAMM does not necessarily include visa facilitations and readmission agreements like the MP. The MP (passed in 2007) is seen as the next step after a CAMM and can also address security and capacity-building aspects. (EC, 2011: p. 10)

The EU also follows a continental policy plan regarding Africa. The *Joint EU-Africa Strategy* (adopted in 2007) which embodies the ongoing dialogue between the EU and Africa that is taking place within different institutional frameworks was formulated to further strengthen the *Africa-EU Partnership*. This dialogue is considered as the outcome of decades of EU-African trade as well as development cooperation and is supposed to address common concerns. But, some scholars lament that it increasingly focuses on the matter of migration and neglected the promotion of human rights as well as long-term projects in the recent years. (Pirozzi et al., 2017)

A political dialogue often referred to in this context is the *Valletta Summit* held in the wake of the EU's migration crisis 2015. Consequently, at the summit EU and African leaders came together to discuss cooperation on migration management (Pirozzi et al., 2017: p. 13) which then resulted in the formulation of the *Valletta Action Plan* (Council, 2015) as well as the foundation of the *Emergency Trust Fund for Africa* (EUTF) (Apap, 2019: p. 8; Adam et al., 2019: p. 3). The European Commission's (EC) decision (2015b) clarifies in its first words that the purposes of the EUTF are "stability and addressing root causes of irregular migration and displaced persons in Africa" (p.1). The fund finances the implementation of projects to create employment and promote resilience, but also to manage migration through readmission and capacity building. Contributions to this fund come mainly from the EDF (EC, 2015b: p. 5 (12)) which underlines the EU's aim to cooperate with African countries on the matter of migration within the frame of its DC.

Moreover, with 2015's refugee crisis a new migration agenda has been formulated to define the EU's global role in the context of migration. The agenda emphasises the need to address migration through the EU's DCP, border controls and the readmission obligation (EC, 2015a). In 2016 the EU came up with a new instrument to cooperate with third countries on a bilateral level and incorporate the aims of the migration agenda from 2015, the *Migration Partnership Framework* (MPF). This instrument proposes to establish agreements that offer economic incentives to third countries in return of regulating migration flows and increasing the numbers of readmissions (EC, 2016: pp. 7). The MPF is financed through resources additional to the Official Development Aid of the EU and its member states in the period from 2016 to 2020 (p.17) such as the Emergency Trust Fund for Africa (p. 10). This subsequently links the MPF to the EU's DC as part of its financing origins from the EDF.

Finally, Art. 13 of the *Cotonou Agreement* (which primarily elaborates readmission concerns) is the only hard law between the EU and ACP countries for the DC on migration. It therefore provides the overall foundation for the subsequently introduced soft law measures of the EU's

DC on migration (which will be further analysed in the following chapters). In the next step, the impact of the outlined policy evolution on the EU-Senegalese DC will be addressed.

2.2 Case Study Senegal

Senegal was chosen as case study because of its importance to the EU's external migration management, due to its function as a country of transit migration on the route towards the EU (Trauner et al., 2019: p. 3). As the geographical position of Senegal reveals, the EU can be entered by taking a boat from the Senegalese shore to the Spanish Canary Islands. Moreover, its history as a French colony, the subsequent cultural and linguistical ties as well as the local Senegalese diaspora make France the preferred destination for Senegalese emigrants (Chou and Gibert, 2012: p. 419). Hence, Senegal has received increased attention from the EU and some of its member states due to increasing numbers of migrants departing from Senegal to the EU. This attention peaked in the course of the so-called *Canary Island Crisis* of 2006 and *European Refugee Crisis* of 2015 which led to the development of Senegal as an exemplary case of managing African migration flows towards the EU (Trauner et al., 2019: p. 3; Vives, 2017: p. 210). While the majority of migrants in 2015 came from the Syrian Arab Republic and Afghanistan (UNHCR, 2016: p. 21), the *Canary Island Crisis* refers to the drastically increased number of West-African migrants arriving by boat at the Spanish archipelago in 2006 (Vives, 2017: p. 213).

2.2.1 The Formal Instruments of EU-Senegalese Development Cooperation on Migration

This section points out which of the previously analysed measures of the EU's general migration-policy framework have been adopted in the context of the EU-Senegalese DC. In the following, the policies and instruments used in Senegal to influence African migration flows on a continental, regional and bilateral level will be discussed.

a) Continental Instruments

Starting with the continental level, Senegal signed the *Cotonou Agreement* which forms the foundation for the EU-Senegalese DC. This indicates that the instruments developed in the frame of this agreement also apply to the West-African country. Here, Vives (2017: p. 217) draws a direct connection between the EU's DC and its migration agenda by pointing out that the EDF has provided financial means (among others for the building of detention centres and the promotion of restrictive human mobility legislations) to restrict migration from Senegal to

the EU. The *Canary Island Crisis* investigated by Vives (2017) occurred shortly after the *Hague Programme* was published with the call for “intensified cooperation and capacity building” (Council, 2005: p. 5) with countries of transit migration, such as Senegal, in order to improve their migration management. The European Agenda for Migration established in 2015 repeats this aim which is (among others) addressed through Senegal’s participation in official dialogues between the EU and Africa like the *Joint EU-Africa Strategy* as well as the *Valletta Summit* on migration.

b) Regional Instruments

Moving on to the regional level, Senegal is part of the *Rabat Process* first held in 2006. This dialogue under the *Joint EU-Africa Strategy* brings together the EU and 27 West-, North and Central African countries. Its goals are the strengthening of legal migration, the deterrence of irregular migration and the promotion of synergies between migration and development. The significant role Senegal holds in the Steering Committee of the Rabat Process (EC, 2017a: p.3), might be indicated by the *Marrakesh Political Declaration* of 2018 which addresses many of Senegal’s interests on the matter of migration (elaborated in section 2.5 of this research).

The EUTF, launched in 2015, also applies to the Sahel region (which Senegal is part of) (EC, 2015b: Art. 1 (4)) and provides 161.8 million euros for projects in Senegal that also aim at the prevention of irregular migration through decreasing unemployment (EC, 2017b: p.5). Scholars consider the EUTF as an important EU instrument in Senegal (Trauner et al., 2019: p. 2) and, even though the limited participation of the EU member states is mentioned, the EC and the EDF continue to provide the financial resources for the EUTF (EC, 2016).

c) Bilateral Instruments

When it comes to the cooperation between the EU and Senegal on a bilateral level in the context of DC on migration, the instruments established in the frame of the GAMM come to mind. While no attempts of a CAMM between the EU and Senegal were made, the negotiations over a MP failed 2009 as Senegal already signed bilateral agreements with Spain and France and a similar agreement with the EU offered limited incentives to cooperate (Chou and Gibert, 2012). So, although the GAMM was established in the context of an influx of migrants transiting (among others) through Senegal to reach European territory, whether a MP nor a CAMM between Senegal and the EU was formulated. Despite this, Senegal is again among the priority countries of the EU’s recently launched MPF (EC, 2016: p. 14).

In the *Fifth Progress Report on the Partnership Framework with third countries under the European Agenda on Migration* (EC, 2017b) Senegal is declared a “major country of origin of irregular migrants” (p. 5). Further the report mentions that Senegal assists voluntary returns and shows good will on the matter of readmitting nationals that migrated irregular to the EU; however, the number of readmissions in Senegal remain low. Moreover, the report mentions the European Border and Coast Guard Agency (FRONTEX) and its announced *Memorandum of Understanding* with Senegal as well as the building of an *Africa Frontex Intelligence Community Risk Analysis Cell* in the country. This project already launched in Niger with the financing from the EC, more specifically the Directorate-General for International Cooperation and Development (DG DEVCO) which again draws a line between the cooperation on development and migration. (EC, 2017b: p. 5)

d) EU Member State's Instruments

In the light of the foregoing, Senegal is clearly a country of concern to the EU in regard to migration. Many instruments, established in the framework of the EU's DC to control migration, even expressly address this West African country. Nevertheless, for the reasons mentioned above, Senegal is of specific interest to the EU member states Spain and France where most migrants departing from the Senegalese shore arrive. It therefore does not come as a surprise that both states have bilateral agreements on DC and cooperation on migration with Senegal (Trauner et al., 2019: p. 3; Chou and Gibert, 2012: p. 419). The bilateral agreements between Spain and Senegal on migration management, whose creation were encouraged by the *Canary Island Crisis* of 2006, were later supported by FRONTEX and will be discussed in the following.

The relationship between Spain and Senegal in regard to migration as well as the involvement of FRONTEX has been studied by García Andrade (2010). Thereby, she found out that before FRONTEX joined the Spanish effort to control irregular migration from Senegal, Spain implemented various extraterritorial operations, projects and technical devices to do so. Eventually, the Spanish police force cooperated in joint patrols with agents from Senegal and other African countries to prevent emigration from West-Africa to the EU (García Andrade, 2010: p. 319). FRONTEX was established in 2004 to facilitate the cooperation on EU external border controls among EU member states as well as non-member states and is seen as an important measure to decrease irregular migration (García Andrade, 2010: p. 329). Consequently, Spain requested the assistance of FRONTEX in the wake of the *Canary Island Crisis* on the basis of Art. 8 of the Regulation that established FRONTEX (No 2007/2004). This

led to FRONTEX's first operation, HERA, and a drastic decrease of irregular migrants arriving on Spanish territory in the following years (García Andrade, 2010: p. 327). The operations HERA I, II and III located between the Spanish archipelago and West Africa (and first implemented in the years of 2006 and 2007) are an example for the EU's efforts to relocate European border security and migration control into African territory under the attendance of forces from the third countries in question. HERA III combines the first two operations and does not only identify irregular migrants but also prevents their departure from the West African coast through joint patrols in Senegalese, Mauritanian and Cape Verdes waters (García Andrade, 2010: pp. 329). While it carried out further operations associated with EU member states and Senegal (e.g. SEAHORSE and NOBLE CENTINELA) FRONTEX was still in negotiations with Senegal over a working arrangement in 2010 (García Andrade, 2010: pp. 326 and 331; Baldaccini, 2010: p. 252). This gives room for critics to question the legitimacy of the agency's operations located in Senegalese territory (Baldaccini, 2010: p. 251).

As Spain's actions were in line with the newly formulated GAMM, the EU's financial and technical support for its member state (García Andrade, 2010: p. 318 and pp. 325, Adam et al., 2019: p. 6), also through FRONTEX, can be seen as a logical consequence. Especially the GAMM's aims to return irregular migrants and promote development through migration is reflected in the Spanish cooperation on migration with Senegal (Vives, 2017: pp. 217; Chou and Gibert, 2012: p. 419). Vives (2017) further states that the EU promotes the border and migration controls of its member states by providing "political legitimacy and logistic and financial support" (p. 213).

2.2.2 Standpoint Comparison

This section will reflect on Senegal's interests in regard to migration, to further analyse the elaborated policies and instruments of its DC on migration with the EU.

As stable democracy within a rather instable region, migration is an important topic for Senegal (Adam et al., 2019). Conflicts, crises, the neglection of human rights as well as poverty are causes of migration in and out of West Africa. Whereas these factors may not be the main drivers for emigration in Senegal, the hope for employment and a better life also encourages Senegal's youth to head towards Europe. Senegal is aware of the emigration of its of own and other West-African citizens from Senegal to Europe and formulates its own migration agenda which is addressed by a complex institutional construct of ministries and DGs. Among the priorities of Senegal's agenda are the engagement with its diaspora, decreasing emigration through employment, strengthening legal migration opportunities and promoting migrant

protection. This agenda is not only influenced by national politicians (who wish to take or stay in office), administrators (who are in charge of the budgeting) and civil society organisations, but also through international cooperation (which incentivises the readmission and reintegration of citizens as well as improved border management). (Adam et al., 2019; Chou and Gibert, 2012: pp. 416)

Senegal follows a policy of open borders towards citizens of the Economic Community of West African States (Chou and Gibert, 2012: p. 421; Adam et al., 2019), which is in line with agreements of the African Union to enable labour migration and free movement (Prediger & Zanker, 2016: p. 6). This politic strongly contradicts the EU's approach on migration control and is a central difference in the comparison of the EU's and Senegal's priorities on the matter of migration. In praxis, this is reflected in the financial support for FRONTEX operations in the territory of Senegal. The agency is mandated to coordinate the border security of the EU's external borders and support EU member states confronted with special circumstances with technical and operational assistance (Regulation No 2007/2004: Art. 2.1 (a) and Art. 3). Still, another important effect of FRONTEX's work with Senegal is the externalisation of EU border controls from its territory to the territory of Senegal (like in Hera II and III) to return migrants to Senegal before they reach EU's territory and, hence, prevent their application for asylum in the EU (Vives, 2017; García Andrade, 2010: 322 und 344). This subsequently causes the use of more indirect and riskier migration routes which encourages human trafficking and, thus, the criminalisation of migrating towards the EU (García Andrade, 2010: pp. 317 and 343) which contradicts the Senegal's migration priorities (mentioned above).

Finally, this increased interest of the EU in Senegal also leads to the reluctance of Senegal towards EU funding and the perception of implementing actors as biased. Because, the EU funding does not only lead to the implementation of numerous projects with the aim to address emigration causes, but also to the competition for the funding between different actors who then need to meet the interests of the donor (Trauner et al., 2019).

This domination of EU interests is problematic as it neglects the interests and needs of Senegal and gives it little incentives to cooperate. In addition, it puts Senegal in a position where it might feel forced to comply with the demands of the EU and its member states, because they provide a big share of the country's development cooperation (Chou and Gibert, 2012: p. 417). Some Senegalese may also share the perception that Europe carries responsibility for the growing migration pressure in Africa, because the migration of West Africans to Europe is based on the shared colonial history and the EU's cooperation with autocratic and corrupt African governments to pursue its external interests (Kohnert, 2007).

Overall, this causes long and ineffective negotiations over readmission and partnerships agreements. Eventually, this frustration may even hinder or decrease the cooperation between the two parties in this and other areas. So, instead of creating conditionality for further cooperation on EU interests (like the MPF proposes through rewards and consequences for the readmission behaviour of partner countries (EC, 2016: p. 9)), the EU has to respect and meet the interests of Senegal in this area in order to promote an effective cooperation on migration. By understanding the priorities of Senegal's migration agenda some common goals may be identified. The EU even declares the objectives to decrease emigration, create legal migration opportunities and promote migrant protection in its migration policies and instruments, but does not have the same incentives as Senegal to actually implement these aims. From Senegal's perspective, legal migration offers safe travels, education as well as employment to its citizens which can pass on skills and knowledge when they return. In addition, the remittances of the Senegalese diaspora make up for a significant part of the country's income. As a result, Senegal might be frustrated over the little progress made in regard to legal migration opportunities and has limited interest in the EU's central aim to conclude readmission agreements and strengthen a stricter border management.

2.3 Case Study Uganda

The previous sections demonstrated to what extent the EU uses its DC to mainstream its own migration agenda in an African country of transit migration. However, Düvell (2012) argues that especially the concept of transit migration is strongly politized and used biased. This would indicate that the EU especially prioritised and politized (through criminalisation) migration management in Senegal and would treat the country differently if it was subject to another type of migration. To find out whether and how the EU's mainstreaming of its own migration agenda differs in African countries dealing with a different type of migration, the following sections will analyse the extent to which the EU uses its DC to influence the migration management in an African country of immigration. Therefore, Uganda, the main recipient country of migrants in Africa with significant geographical distant to the EU's external borders, will serve as a case study for an African country of immigration. Uganda mainly receives migrants from Somalia, Burundi, the Democratic Republic of Congo and South Sudan who are trying to escape conflicts and is internationally recognised for its progressive migration policy (ECRE, 2018).

2.3.1 The Formal Instruments of EU-Ugandan Development Cooperation on Migration

This section evaluates which policies and instruments of the EU's policy framework for the cooperation on migration under its DCP (introduced in section 2.2) are applied in Uganda to influence African migration flows on a continental, bilateral and national level.

a) Continental Instruments

Beginning with the continental measure applied within the EU-Ugandan cooperation on migration in the frame of their DC, the *Cotonou Agreement* founds the bases for this cooperation which implies Uganda's eligibility (as an ACP country) to receive financial assistance from the EDF.

Although both the *Hague Programme* and the newer *European Agenda for Migration* (of 2015) only emphasise the EU's cooperation with countries of emigration and transit migration, Uganda still participates in official continental dialogues such as the *Joint EU-Africa Strategy* and the *Valletta Summit* on migration.

b) Regional Instruments

On a regional level, Uganda plays a key role in the *Khartoum Process*, a regional dialogue between the EU and the Horn of Africa that encourages the cooperation on migration management on the routes between the two parties. Like the *Rabat Process*, the *Khartoum Process* has also been mandated to monitor the implementation of the *Valletta Action Plan* established at the *Valletta Summit* on migration. Priorities of this Plan are, similar to the other soft law measures introduced so far, using development cooperation to address root causes of migration, combatting migrant smuggling and trafficking, encouraging legal migration and enhancing readmission (Council, 2015).

The EUTF also applies to the region of the Horn of Africa including Uganda (EC, 2015b: Art. 1 (4)). In Uganda projects addressing governance and conflict prevention, migration management, resilience as well as the economic and employment are financed by the EUTF with over 102 million euros (EC, 2019). However, Uganda only hosts a few of the EUTF financed projects in the region, unlike South Sudan and Somalia with each about three times as many projects. The overall strategy of the EUTF in the region is to implement, monitor and develop projects to investigate whether the EUTF approach works or should be improved to address vulnerability, stability, movement and crisis management. Eventually, these findings also influence the EU's future policy-making to support migrants and recipient countries (EC, 2016: p. 10).

2.3.2 Standpoint Comparison

Based on the measures identified in the EU-Ugandan DC on migration, this section analyses to what extent Uganda's interests in this area are addressed. Similar to Senegal, Uganda has limited financial capabilities and is located in a region marked by conflicts and hence migration. Uganda also follows a policy of open borders and is well-known for its progressive welcoming migration policy which provides migrants with land, some materials (tools and corps) as well as the right to work and national services (ECRE, 2018). However, the high number of migrants arriving in Uganda have put enormous pressure on the country, especially on its less developed areas. Thus, the country prioritised its capacity building in the area of migration management in emergency situations and seeks to launch a national refugee policy as well as a *Refugee Settlement Transformative Agenda* within its *Second National Development Plan* until 2020 (Uganda, 2015: p. 224).

However, not many measures of the EU's DC on migration (listed in section 2.1) were identified in the EU-Ugandan DC. This might be because most of these measures are designed to steer the migration towards the EU (for example by combatting irregular migration and promoting the return and readmission of African migrants in Europe to their home countries) and most migrants in Uganda do not seek to reach Europe. Nevertheless, Uganda formulated the improvement of its migration management as a primary goal of its *Second National Development Plan* but only a few measures of the EU's DC on migration to support this goal were identified. The fact that the EU's emergency fund EUTF provides funding for a few projects addressing migration management in Uganda, might imply that the EU seeks to secure Uganda's function as a main immigration country in East Africa to limit possible onward migration towards the EU.

2.4 Conclusion

This chapter demonstrated how closely the EU's DC and migration agenda are connected through policies and instruments (listed in 2.1) introduced by the EU. It, furthermore, outlined to what extent the EU uses these soft law measures in African countries of migration to address its own interests on the matter of migration. However, as these policies and instruments have been developed in the context of the EU's DCP, they should address common interests to enable sustainable development in the recipient country and not only mainstream the EU's interests. Senegal and Uganda served as two exemplary case studies to assess the extent to which the EU's mainstreaming of its own migration agenda through DC differs in African countries of

transit migration and immigration. These case studies clearly demonstrated that the degree to which DC is intertwined and dominated by the EU's migration agenda is significantly higher in Senegal than in Uganda. This could be due to Uganda's geographical location distant from the EU's external borders - in opposition to Senegal's location on the migratory route to the EU. Even though the identified measures of the EU's DC to manage migration usually mention the support for immigration countries and the fight against root causes, the central focuses often are the readmission of non-EU citizens and the EU's border control. Additionally, the evolution of the EU's policies on migration management framed in the context of DC continuously only stress the cooperation on migration with countries of emigration and transit migration and not with countries of immigration (like the Migration Partnership Framework (EC, 2016: p. 17)). As Coggio (2018) illustrates for the *Migration Policy Institute*, the EU and its member states are the main donors for the Ugandan refugee hosting model but their ambition to help Uganda with the increasing numbers of immigrants is undermined by their own migration management concerns in African countries of transit migration. Consequently, in Uganda migration management was of less salience to the EU's DC than in Senegal. Therefore, only few of the EU's soft law measures are implemented in Uganda and the EU does not mainstream its migration agenda through DC in this country of immigration, since these measures also address Uganda's interests.

Contrary to the EU-Ugandan DC, the EU-Senegalese DC adopted many of the measures to manage migration. However, these measures do not equally address the EU and Senegalese interests, but clearly focus on the European migration agenda. Senegal, opposing to the EU's migration agenda, does not frame migrants who are entering or transiting as problem nor as policy priority. Moreover, the West African country focuses on the causes of emigration and the interests of those immigrating to the EU. Here, similarities to the EU's DCP goals to promote human rights (Art. 21 TEU) and eradicate poverty (Art. 208 (1) TFEU) can be found. Thus, the increased adoption of policy measure that address root causes of migration (such as poverty) and the protection of migrants and their rights are in line with the priorities of the EU's DC and meet Senegal's migration agenda. But such measures do not only contradict the theories outlined in the body of knowledge, they also do not reflect the focus of the EU's cooperation on migration with Senegal. Instead, the analysis of the instruments and policies adopted between the EU and Senegal outlined the neglect of the interests of the transit migration country on the matter of migration to favour EU interests. Measures, such as partnerships that promote readmission agreements and border control through externalisation, have shown to be the central aim of the EU in Senegal. This clearly contradicts the West-African open-door

approach to migration. Despite this contradiction, the EU holds on to its rather protective DC on the matter of migration. However, this approach, to strengthen border security and prevent onward migration through the cooperation with countries of transit migration, complies with the theories elaborated in the body of knowledge (section 1.5).

Nevertheless, migration management is not an overall principle of the EU's DCP like human rights or sustainable development. The fact that it is still among the EU's top priorities in the DC with Senegal, which is forced upon Senegal through the conditionality of EU measures (such as funding and partnerships), confirms that the EU mainstreams its migration agenda through its DC in Senegal, a country of transit migration. The extent of the EU's mainstreaming, in regard to its funding, has been outlined by Trauner et al. (2019) who analysed that by addressing root causes the EU makes the implementing actor fulfil EU interests on migration management to receive funding again in the future. Another example for the extent of the EU's mainstreaming of its migration agenda is its financial support for FRONTEX which increases the use of riskier migration routes, human trafficking and thus the criminalisation of migrating towards the EU (García Andrade, 2010: pp. 317 and 343). Finally, this mainstreaming within a policy field that aims at the eradication of poverty, could lead to the transformation of transit countries into immigration countries who do not have the means to address the migrants' needs while neglecting the needs of remote immigration countries.

By analysing which measures of the EU's policy framework for the DC on migration are implemented in each case study, to outline the impact of the EU's mainstreaming on these countries migration management, the prevalence of soft law measures became evident. The scarce hard law measures identified were international agreements of bilateral nature between the case studies and an EU member state and the newest multilateral DCA between the EU and the ACP countries, the *Cotonou Agreement*. The next chapters will discuss which implications this imbalance of hard and soft law measures has for the coherence of the observed DC on migration with the objectives of the EU's DCP.

3rd Chapter: The Evolution of Migration Management in the Context of the EU's Development Cooperation on the Backdrop of *Normative Power Europe*

After investigating whether and how the EU mainstreams its migration agenda through development cooperation, this chapter seeks to analyse the reasons for this behaviour of the EU. Therefore, this chapter will primarily focus on the theory of the NPE as a holistic as well as analytical framework to analyse if the practices observed in the two case studies comply with this international relations theory.

With the theory of NPE Manners defines the EU on the basis on what it is – not on what it does (2002: p. 252). In accordance to his approach different scholars of NPE have stressed the importance of identifying the EU's incentives to act and the norms behind these actions (Birchfield, 2011: p. 146). The theory further suggests that the EU's normative power leads to internal improvements as well as to the EU's influence on third states “as it seeks to redefine international norms in its own image” (Manners, 2002: p. 252). As Manners (2002) (in his analysis of the EU's role in the international abolition of the death penalty) and other scholars (such as Birchfield, 2011) have done it before, this chapter seeks to apply NPE to a specific policy field of the EU's external relations. More precisely, it seeks to outline to what extent the theory of NPE can explain the EU's DC and the subordinate cooperation on migration. Therefore, two of the six ways in which the EU can spread its norms (which makes up its normative power), described by Manners (2002), will be applied to the (in chapter two) observed DC on migration of the EU. The two mechanisms especially interesting for this research are the *procedural diffusion* and *transference diffusion*. Both types of diffusion are endorsed by the conditionality of the agreements between the EU and third parties. Whereas the *procedural diffusion* refers to the relationships between the EU and third parties which enables the transfer of EU norms through institutionalisation, membership of international institutions or EU enlargement (Manners, 2002: p. 244), *transference diffusion* refers to the exchange of goods to facilitate the adoption of EU principles and norms (p. 245). Although these diffusion mechanisms seem to be designed for the integration of third countries into the EU's internal market, Manners also refers to instruments of the EU's DC that make use of these mechanisms - namely inter-regional dialogues on the matter of development and the EDF (2002: pp. 244 and 245).

To investigate whether these mechanisms are applied in the implementation of the EU's DCP and its subordinate cooperation on migration, the constitutive norms and principles guiding the

cooperation will be identified. Here, this research will differentiate between international principles and standards that have been defined at the UN level and enjoy universal validity, and EU norms. Norms of the EU are often times based on the international principles but vary in the parameters and standards in dependence to what the EU perceives as desirable. Next, the extent to which the EU makes use of *procedural* and *transference diffusion* in its cooperation on development as well as the subordinate DC on migration (observed in chapter two) to spread its norms internationally will be analysed. Finally, the extent to which the EU's mainstreaming of its own migration agenda through DC can be explained with the influence of EU principles and norms will be analysed.

This chapter does not seek to make an ethical judgment about the EU's principles and norms guiding its DCP. Instead, it assesses to what extent the theory of NPE explains the EU's mainstreaming of its own migration agenda through its DC, before the next chapter analyses whether this behaviour is coherent with the objectives of the EU's DCP.

3.1 The EU as a Normative Power in Relation to Development Cooperation Policy

This section analyses to what extent the EU's DC is driven by EU norms and the aim to spread them. Therefore, the evolution of the EU's DCAs will be investigated to see which norms have been guiding this policy field and whether or not the EU has spread these norms through *procedural* or *transference diffusion*.

As mentioned before (in section 1.4 b), the EU-ACP relationship - now covered by the *Cotonou Agreement* - started as a preferential trade cooperation between the EU and former (mainly French) colonies. Although the *Schuman Declaration* from 1950 in fact demanded to encourage the development of the African continent, a respective provision can first be found in the *Treaty of Rome* 1957 which provides the colonies with the same trade conditions as EU member states to promote social and economic development (Van Vooren and Wessel, 2014: p. 314). The following *Yaoundé Conventions* of 1963 and 1969 based the EU-ACP relationship on free trade as well as financial and technical cooperation (Van Vooren and Wessel, 2014: p. 315).

This focus on trade was addressed by the *UN Conferences on Trade and Development* (UNCTAD) 1964 and 1968 which encouraged a relationship framed by DC instead of the EU's *Common Commercial Policy* (CCP). UNCTAD promoted trade as a way to help developing countries and hence pushed forward the *Generalized System of Preferences* (GSP), adopted by the EU in 1971, which provides developing countries with preferential access to the EU market. In 2005 the EU independently established two more specific schemes, the *Generalized System of Preferences Plus* (GSP+) and the *Everything but Arms* (EBA), which also offer preferential

access to the EU's market and lower tariffs for developing countries as an indirect form of development cooperation (by enhancing economic growth in the developing world through trade) (Van Vooren and Wessel, 2014: p. 286). The EBA is an arrangement only for the least developed countries offering them free access to the EU market, excluding arms. For the theory of NPE the positive conditionality the GSP+ scheme is built upon is most interesting, as it offers lower tariffs and preferential EU market access to developing countries in exchange for their compliance with international treaties promoting international principles that the EU shares (such as human rights, good governance and sustainable development). This is an example of *transference diffusion* within the EU's early DC.

Next, the third and fourth *Lomé Conventions* in 1986 and 1990 play a key role for NPE. While the *transference diffusion* (in form of trade, aid and technical assistance) and *procedural diffusion* (in form of the cooperation agreements) might have facilitated the adoption of EU norms in ACP countries, only few norms were addressed in the EU's relationship with ACP countries until then. With *Lomé III* and *IV* the relationship between the EU and ACP countries expanded beyond trade and incorporated the international principles of human rights and equality among people (Van Vooren and Wessel, 2014: p. 318). These and the EU standards of sustainable economic, social and cultural development in the countries of cooperation (Art. 1 of Chapter 1 of *Lomé Convention III*) now make up the foundation of the EU's DC. The *Cotonou Agreement* from 2000 picked up the aspects of decentralisation and the stronger focus on the civil society established in *Lomé IV* and launched a further reformation of the EU's DC (Van Vooren and Wessel, 2014: p. 320). Although the cooperation shifted from the focus on the government to the civil society, the political dimension of the cooperation was strengthened by including the aim for democracy, peace and stability – norms that still make up the EU's foundation as well as its principles for external relations.

Nowadays, Art. 208 and 209 TFEU form the basis of the EU's current DCP which emphasise the eradication of poverty as the overall norm of this policy field (Art. 208 (1) TFEU). Art. 208 (2) TFEU moreover stresses the EU's obligation to fulfil the commitments the Union made to the UN and other international organisations on the matter of DC. Moreover, these articles stress the obligation of the EU's DCP to meet the principles of its external relations (Art. 21 TEU) the promotion of human rights, democracy and the rule of law. Art. 3 (5) and 21 TEU seem to confirm the theory of NPE by stating that the EU must uphold and promote its values and interests in the relation with third parties. This also includes the EU's founding values such as equality, solidarity, justice and non-discrimination (Art. 2 TEU). Further mentioned objectives are the support for peace, security and worldwide sustainable development as well

as mutual respect among people and free and fair trade (Ar. 3 (5) TEU). It moreover emphasises the rights of the child and the consolidation of international law including the Charter of the United Nations (Art. 3 (5) TEU).

As this brief outline of the history of EU DCAs demonstrates, the EU's DCP was not always so strongly influenced by EU norms as it is today. However, the increasing inclusion of norms and conditionality (for example in the MPF (EC, 2016)) suggests that the EU seeks to spread these norms. So, clearly the EU incorporated more and more international principles it shares as well as own norms into its DC with third states and consequently spread them through its bilateral and multilateral agreements and dialogues (*procedural diffusion*) as well as in its implementation of technical assistance or humanitarian aid (*transference diffusion*). Especially important for the instruments of NPE are not the inclusion of poverty reduction as the overall goal of DC, but the dominant aspect of conditionality strengthened in this latest DCA. Still, in 2020 a new DCA between the EU and the ACP countries will enter into force and supersede the latest and most normative DCA, the *Cotonou Agreement*. For this new DCA the influence of different policy fields in addition to the CCP - particularly migration and external security policy - might play a significant role.

3.2 The EU as a Normative Power in Relation to Migration Management in the Context of Development Cooperation Policy

As chapter two has shown, instruments to manage migration under DC have increased in the times of migration influx towards the EU. Thus, the international relations theory of NPE might be seen as an optimistic conceptualisation of the EU, especially when it comes to the EU's economic and security interests which are both affected by immigration. Therefore, the assumption that the EU's mainstreaming of its own migration agenda through DC is influenced by its principles and norms will be tested in this section.

In order to investigate whether the EU makes use of *procedural* and *transference diffusion* in its cooperation on migration with third states, the objectives and norms guiding migration management in the context of DC must be identified. To analyse which articles of EU treaties and agreements guide this area of DCP this research refers to the case C-377/12 EC vs Council and the subsequent opinion and judgment from 2011. The judgment of the ECJ on the case C-377/12 advocates the broad notion of the EU's DCP which among others includes migration objectives. To justify the inclusion of migration objectives under DCP, it invokes the DCI and the European Consensus (Art. 12, 38 and 40). It further builds upon the judgment on Case C-268/94 Portugal vs. Council from 1996, stating the variety of DC objectives and, hence, distinct

areas of cooperation addressing the development of third countries (paragraphs 37 and 38). Overall, the ECJ rules for the adequacy of Art. 209 TFEU to pursue migration objectives under DC without the inclusion of further articles (such as Art. 79 (3) TFEU) if it contributes to the achievement of the objectives of DCP, primarily the eradication of poverty. Consequently, the norms and principles guiding the EU's DCP (listed in 3.1) also apply to the cooperation on migration within the context of its DCP.

As this chapter seeks to analyse whether the EU's behaviour reflected in the two case studies can be explained by the theory of NPE, the actions, agreements and instruments implemented in Senegal and Uganda (outlined in sections 2.2 and 2.3) will frame the DC on migration referred to in the following. When reflecting on the practices observed in the second chapter, the conditionality of the diverse agreements implementing the instruments for the cooperation on migration is ubiquitous. This conditionality facilitated the spread of norms through *procedural* and *transference diffusion*. In both case studies *procedural diffusion* in form of continental (*Joint EU-Africa Strategy, Valletta Summit*) or regional (*Khartoum Process, Rabat Process*) dialogues have been analysed. Undeniably, EU norms (like the eradication of poverty, democracy, the rule of law or human rights) play a significant role in these dialogues and shaped agreements concluded within their frames. By institutionalising these relationships with its African counterparts, the EU endorsed the transfer of these norms on an international level. As pointed out in section 2.1 these dialogues are increasingly focusing on readmission agreements and the combat of irregular migration methods. Although one could argue that the fight against smuggling and trafficking of human beings should be considered as the promotion of human right (an important principle of the EU), many scholars lament the neglect of EU principles (such as sustainable and long-term cooperation as well as human rights) in the contexts of such dialogues (e.g. Pirozzi et al., 2017; Prediger & Zanker, 2016: p. 7). Moving on to the *transference diffusion* observed in both case studies, the EDF and the EUTF are definitely shaped by the overarching norms of the EU's DCP. Nevertheless, the title of the EC decision establishing the EUTF does not refer to the general eradication of poverty, but specifically to "addressing root causes of irregular migration [...] in Africa" (2015b: p.1). Still, these two measures of technical assistance have promoted the adoption of EU norms (such as human rights) in Senegal and Uganda. A final measure of technical assistance observed in the cooperation with Senegal are the missions of FRONTEX in the sea in between the territories of the EU and the West African country. In reference to the case study on Senegal the identification of the norms guiding the EU's DCP like human rights, the eradication of poverty

or sustainable development cannot easily be identified within the technical assistance of FRONTEX (analysed in section 2.2.1 d).

However, it must be kept in mind that the EU's and its member states' DC is limited to what the partner countries (here Senegal and Uganda) agree to.

3.3 The EU's Behaviour on the Backdrop of *Normative Power Europe*

To draw a conclusion on the assumption that the EU's DC and its subordinate mainstreaming of its migration agenda is based on EU norms and principles, this section will assess to what extent NPE can explain the practices observed in the case studies or if a different international relations theory offers a more fitting explanation.

In the overall field of DCP an increasing inclusion of norms can be observed in the course of its evolution. The previous domination of economic aspects and consequently the CCP decreased, in favour of several principles that are now guiding the EU's DC and its remaining external relations with the wider world. The institutionalisation of the EU's relationship as well as the exchange of goods facilitated the adoption of these norms outside of the EU. Although the 'normalization' of international politics (Manners, 2002: p. 253) is not only product of the EU's DC, the EU provides one of the biggest shares of DC resources in the world (Birchfield, 2011: p.141).

However, DCP has been described as a policy field of many facets, one of which is clearly economic growth, but also security and thus migration influence the impact of this policy. Here the behaviour of the EU in relation to countries of migration may not be completely explainable under the perspectives of NPE. Especially the EU's mainstreaming of its migration agenda in Senegal has shown outcomes (such as the externalisation of border and migration controls, the criminalisation of migration, as well as an increasing risk that migrants take on their way to the EU) that contradict the norms of the EU's DCP. The norms of sustainable development and the eradication of poverty, but also the promotion of human rights seem to be neglected in regard to these outcomes.

Another aspect which might not be explainable by the theory of NPE, is the limited cooperation on migration in the context of the EU's DC in Uganda in comparison to its measures taken in Senegal. The greater EU interests on the cooperation on migration with Senegal has been underlined in the policy documents establishing several measures to manage migration under DC which often prioritise the cooperation or a partnership with Senegal (e.g. EC, 2016: p. 18). However, a desire to spread EU norms would imply an equally strong cooperation with any developing country dealing with migrants to facilitate the norm adoption. The argument, that

Uganda already adopted many of the EU's norms, starts to crumble, when considering why this norm adoption is not rewarded through increasing cooperation with this major recipient country (which is internationally recognised for its progressive asylum system), but rather penalised with neglect of the EU's DC on migration.

The limited explanation of the theory of NPE for the EU's mainstreaming of its migration agenda, opens the possibility to explain the EU's behaviour through a different international relations theory. The instructive insights, both case studies have offered, imply that EU interests on matters such as security or economic stability prevail over the EU's aim to present itself as a global advocate for the specific norms (mentioned in 3.1). This behaviour is the basis of the theory of structural realism, whose scholars do not only criticise liberal idealism by accusing it to be non-objective and to lack critical distance, but also claim that the ECC never was a civilian or normative power (Hyde-Price, 2006). Instead structural realism argues that the EU is a foreign and security actor influenced by structural pressures, to whom the cooperation on political values (democracy, human rights and multilateralism) is no more than a "second-order issue" (Hyde-Price, 2006: p. 225). This domination of security aspects implies different incentives for the EU's mainstreaming of its migration agenda within the frame of DC and would explain the increased mainstreaming in the respective country of transit migration as a consequence of the migration crises, while a major country of immigration remote from the EU borders continues to receive little attention from the DC on migration as it does not pose a primarily security concern to the EU. Moreover, the externalisation of border and migration controls as well as the criminalisation of migration would be justified by the realist aim of security maximisation in order to survive (Waltz, 1979). The increasing inclusion of norms in the EU's DCP and the cooperation with strategic less important countries like Uganda can then be explained by the EU's "commitment to an 'ethical' foreign policy" (Hyde-Price, 2006: p. 223). Nevertheless, the EU member states only let the EU act on these normative values as long as they do not contradict the basic national interests of the member states – especially, the powerful ones (Hyde-Price, 2006).

3.4 Conclusion

This chapter used the theory of NPE as the theoretical framework for the analysis of the EU's DCP, in order to investigate why the EU mainstreams its own migration agenda through its DC. The analysis proofed that the EU seeks to present itself as a global advocate for human rights, the rule of law and democracy. But, when it comes to sensitive EU interests, the EU is less determined to put the promotion of these norms first. As the approach of NPE does not fully

explain this behaviour, the international relations theory of structural realism was introduced to investigate different incentives for the observed DC on migration. Although this theory's assumption, that the overall aim of an international actor is to safeguard its survival in the international system, described as a self-help system, explained the EU's mainstreaming, it struggles to explain the incentives of the EU to become one of the biggest aid donors (Hyde-Price, 2006, pp. 218 and 221). This again supports the assertion of NPE that the EU constitutes a new variable in the international system whose behaviour may not be explained by state-centric theories of international relations which build on national sovereignty (Birchfield, 2011: p 143). Moreover, the approach of NPE does not claim to that the EU's actions always seek to promote its own norms (Birchfield, 2011: p.144). Instead, NPE provides an addition to the different conceptualisations of the EU, to provide a better understanding of the EU's behaviour in the international system and how it influences the international relations (Birchfield, 2011: p.146).

Guild and Bigo (2010) describe this tension between the EU's norms and the impact of its mainstreaming as "two faces of the same coin" (p.258). The externalisation of migration controls is supposed to mitigate irregular migration (as elaborated in section 1.5) and consequently the industry of smuggling and human trafficking surrounding it. Instead, migration is not mitigated but migrants take riskier routes and smugglers higher fees while countries of transit migration turn into countries of immigration. In sum, the measures taken to spread the norms of DCP in the cooperation on migration can also lead to the violation of these norms.

The next chapter will discuss to what extent the observed mainstreaming of the EU's migration agenda through its DC falls under the case law outlined above or if it must be regarded as the pursuit of the objectives of a second policy distinct from DCP.

4th Chapter: Coherence of EU's Migration Policy in the Context of Development Policy

In order to answer the overall research question, this last chapter analyses the coherence of the previously outlined DC on migration. The previous chapter already broached the discussion whether the EU's cooperation on migration with third countries (illustrated in Chapter two) can be justified under DCP or if it falls within another policy field. Therefore, the EU's competences in the policy field of DC will be outlined, before the extent to which cooperation on migration under DC is legal will be analysed and compared to the extent observed in the case studies. Following, the challenges of substantial and institutional fragmentation will be addressed to assess the extent to which it constrains a coherent approach on migration. Finally, the coherence of the analysed DC on migration with the EU's DCP will be examined.

4.1 A Question of Competences and Scope

The case studies demonstrated how closely connected the EU's DCP and migration policy are. The EU migration agenda from 2015 (EC, 2015a: p. 6) even stresses the necessity of coherence of these two policy fields and mentions the EU's "efforts to mainstream migration issues into key development sectors" (p. 16). Although this EU soft law as well as the previously (in section 3.2) outlined case law imply that cooperation on migration can legally exist within the EU's DC, it does not answer the question whether the extent observed in the case studies complies with the legal framework of DCP or if it must be regarded as the pursuit of a different policy. In order to answer this question, the EU's competences in the field of DCP will be outlined, to afterwards assess the extent to which the EU's practices in Senegal and Uganda are coherent with its DCP.

a) The EU Competences in Development Cooperation Policy

In the consideration of the legitimacy of EU external actions such as DC, the EU's competence in the respective policy field must be determined first. According to the *Principle of Conferral*, the EU can only act in a specific policy field if the Treaties have conferred the respective competences to the EU (Art. 5 TEU). Such competences are either established expressly in the Treaty on the Functioning of the EU (TFEU) or can be implied. There are four different kinds of competences from exclusive competence (Art. 3 TFEU), over shared competence (Art. 4 TFEU) and competence to support, coordinate, or supplement the actions of the EU member states (Art. 6 TFEU), to the competence to establish arrangements within which the member

states must coordinate their policies (Art. 5 TFEU). DCP falls within the shared competences of the EU (Art. 4 (4) TFEU) and its actions in this policy field must comply with the *Principle of Proportionality* (Art. 5 TEU) as well as the *Duty of Sincere Cooperation* (Art. 4 (3) TEU). This means that EU and its member states must complement and reinforce each other through their DC to attain the EU's objectives for its relation with the wider world (Art. 3 (5) and 21 TEU), but the EU's DC may not go further than the accomplishment of these objectives (discussed in section 3.1). To do so, the treaties further define the means the EU has at its disposal to take action as well as the degree of harmonisation. In regard to DCP, Art. 209 TFEU establishes the EU's competence to take measure in the area of DC with developing countries (which meet the criteria of Art. 21 TEU and Art 208 TFEU) including bilateral and multilateral agreements. This does not restrict the member states' competence to take independent actions in the policy field of DC.

As to the observed measures taken by the EU in the cooperation on migration (outlined in section 2.1), the EU seems to act predominately within its competences in the field of DCP but might have exceeded what is necessary to achieve the goals of its DCP.

b) The Legal Basis of Migration Objectives in the Context of Development Cooperation

In the last chapter, the cooperation on migration was treated as a secondary objective of DCP which indirectly contributes to the pursuit of the EU's DCP. But can the extent of the observed mainstreaming really be considered as the pursuit of DCP's objectives? In accordance to the above-mentioned Art. 209 TFEU, this section will consider the scope to which the EU's current multilateral DCA, the *Cotonou Agreement*, may justify the cooperation on migration. Next, the respective case law (introduced in section 3.2) will again be used to assess whether the extent of the EU's practices observed in the case studies fall under DCP or the pursuit of a different policy.

The *Cotonou Agreement* is the official foundation of the EU's DC with ACP countries and addresses migration in its 13th article. As outlined before (in section 2.1), this article describes emigration as a consequence of low living standards which constrains the regional development. It moreover obliges all signatories to readmit their citizens, who do not have an authorisation to stay in the respective country, "without further formalities" (Art. 13 (5ci) Cotonou Agreement). Importantly, this article and Art. 209 TFEU provide the legal framework for the conclusion of additional readmission agreements on a bilateral level, which is addressed by several measures of the cooperation on migration (as noted in section 2.1).

However, other aspects of the EU's cooperation on migration through DC, such as the externalisation of border and migration controls, are not legitimised by this hard law. Therefore, this section will further consolidate the EU's case law to analyse to what extent the remaining mainstreaming falls under DCP.

As stated before, the judgment and opinion on the case C-377/12 clarified that a different policy (such as migration policy) shall not be pursued within the scope of DCP. But, objectives of different policies that contribute to the achievement of DCP goals (such as readmission agreements (case judgment, §55)) can be pursued within DCP. Thus, the question whether the remaining mainstreaming helps the eradication of poverty and other objectives of DCP must be addressed. The ECJ refers to the *Millennium Development Goals* (MDGs) and the European Consensus as a legal basis for the inclusion of migration concerns into national and regional strategies of the EU's DC (case opinion, §63). By using the frame of the UN's development goals (currently the 17 *Sustainable Development Goals* (SDGs) which replaced the MDGs in 2015 and are supposed to be reached until 2030) the pursuit of almost any objective under the EU's DCP seems to be justifiable. While migration as a whole can be framed under DCP (as 11 of the 17 SDGs address aims related to migration), the EU cannot oblige itself to a specific set of rules and standards for the cooperation on migration within the context of its DCP (§25). Thus, the set of rules and standards framed under migration policy does not apply for the EU's practice outlined in the case studies, but the practice must contribute to the pursuit of the EU's objectives for its external actions - more specifically its DCP.

Whereas it is debateable if the deterrence and steering of migration away from the EU contribute to the eradication of poverty, the opinion on the case C-377/12 decisively states, that the cooperation on migration should be taken "with interested [ACP] countries" (§63). As demonstrated in chapter two, Senegal and Uganda consider migration to have an impact on their national social and economic development and consequently included migration into their national development plans and strategies (section 2.2.2 and 2.3.2). Nevertheless, the EU's priorities and goals in relation to migration vary strongly from the ones of Senegal and Uganda. While the EU placed less emphasis on the cooperation with Uganda, the MP with Senegal has failed, (among other reasons) due to limited interest from Senegal's side (Chou and Gibert, 2012: p. 423).

Overall, the hard law and case law only expressly legitimise the aspects of readmission of the EU's soft law measures to cooperate on migration in the context of DC. The remaining aims of the identified soft law measures (introduced in section 2.1) cannot definitely be identified as an exceeding of what is necessary to achieve the EU's DCP objectives since the hard law on DCP

has a very broad and vague notion. Still, the EU's aim of its cooperation on migration differ so strongly from the interests of the case studies, that this practice cannot be legitimised by arguing that the EU addresses a common interest as it should in order to assure the sustainability of its DC.

4.2 Fragmentation

As outlined in the previous section, the aims the EU pursues in its cooperation on migration under its DC do not account for a clear exceedance of the EU's competences, principles and objectives of DCP. However, several contradictions of the EU's implementation of non-DCP objectives within its DC have been outlined in the course of this research. These contradictions oppose the EU's duty to ensure consistency between different policy fields (Art. 21 (3) TEU). Consequently, this obligation for consistency also applies to the EU's external actions within its DCP. Here, the broad terms of the EU's hard law on DCP comes to mind which does not seem to stay in any relation with the various specific and detailed soft law measures taken to address migration concerns under the frame of DCP. This substantial fragmentation between the EU's hard and soft law in DCP will be addressed first, before the institutions that establish the legal measures of DCP, and their fragmentation, will be discussed.

a) Substantial Fragmentation

The EU's hard and case law does neither expressively exclude objectives such as the externalisation of border and migration controls from the EU's DCP nor does it mention the importance of these subjects for the achievement of DCP objectives. While this gives the impression that almost everything is justifiable under the broad notion of DCP, it must be noted that the EU's hard law is restricted as it constitutes the multilateral legal framework for the development cooperation with several very distinct countries over a certain period of time without being frequently adjusted or updated to the changes in the international system, global policies or situations. Hence, DCA (such as the *Cotonou Agreement*) only states the EU's commitment to the DC with ACP countries with no obligations attached. The EU's actions and legal measures to implement this commitment, on the other hand, are defined individually adjusted to the present situation as soft law. This leads to the existence of a multiplicity of specific soft law which is frequently added to and, thus, stays up to date in comparison to the hard law (which will be replaced by 2020 with a new DCA, to fit the current international system with its changed global policies and challenges). Moreover, the promotion of EU migration concerns through the soft law is a logical response to the increasing migration flows

in past years, despite the limited attention paid to migration in the respective hard law of the EU's DCP. On the other hand, are the impacts of these legal measures increasingly evaluated on the backdrop of the EU's migration agenda neglecting the control of their contribution to the objectives of DCP (like the eradication of poverty, sustainable development, the promotion of human rights, etc.) (García Andrade & Martín, 2015: p. 103). Additionally, raise the under soft law defined policy measures and actions of the DC on migration cooperation and legitimacy issues. Predominantly with these soft law measures (introduced in 2.1) the EU encouraged the cooperation on migration in the frame of its DCP, but also undermined efforts to take a common approach on legal migration with the third countries in question (García Andrade & Martín, 2015: p. 85). In regard to the procedure of soft law measures, García Andrade and Martín (2015) point out a lack of democratic legitimacy through the respective parliaments as well as limited judicial control by the European and national courts as these measures do not apply to Art. 218 TFEU (p. 85). Moreover, the little publicity these soft law measures get raises the question whether they comply with the objectives of DCP. In relation to these doubts García Andrade and Martín (2015) also refer to readmission agreements with authoritarian states and the cooperation of FRONTEX (p. 86).

As outlined, the inconsistency of the EU's hard and soft law is owed to the different extent of purposes and time frame they are devoted to. However, the broad terms of the current DCA as well as the lack of democratic, judicial and public scrutiny of the soft law lead to doubts about the legitimacy of the EU's actions taken under its DCP (García Andrade, 2010: p. 320). The new DCA (which expected to replace the *Cotonou Agreement* after 2020) might erase these doubts by elaborating the role of migration and security within the EU's DC with ACP countries.

b) Institutional Fragmentation

The last section mentioned that there is no motivation to formulate a common approach on migration together with the third countries. This leads to discrepancy between the EU's approach on migration and the approach of the third countries it cooperates with (as demonstrated in the case studies). As outlined above, the EU's approaches do not necessarily lead to a sustainable long-term solution to the increasing number of migrants that are expected due to increasing birth rates, conflicts and consequences of climate change. So, if neither the objectives of a sustainable DCP nor a long-term migration policy are addressed by the EU's mainstreaming the question who establishes and executes these soft law measures arises.

To answer this question, it is necessary to look at the creation and implementation process of EU soft law within DCP. The institutions involved in this process are the EC, responsible for the budget and the program management (Art. 17 (1) TEU), and the EEAS, in assistance to the High Representative of the Union for Foreign Affairs and Security Policy (Art. 27 (3) TEU). So, in the exercise of its coordinating, executive and management functions (Art. 17 (1) TEU) the EC offices in charge of the cooperation on migration must work closely together with the EEAS. Van Vooren and Wessel (2014) describe the task division within the execution of soft law measures of DCP as a three-step process from the management over the programming to the implementation of these measures (p. 340). While the respective EC office participates in all three steps of the process, the EEAS only assists with the programming (Van Vooren and Wessel, 2014: p. 341).

Since these measures are implemented within the EU's DC, the first assumption would be that the Directorate-General for International Cooperation and Development (DG DEVCO) established these measures. But, while García Andrade and Martín (2015) confirm the increased priority the EU has put on the cooperation on migration by outlining the increased funding the EU provides for it, they also point out that this funding did not only increase within the DG DEVCO but is scattered over several EC offices as well as the EEAS (p. 10). From the EC's DGs involved in the cooperation on migration observed in this research, DG DEVCO guides the implementation of many measures previously discussed, but the Directorate-General for Migration and Home Affairs (DG HOME) is "responsible for designing and developing this external dimension" (p. 20). This task division does not only demonstrate the institutional fragmentation of the DC on migration, but also implies that DG HOME has stronger competences on this matter than DG DEVCO. The look onto the budgets these two DGs receive for the cooperation on migration confirms this assumption.

The DG DEVCO has a budget of about 100 million euros each year to address migration related concerns, for instances through the EDF or the EUTF. DG HOME in comparison receives about five times as much to manage migration, for example for the facilitation of MPs and other measures of the GAMM. From this budget of the DG HOME, which is collected in the *Asylum, Migration and Integration Fund*, the biggest share goes to the EU's member states and their national programmes to support the asylum system as well as legal migration, but also to MPs which aim at the return and readmission of migrants. One of the two smaller shares goes to member states actions on the matter of resettlement and relocation as well as the strengthening of legal migration. The final share goes to actions of the EU and the *European Migration Network* including technical and emergency assistant. Additionally, the similar sized *Internal*

Security Fund provides further means to DG HOME in the field of border control and management as well as visa aspects to tackle irregular migration and organised crime. (García Andrade & Martín, 2015: pp. 57 and 58)

These two funds and their designated field of application reflect the institutional fragmentation within the DG HOME which tries to manage two distinct issues with two instead of one competent Commissioner: Mr. Avramopoulos in charge of migration, home affairs and citizenship, and Mr. King in charge of security. This draws a picture of the strong impact and aims of the DG HOME which are likely to influence the establishing and implementation of the legal measures supervised by DG DEVCO.

Finally, this institutional setting might explain what drives the EU's cooperation on migration to an extent that the international theory of NPE (in chapter three) was not able to. Outcomes such as the externalisation of border and migration controls, the criminalisation of migration, higher risks for irregular migrants as well as the transformation of countries of transit migration into countries of immigration seem to make more sense on the backdrop of a security agenda than on the norms of DCP. Furthermore, the unequal measures taken by the EU's DC on migration with Senegal and Uganda would then be explained by arguing migrants in Uganda or immigrating to Uganda pose a smaller risk to the EU than transit migrants in Senegal which are already closer to the EU's borders and even aim at crossing them. So, from a security perspective (which perceives irregular migration to the EU as a threat to the EU's security) devoting less resources to the EU's DC on migration with Uganda, in order to put more emphasis on border regions and potential migrants on their way to the EU, appears to be a logical consequence. While the mentioned outcomes may contradict EU's DCP norms and, hence, the theory of NPE, Hyde-Price (2006) argumentation that the EU is a foreign and security actor influenced by structural pressures (rather than a civilian or normative power) would be supported by these outcomes.

Different assumptions of the international relations theory of structural realism such as the goal of security-maximisation, survival and the self-help system seem to explain or even encourage the inclusion of security aspects in the cooperation on migration or more generally in the EU's DC. The distribution of the funding for the cooperation on migration seems to also confirm the domination of security concerns. The majority of these funds goes to neighbouring countries and almost a quarter to Sub-Saharan Africa (Senegal's region) generally providing most funding to combat irregular migration (29%) and the smallest shares for migrants' rights (10%) and legal migration (14%) (García Andrade & Martín, 2015: p. 55).

In regard to the legitimacy of pursuing security objectives under DCP, security matters like migration matters can be seen as one of the many facets of DCP according to the EU's case law. As elaborated before, the later the judgment on the case C-377/12 in 2014 refers to Art. 40 of the European Consensus, which links the eradication of poverty to peace and security, to justify the inclusion of different policy objectives under DCP. Similarly, Art. 3 (2) TEU renders the obligation of the EU to provide freedom, peace and security to its citizens in combination with appropriate external borders and immigration measures. The judgment of the case C-403/05 *Parliament vs. EC* from 2007 offers an opposing outcome by annulling the EC decision to take security measures within its DC in the Philippines. Reasoning that the objective to fight against terrorism and international crime exceeds the EC's implementing powers (§68). However, Cremona's commentary on the respective case (2008) outlines that the ECJ's judgment primarily focused on the legislative structure of the EU's legal order, rather than the link between DCP and security aspects. The diverse tensions her commentary lists, such as limits of the legislative system in broad policy fields (p. 1738), the changing scope of DCP (p. 1734) and the possible exceedance of the EC's budgetary competences (p. 1732), give an impression of the complex challenges the pursuit of different policy objectives within DCP may pose. Concluding, Cremona (2008: p. 1742) points out that the link between security and development hampers the coherence of the EU's external actions as well as to DCP which is increasingly influenced by security concerns. However, the previous case law demonstrated that the mainstreaming of border security can still be legitimised under DCP even if it does not fall under the objectives of the EU's migration policy but its security policy.

Overall, the incoherence of the DC on migration with the objectives of DCP is also the result of the institutional fragmentation. More precisely, the cooperation on migration neglects factors of sustainability and the eradication of poverty (such as the prevention of brain drain and labour migration) promoted by the DG DEVCO to favour securitisation aspects (like border and migration controls as well as readmissions) which are in line with the security agenda of DG HOME (García Andrade & Martín, 2015: p. 60). However, the mandatory collaboration between EC and EEAS in the programming (designing, planning and scheduling) of a soft law measure could increase the coherence within the cooperation on migration. As the EEAS functions as a common denominator in the creation and implementation of soft law measures in the cooperation on migration, it could bring together the distinct agendas of the DGs on this matter.

4.3 The Duty of Cooperate, Develop and Implement Coherent Policies in the External Dimension of the EU's Politics

So far, this chapter has analysed how substantial and institutional fragmentation constrain the EU's DC on migration. This section will analyse the coordination between the EU's institutions and its member states in the DC on migration to assess the consistency of the EU's external actions (Art. 21 (3) TEU).

In respect to the EU's DCP, all actors involved are supposed to develop and implement complementary policies on the DC on migration to ensure the coherence of the EU's cooperation with the wider world. Coherence is one of the three C's – complementarity, coherence and coordination - that define the EU's DCP and will be introduced in the following (Van Vooren and Wessel, 2014: pp. 311-314). Through the application of these principles to the investigated DC on migration, this section will analyse to what extent the observed practices are coherent with the EU's DCP and allow for the consistency of the EU's external actions (Art. 21(3) TEU).

The first obligation of Complementarity (Art. 208 (1) TFEU) encourages the EU and its member states to use their competences jointly to strengthen a common DCP through each other's policies (Art. 4(4) TFEU). In the relation to the previous section the institutional fragmentation between and within the EU's institutions in charge already seems to contradict the complementarity of EU policies on DC on migration. Although, it appears that the EU's DGs in charge are aware of this issue, as recent soft law measures, such as the EU's unilateral *Migration Agenda* from 2015 (EC, 2015a: p. 6) as well as the MPF (EC, 2016), address the need for increased coherence between migration and development policy. Still, phrases like: „Increasing coherence between migration and development policy is important to ensure that development assistance helps partner countries to manage migration more effectively, and also incentivises them to effectively cooperate on readmission of irregular migrants” (EC, 2016: p. 9), reflect the domination of security concerns over the objectives of DCP. Scholars continue to find evidence of the obstructions to which this institutional fragmentation leads, for example to the competition between the DGs (Chou and Gibert, 2012: p. 415). Therefore, the EU continues to receive criticism from scholars who demand “coordination and rapprochement” (García Andrade & Martín, 2015: p. 12) between the responsible DGs for a more sustainable and effective cooperation on migration.

In respect to the case studies, restricted complementarity between the EU's and member states' policies has been observed. The negotiations over the MP with Senegal have illustrated that the policies of the EU and its member states do not always reinforce each other. Opposingly, the

incoherent foreign policies of the EU and France as well as France lack of motivation (among other factors) have undermined the EU's negotiations over the MP with Senegal (Chou and Gibert, 2012: p. 423).

While the EU and its member states may act at the same time, they are obliged to coordinate their efforts within DC to maximise its effectiveness (Art. 210 TFEU). Here, the EC has the right of initiative to drive this coordination between all actors forward and to enable coherence and complementarity (Art. 210 (2) TFEU) (Van Vooren and Wessel, 2014: pp. 314 and 336). Also in this context, the missing coordination between different DGs responsible for the cooperation on migration counter steers the maximisation of the effectiveness of the DC and some scholars demand that all resources should aim at the eradication of poverty and the recipient countries' needs, rather than migration patterns (Pirozzi et al., 2017: p. 36). On the other hand, the case study on Senegal provided an insight on how the coordination between member state and EU efforts on border control can look like. Even though the legitimacy of the EU agency FRONTEX has been contested, the EU has facilitated Spain's efforts to control migration and the EU's external borders through the deployment of FRONTEX operations between Spain and Senegal (as outlined in section 2.2.1). The increasing inclusion of EU agencies on matters of migration leads to the call for the clarifications of these agencies' mandates as well as a stronger coordination among these agencies (García Andrade & Martín, 2015: p.21; Baldaccini, 2010: p. 251).

Eventually, the principle of coherence in DCP demands that, first of, all actions taken by the EU and its member states within DC must be coherent with the EU's overall principles for external relations written down in Art. 21 TEU and Art. 3 (5) TEU together with its founding values (Art. 2 TEU). Secondly, the main objective of DCP must be the eradication of poverty (Art. 208 (1) TFEU). Finally, all non-DCPs affecting developing countries must also be in accordance to all these objectives. Here, the report on *Policy Coherence for Development*, established 2005 to strengthen the implementation of the MDGs, emphasises the importance to respect the objectives of the EU's DCP within other EU and member state policies (such as migration and security policies) affecting developing countries (Van Vooren and Wessel, 2014: p. 326). Additionally, must all rules passed by the UN and other competent international organisations be taken into account (Art. 208 (2) TFEU). Overall, coherence avoids conflicts and safeguards positive synergies within the EU's DC (Van Vooren and Wessel, 2014: p. 313). As outlined in several parts of this research the coherence of the DC on migration has been contested several times in the past. While the EU's case law has justified migration as well as security objectives under DCP due to its broad notion, this research argues that the observed

mainstreaming does not create positive synergies nor does it avoid conflicts within DCP. The necessity of the ECJ to repeatedly attest the broad and inclusive notion of DCP can be interpreted as an aim to settle conflicts that arise due to the mainstreaming of migration and security agendas within DC. In addition, many scholars contest the desirability of the link between DCP and security policy and question the mutual influence of security measures and long-term socio-economic development measures (Van Vooren and Wessel, 2014: p. 335). In praxis, the observed neglect of the main DCP objectives, in order to mainstream security concerns, contradicts the creation of positive synergies. This does not only disable the consistency of the EU's external actions (Art. 21 (3) TEU) but also hinders maximisation of its effectiveness.

Finally, the analysed incoherence as well as the lack of complementarity and coordination of the EU's DC on migration can be traced back to its substantial and institutional fragmentation which constrains a coherent and sustainable approach on African migration. This incoherence provokes increasing criticism and doubts towards the EU's DC with countries of migration.

4.4 Conclusion

This section demonstrated that the observed DC on migration respects the shared competences of the EU in DCP which has a broad notion and can therefore include certain migration and security objectives. Although the strong substantial differences between the EU's hard and soft law in DCP are a logical consequence of their scope of implementation, the limited scrutiny of soft law measures (listed in section 2.1) is subject of criticism. Moreover, the contribution of these soft law measures to the overall goal of the eradication of poverty and sustainable socio-economic development remains contested, also because of the strong differences between the EU's and case studies' aims in regard to migration. This deviation from the central objectives of DCP can also be traced back to the institutional fragmentation as more and more actors on EU and national level receive resources for the migration concerns. Consequently, this hampers policy complementarity as well as the coordination of actions of all actors involved. The resultant incoherence constrains the effectiveness of the EU's DC and restricts the creation of positive synergies between the increasing resources designated to migration concerns. Eventually, this does not only put a burden on the EU's DCP, but also provokes general doubts about the EU's relation with countries of migration.

5th Chapter: Conclusion

Finally, this last chapter will answer the overall research question - *to what extent the current mainstreaming of the EU's own migration agenda is coherent with the objectives of the EU's development cooperation policy* - and propose an alternative approach for a sustainable DC with African countries that takes their increasing migration pressure into account. Therefore, it will wrap up the findings to each subsequent question (addressed in the chapters) outlining the extent of the mainstreaming, the EU's DCP objectives, the reasons for the mainstreaming and finally the coherence of it.

Since this research followed an inductive approach from practice to theory, it firstly (in chapter two) analysed the extent of the EU's mainstreaming in two African countries with different types of migration and varying distances to the EU. Due to the unequal implementation of soft law measures addressing migration within the DC with these two countries, this research has found the EU to have a significantly higher interest in the DC on migration with Senegal, an African country of transit migration, than with Uganda, an African country of immigration (see section 2.5). Moreover, the promotion of unilateral EU interests instead of common interests demonstrated that the EU mainstreamed its migration concerns rather than cooperated with Senegal (analysed in section 2.2.2).

To analyse the reasons for the observed DC on migration, the objectives and norms of the EU's DCP were identified (in section 3.1). This showed that all actions taken within the EU's DC should contribute to the primary aim of the eradication of poverty (Art. 208 (1) TFEU). The following analysis of the outcomes of the case studies on the backdrop of the theory of NPE, then assessed whether the EU used its DC on migration to spread its norms in other countries (in section 3.3). As NPE struggled to explain the observed neglect of the primary norms of the EU's DCP within the DC on migration, this research also consulted the theory of structural realism. With the realist's assumption that the EU's DC on migration is primarily driven by the EU's security concerns, this international relations theory offered a possible explanation for the EU's unequal DC on migration with Senegal and Uganda as well as the neglect of DCP objectives to favour the externalisation of border and migration controls (in section 3.4). These security concerns eventually confirmed that the type of migration, the distance to the EU borders and the migrants' country of destination play a significant role for the extent to which the EU's DC on migration is applied in developing countries as well as the legal measures taken within this cooperation (outlined in section 3.3).

The domination of security concerns in relation to the EU's DC on migration was again affirmed by the analysis of the institutional fragmentation within and between the EU and its

member states (in section 4.2 b). And although this research has found DCP to have a very broad notion according to the respective EU's hard law and case law (analysed in sections 3.2 and 4.2), this fragmentation and the domination of security concerns still has been subject to criticism (mainly for the neglect of DCP objectives). In sum, DCP is driven by distinct policy concerns and corresponds to several other policy fields of the EU's external relations. Here, migration and security policy proved to be influential external policies in relation to DCP.

In respect to the coherence of the observed mainstreaming of the EU's migration and security concerns with its DCP, this research has found (in section 4.2 and 4.3) that the substantial and institutional fragmentation hamper the complementarity and coordination of the EU's DC on migration. This constrains the creation of positive synergies and disables the maximisation of effectiveness of the EU's external actions which is necessary for a coherent approach on migration respecting the objectives of the EU's DCP (see section 4.3).

So, although the EU's practices observed in the case studies comply with the EU's DCP (as migration and security concerns proved to be legitimate concerns of DCP), no consistent strategy to approach migration has been observed. Instead the institutional fragmentation and, as a result, the strong influence of security concerns related to migratory as well as geographical aspects, constrain a coherent and sustainable DC on migration. Moreover, neglect of the recipient countries' needs in favour of EU concerns cannot only lead to frustration and difficulties in the DC on migration as it offers little incentives for the recipient country to comply with EU measures (as the failed negotiations over a MP between Senegal and the EU demonstrated). It further hampers sustainable socio-economic development of the respective African countries by turning countries of transit migration into countries of immigration without addressing the needs of these migrants and countries, but also weakens the rights of migrants and puts them at higher risks due to the criminalisation of migration and the shifting migration routes as a consequence of the EU's externalisation of migration and border controls. In the end, this incoherent approach on migration does not offer a sustainable solution to the increasing migration pressure in African countries and questions the EU's commitment to its own DCP objectives, especially the eradication of poverty. Eventually, this compromises the perception of the EU as a global actor who is capable of establishing and implementing long-term solutions in the context of the ongoing African migration.

In regard to the findings of this research, the setting of this research must be taken into consideration. By using an inductive research design from practice to theory, this research tried to prevent biases in the identification of soft law measures of the EU's DC on migration. However, due to the limited frame of this research, the number of case studies as well as the

international relations theories introduced to explain the incentives for EU's DC on migration are limited. Therefore, future research may identify reliable patterns of the EU's DC on migration, by taking more case studies into account. Such case studies could then also include internal migration as well as emigration countries. Hereby, the implications of the *European Neighbourhood Policy* (Art. 8 TEU) in the respective neighbouring countries (such as specific policy measures on migration) have to be considered. Finally, as this research used a broad definition of migrants, further differentiation of the different types of migrants (such as refugees or labour migrants) might provide additional insight.

5.1 Alternative to the EU's Mainstreaming within its Development Cooperation

This final section will shortly outline an alternative approach to manage migration within the frame of the EU's DCP, arguing that the EU has and can create the requirements necessary to steer and solve the global challenge of African migration in a sustainable manner. Moreover, this approach tries to demonstrate how the EU may avoid incoherence as well as inconsistency in its external actions as a result of institutional fragmentation.

If the EU follows its objective to eradicate poverty in Africa, it must reckon with even higher numbers of migrants on the way to the EU as the socio-economic development in developing countries at first increases emigration before it decreases (outlined in section 1.5). Moreover, African migration poses distinct type of migration pressure towards the EU. While most irregular migrants fly into the EU and overstay their visas, many African migrants risk their life by taking a boat or going by foot to enter the EU. The number of African migrants will also increase, due to the increasing birth-rates, conflicts and consequences of climate change. Therefore, it is important to create an effective long-term strategy to mitigate this African migration and protect migrants on their way to Europe, rather than wasting resources to prevent the inevitable.

This section builds upon education as a key to sustainable and socio-economic development. While educational as well as vocational opportunities have shown to decrease birth rates, an educated population does not only provide a good work force to develop the local economy and attract foreign investment, but it is also less vulnerable to the political abuse of power. Therefore, an educated population who is aware of their rights and the rights of politicians could drive political stability and, thus, socio-economic development to mitigate the reasons for emigration.

A long-term circular migration strategy will provide legal migration opportunities to all African citizens for educational and vocational trainings in the EU. These opportunities may include

college semesters, apprenticeships, internships, advanced education as well as other types of vocational trainings. As many African migrants emigrate to send remittances back to their families and provide for them which also encourages the socio-economic development of the home countries, African citizens should be eligible to similar payments as EU citizens. Due to the financing through EU funds, these migrants do not take away vocational trainings for EU citizens, but additional spots are created and financed by the EU and its member states to enable this circular migration. Naturally, all migrants must return to their home countries after the completion of their educational or vocational training to implement and pass on their knowledge in their community. The circular migration strategy will be accompanied by the strengthening of the educational infrastructure in Africa in accordance with the fourth SDG to ascertain that all children can go to school. While increasing the educational level may lead to more emigration towards the EU, the information about these legal migration opportunities could decrease irregular migration and the related organised crime (such as human trafficking and smuggling) in the long run.

This circular migration strategy addresses the EU's DC as well as security interests. While the pursuit of DCP objectives through an enhanced educational level as well as the protection of migration is evident, security concerns are addressed by controlling which migrants enter into the EU. This oversight allows to keep criminal activity out and ensures economic stability through a fair distribution of migrants within the EU. Additionally, member state's needs in certain vocational fields can also be addressed through the circular migration strategy.

To prevent substantial and institutional fragmentation, a clear strategy including all EU institutions in charge of migration as well as the member states should be passed upfront. This circular migration strategy should then be supported through the new DCA (of 2020) and the EEAS role within the programming of all soft law measures (Art. 17 (1) TEU). Further, the EC shall ensure the coordination between all actors involved to protect a coherent and consistent approach on migration that the creation of positive synergies and the maximisation of effectiveness (Art. 210 (2) TFEU and Art. 21 (3) TEU). Finally, the European Parliament shall ensure the abidance of the legislative process in the creation of all soft law measures (as in the case C-403/05).

Some may argue that this circular migration strategy just aims to provide the EU with cheap labour force in needed vocational fields. The mentioned similar payments will prevent the exploitation of African migrants participating in circular migration. However, some seasonal jobs may still be offered in the course of circular migration to also address African citizens who do not wish or qualify for vocational training in the EU and would otherwise migrate irregularly

to the EU in order to find work. Another point of critique might be the possibility of brain drain. But, as circular migration implies, all participating migrants are obliged to return to their home countries for a predetermined amount of time to contribute to the socio-economic development of their home countries. Further criticism might be that this circular migration strategy only addresses academics or people living in the cities. Here, the EU as well as its member states are in charge of also informing the rural areas about these legal migration opportunities, preferably through the educational infrastructure. Additionally, certain percentage provisions should be made to strengthen the equal participation of men and women, different ethnic groups as well as urban and rural areas to promote equal opportunities.

Overall, this approach on migration will enable a more effective use of funds and resources and allows African citizens to contribute to the socio-economic development of their home countries rather than relying on the DC with the EU and other donors. This will lead to an autonomous and educated civil society with self-help capacity. In the long run this might be the best contribution the EU as a global actor can make to solve the global challenge of African migration.

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