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**UNITED AGAINST: HOW THE 2015 MIGRATION CRISIS INFLUENCED THE
INTEGRATION OF THE EUROPEAN UNION'S EXTERNAL MIGRATION POLICIES**

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Abstract

As history has shown, European integration has repeatedly been pushed forward through external shocks, necessitating a unified response. Taking the migration crisis of 2015 as starting point, this thesis examines, whether an integration or convergence of the EU's external migration management has taken place since. Therefore, it analyses policy developments and actions that have taken place between the publication of the European Agenda on Migration in May 2015 and the beginning of 2020 and explains them by linking them to integrationist theories.

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List of Abbreviations

AFSJ	An area of freedom, security and justice
AU	African Union
CDSP	Common Defence and Security Policy
CFSP	Common Foreign and Security Policy
EBCGA	European Border and Coast Guard Agency
ECSC	European Coal and Steel Community
EEAS	European External Action Service
EES	Entry/Exit System
EMLO	European Migration Liaison Officers
EU	European Union
GAMM	Global Approach to Migration and Mobility
HRVP	High Representative/Vice President
JHA	Justice and Home Affairs
SIS	Schengen Information System
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees

1. Introduction: context, research relevance, objective

1.1. Current relevance of the research topic

In March 2020, the violent conflict between Turkey and Russia in the Syrian region of Idlib forces thousands of civilians to leave their homes. Under the pressure of the new arrivals, Turkey threatens to open its border with the European Union (EU), leading to 35,000 people (Boffey, 2020), gathering at the EU-Turkey borders within a few days. Once again, the EU faces a sudden migratory pressure from outside, reminding of events from 2015. The Union finds itself confronted with political pressure from Turkey, with whom it had concluded a deal on migration years earlier. At the same time, Hotspots in Greece are highly overpopulated, creating unbearable living conditions for refugees and causing rising resistance in the Greek population as well as continuous divergence between the European Member States. As in recent years, bordering countries feel left alone by the Union and call out for help. The EU's reaction to tackle the issue seems uncoordinated, spontaneous and inefficient. It furthermore displays a lack of coordination and cooperation between the different actors. Nonetheless, the EU has attempted to step up its effort to manage migration to Europe through an integrated approach and to prevent and control this kind of situation for the last five years. How can they still occur in this scope? This raises the questions, in how far the EU has really developed and adapted its common migration policies since the occurrence of the migration crisis in 2015 and whether its is capable now, of giving an unified response to the issue.

1.2. Contextualisation of the research question

The year 2015 has presented a wake-up call for the EU in terms of its migration management. The arrival of one million people to the Member States between January and December 2015 (Clayton & Holland, 2015), accompanied by large numbers of tragic drownings in the Mediterranean pointed out the limits of the common EU migration policy. The lack of a joint reaction to the crisis has been evident, regarding the EU's internal as well as its external actions. As a response to the high number of

people entering Europe legally and illegally, several ambitious plans were published, foreseeing a more efficient management of migration and a revision of European migration policies with a focus on border controls and cooperation with countries of origin and transit. In the face of the crisis, the EU gradually chose an external approach to migration management, also referred to as externalisation of its politics. Additionally, whereas the EU externalised its migration management, the question of unification and convergence of migration policies was raised. As history has shown, the migratory crisis of 2015 would not be the first example where policy integration has been triggered through shocks. Can it thus be claimed, that 2015 should have triggered a better, more unified European response to the migratory pressure?

1.3. Hypothesis

As this thesis will show, in the history of the EU, crises have often resulted in further policy integration. As the occurrence of the strong number of migration flows in 2015 and the years after can be labeled as such a *crisis*, the probability of future integration of migration policies exists. Whereas the events of 2015 seemed to have taken the Union by surprise, the last five years were a long period where the migration policies could develop. Besides the revision of the EU-intern asylum and migration policies, this development has increasingly taken place within the external dimension of EU policies. As this externalisation becomes increasingly crucial in responses to the crisis, it ascended in the list of the Union's priorities. Therefore, based on the assumption that crisis trigger further European integration and that an externalisation of European migration policies has gradually taken place since 2015, this thesis will research the integrationist tendencies in the EU's external migration policies during the last five years.

1.4. Research method

The condition for a comprehensive analysis of the external dimension of the EU's migration policies necessities a basic understanding of the current policy matrix

concerned with this field. In order to determine the relevant policies and their evolution, the following elements have to be defined:

- What are the different existing European policy provisions in the field of migration management?
- Where are policies and actions in the external dimension of EU migration policies located?
- What is the current legislative framework for external migration policies and how has it evolved since the creation of the Union?

Once the policy and legislation framework, in which external migration policies operate, is established in chapters two and three, another framework is necessary to evaluate policy evolution in this field. Thus, the fourth chapter will be a resume of the essential theories that have been established in order to explain European integration. The particularities of the neo-functionalist, the (liberal) intergovernmentalist and the institutionalist theory will be outlined in detail and furthermore put into context with regard to the integration of external migration policies.

Finally, the most extensive and decisive part of this thesis follows in the fourth chapter. This section will, based on the formerly established frameworks, closely analyse EU actions and decisions in the external dimension of its migration policy since 2015. Based on the established set of integration theories, it will examine, whether the response to the migration crisis has taken place on an intergovernmental or a supranational level. In order to do so, it will examine the following aspects:

- Was an action undertaken by the Commission on a supranational basis or by the Council on an intergovernmental basis?
- Which role played the institutional sphere and co-decision?
- Have new agencies been established to bundle joint efforts or have existing agencies' mandates been changed/enlarged?

Consequently, the last chapter attempts to define recent EU actions and policy developments by comparing them to the underlying integration theories. Based on these findings, it will seek to determine, whether a general tendency to further integration of external European migration policies can be detected or not.

Due to the wide scope of policy developments and actions that have been undertaken since 2015, not all aspects of the EU's external migration management were accorded the same attention and detailed analyses. Consequently, the elements considered most important were examined and analysed in more detail.

2. Defining the practical and legal framework for the external dimension of European migration policies

The term migration and asylum policies refers to EU policies applying to any issue linked to the entry and residence of third-country citizens. These policies consist of a vast, complicated network of legislation and different instruments, touching several policy areas and involving numerous actors. The fact, that this matrix has to provide legislation for a big variety of cases adds to its complexity.

2.1. Migration and asylum policies in the European Union

Firstly, the legislation differentiates between different forms of migration, based on the motives people have for seeking entry into the Union. These various motives lead to the so-called mixed migration flows. The United Nations High Commissioner for Refugees (UNHCR) considers mixed migration flows as movements consisting of people in search of a better life and those, who have been forced to leave their homes due to armed conflict or persecution (Asylum and Migration, 2016). These heterogeneous movements accumulate a big variety of singular cases that differ from another in terms of origin, motives, family status, etc. In order to respond to this variety, the EU has to take into consideration different factors to develop immigration policies that provide guidance for the treatment of those seeking better living conditions or international protection.

2.1.1. Provisions for asylum seekers

The EU's asylum policies apply to persons who seek international protection and asylum. Norms of refugee protection and asylum are defined in international law as well as in national legislation (UNHCR viewpoint: "Refugee" or "migrant" – Which is right?, 2016). Consequently, Member States have to comply with the principle of non-refoulement, meaning they have, according to international law, the responsibility to grant asylum to refugees seeking international protection (Sokolska, 2020). Simultaneously, they can take care individually of some of their asylum policies.

Neither the term asylum nor the term refugee are clearly defined in the EU treaties. Nevertheless, they refer explicitly to two documents the European asylum policies have to comply with: the Geneva Convention from 1951 and its Additional Protocol from 1967. Additionally, in their management of asylum and migration policies, Member States have to comply with the European Convention for the Protection of Human Rights and Fundamental Freedoms from 1950 (art. K2, Treaty of Maastricht).

The UNHCR (2016) defines the term refugee as applying to people „who cannot return to their country of origin because of a well-founded fear of persecution, conflict, violence, or other circumstances that have seriously disturbed public order.” As a result, they require international protection. A set of EU wide minimal standards for asylum has been in place for several years. However, especially after 2015, the EU’s asylum policies have undergone several changes. Areas like asylum procedures, application conditions or housing regulations for refugees have only recently been harmonised through the completion of the Common European Asylum System (Sokolska, 2020).

2.1.2.Provisions for regular and irregular migrants

Simultaneously, EU legislation has to provide for other types of migrants: those who aspire to enter the Union for other reasons than protection. According to the UNHCR (2016), the term migrant applies for people who „choose to move not because of a direct threat of persecution or death, but mainly to improve their lives by finding work, or in some cases for education, family reunion, or other reasons“. Whereas refugees are protected by international law that the countries have to comply with, immigration policies are national, country-specific policies. As immigrants, contrarily to refugees, potentially have the possibility to return to their home, the countries have more room for manoeuvre in this area (UNHCR viewpoint: “Refugee” or “migrant” – Which is right?, 2016).

Immigration policies are complex as they have to provide for regular as well as irregular migration. The EU’s approach thus consists of managing the regular migration flow and tackling attempts of irregular immigration (Schmid-Drüner, 2019).

The framework for regular migration includes areas like the entry, residence and working conditions for third-country citizens in EU member states. This applies to highly qualified workers, students and researchers as well as long-term residents and family reunification. Furthermore, the framework takes into account a successful integration of non-European citizens in the Union's working and cultural environment ("Common European Asylum System", n.d.). There are EU-wide entry conditions for migrants. However, the determination of the volume of people allowed in a country to demand work is determined directly by the Member States. Also, the specifics of integration of third-country citizens lie within the competences of the respective Member States, with the EU having the possibility to support them in their measures (Schmid-Drüner, 2019).

When it comes to irregular immigration, measures taken by the EU include effective return policy and readmission agreements. The EU as an institution concludes agreements with non-member countries in order to facilitate the readmission of third-country nationals to their home country, should they not or no longer fulfil entry or residence conditions of a Member State (Schmid-Drüner, 2019). Another policy area directly linked to irregular immigration is the fight against human trafficking and smuggling networks.

2.2. The different dimensions of European migration management

The policy-matrix of the EU's migration policies attempts to control the above-mentioned forms of migration on different levels. Following the 2015 migration crisis, Davitti, Fries and Walter-Franke (2018) established a model of three concentric circles in order to examine and define the scope of EU actions in these diverging zones. The three circles describe, in which extend the EU deals with the issue by itself, and where third countries are included in the processes. The partition of the policy area into three dimensions helps to establish a clear line between external and internal EU actions in the field of migration and asylum.

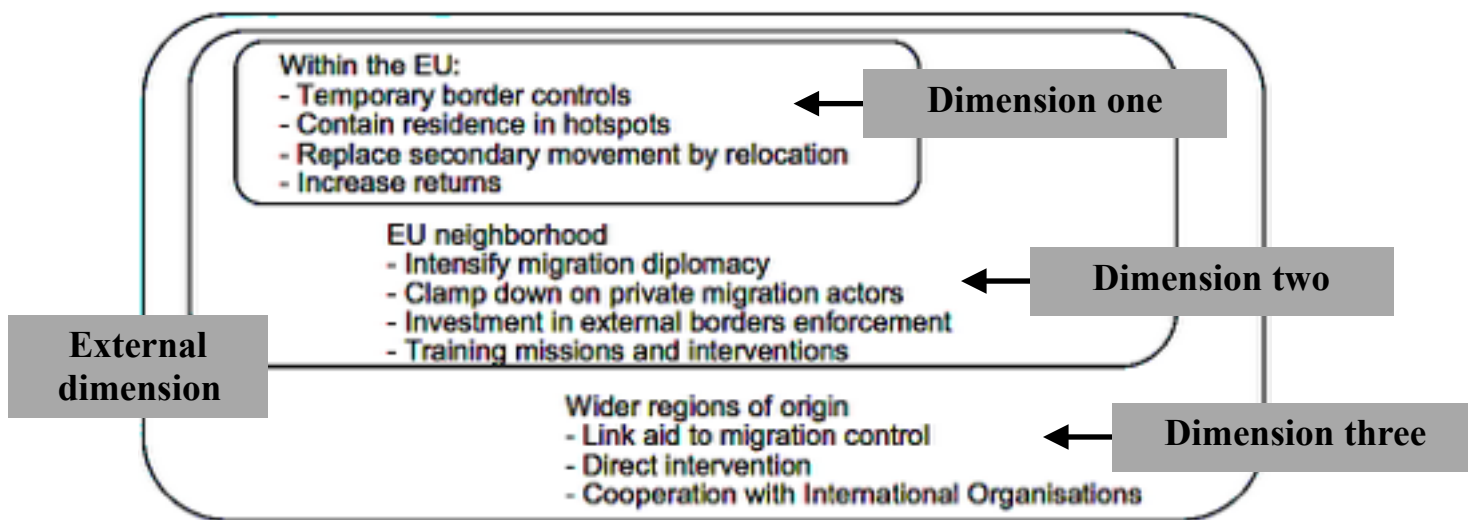


Figure 1: The external dimension of European migration policies based on ‘The concentric circles of the EU’s ‘managed migration’ (D. Davitti, M. Fries & M. Walter-

2.2.1. The inner dimension: border controls, hotspots, relocations, returns

The first and inner circle contains measures involving uniquely the EU, such as temporary border controls, the creation of „hotspots“ at the EU’s external borders, replacements according to the Dublin System and returns (Walter-Franke 2017 in Davitti, Fries and Walter-Franke, 2018). One highly contested part of this dimension is the relocation mechanism, known as Dublin I and Dublin II. The two documents define where, meaning in which Member State, a refugee is eligible to apply for asylum. The conceptualisation of the Dublin Regulations has proven limited in its effectiveness during the 2015 migration crisis. Not only had the regulations not foreseen the management of high numbers of asylum seekers, the reluctance of the Member States Hungary, Czech Republic and Poland to participated in intaking refugees jeopardised its full implementation.

In 2015, temporary border controls have been introduced to prevent so-called secondary movements of asylum seekers (Davitti, Fries and Walter-Franke, 2018) in order to avoid the displacement of people waiting for their asylum notice and those who potentially reside illegally in the Schengen Area. Simultaneously, returns have been increased by the Member States (Davitti, Fries and Walter-Franke, 2018). Promoting, especially voluntary, return has long been on the European agenda. Return, voluntarily or

involuntarily, means that third-country nationals with no right to stay within the EU have either to go back to their country of origin, to a country of transit or any other country the person concerned would go voluntarily and will be accepted in (Directive 2008/115/EC, 2018).

The hotspot approach was created in 2015 and describes an on-the-ground-cooperation between the European agencies and local authorities of the frontline Member State. The different agencies operate together under EU law to identify and register incoming migrants and take their fingerprints (European Commission, 2015a).

2.2.2.The second dimension: the European Union's direct neighbourhood

What separates the first circle from the second one are the Union's external borders. Therefore, the second, outer dimension of EU migration policies includes the strengthening of the borders between the Union and non-Member States. The management of external borders became a highly important factor during and after 2015, with a lot of action undertaken in this field, including operations on land, sea and in the air, mostly carried out by the border agency Frontex.

Additionally, the second dimension includes the EU's immediate neighbourhood, notably countries that are not part of the Schengen Area. Consequently, the EU has strengthened its relationships with the most affected countries of transit since 2015 (Walter-Franke 2018 in Davitti, Fries and Walter-Franke, 2018).

The enforcement of the EU's neighbourhood policy aims at achieving a more efficient management of migration flows outside its external borders. The EU's approach in this area consists of bilateral deals with the affected countries. Through the use of incentives like accession or threats such as border enforcement, the EU aims on convincing these countries to keep migrants and refugees who's final destination is the EU on their

territory (Davitti, Fries and Walter-Franke, 2018). One key country in this dimension of EU migration policies is Turkey, as it lies directly on the Eastern Mediterranean Route¹.

2.2.3. The third dimension: countries of origin and transit

The last and widest dimension of the EU's migration policies targets the countries of origin and countries on the migration routes that are not directly in the EU's neighbourhood (Walter-Franke 2017 in Davitti, Fries and Walter-Franke, 2018). By operating in these countries, the EU aims to promote the rule of law and respect for human rights as well as international obligations outside its borders ("International Affairs" n.d.).

Whereas EU-wide return procedures for illegal immigrants, lined out in the 2008 Returns Directive, belong to the inner dimension, the readmission agreements with countries of origin and transit are part of the EU's external relations. The EU's external actions linked to migration consist of a complex and diversified matrix of policy, legal and financial instruments delineating cooperation with third countries in the management of migration, borders and asylum. These include, for instance, readmission agreements, visa facilitation agreements, mobility partnerships and common agendas on migration and mobility, high-level dialogues, consultative processes, joint declarations and several financial frameworks (Carrera, Juan Santos Vara, and Tineke Strik 2019).

Cooperation with non-Member States in the form of readmission agreements has long been on the agenda of the EU and continues to be one of the priorities in its migration policies. As of now, the EU has active readmission agreements with Hong Kong, Macao, Sri Lanka, Albania, Russia, Ukraine, the former Yugoslav Republic of Macedonia, Bosnia & Herzegovina, Montenegro, Serbia, Moldova, Pakistan, Georgia, Armenia, Azerbaijan, Turkey and Cape Verde ("International Affairs", n.d.).

None of these readmission agreements, however, have been concluded after 2015, which could be one explanation why the list has only one of the current most common

¹ See more information in chapter 5 on the EU-Turkey agreement

countries of origin (Syria, Iraq, Afghanistan, Nigeria and Pakistan) of asylum seekers coming to Europe on it (Eurostat, as cited in “Migration to Europe in charts”, 2018). A “lack of cooperation from some third countries in identifying and readmitting their nationals” (“International Affairs”, n.d.), could be the reason for this phenomenon.

Other elements of the third dimension are development aid and cooperation with organisations in the crisis areas, like the United Nations or the International Organisation for Migration.

2.3. Externalisation of migration policies as a security question

“The absence of internal borders in the Schengen area requires strong and reliable management of the movement of persons across the external borders. This is a prerequisite to ensure a high level of internal security and the free movement of persons within that area.” (European Commission, 2016a)

The question of security has steered the development of the EU’s current policy framework on migration and asylum. Security is the one element that determines internal as well as external actions in this area. Internally speaking, the gradual enlargement of the EU has created the need for stronger cooperation between the Member States in order to guarantee security inside the Union’s borders. The occurrence of international crises and wars that have led to population displacements in the immediate neighbourhood of the Union have convinced the Member States to provide clear rules for migrants and asylum seekers. Immigration increasingly becomes a security threat to the EU. As a response, the security dimension has been expanded to neighbouring countries, especially during the last decade. This can be explained in two ways.

Firstly, the EU strengthens its cooperation with non-member countries in order to push away the migration issue from its own borders. What can also be described as the “EU’s external governance” or the “externalisation of Justice and Home Affairs” (Wolff, 2009, p. 157), is the attempt of the EU to control internal security by minimising threats from

the exterior. In that context the Commission itself describes that the “EU has progressively put in place a genuine external migration policy, complementing and reinforcing the internal dimension” (European Commission, 2017a, p.6). Consequently, actions in the external dimension of migration policies will have an immediate impact on what happens within the borders of the EU (Lavenex & UçArer, 2004).

Secondly, by promoting peace and democracy, especially in countries of origin, the EU aims to prevent the occurrence of further, large immigration movements. Inevitably, the external dimension of common EU policies in migration leads to an extension of EU norms to areas outside its borders, third countries (Lavenex, 2015) and thus creates a whole new dimension, diverging from simple practical cooperation aimed to achieve a certain goal. Looking at actions undertaken by the EU during the last decades, the external dimension of migration policy can be defined as the promotion of EU norms and rules in non-Member States (Yildiz, 2018). In line with its image of a democratic Western political system, the Union communicates on its values, as in the following statement of the Commission.

Naturally, the migration issue influences the relationship the EU holds with other countries. In this cooperations, the EU is often missing the necessary leverage to convince third countries to act as their agents in the treatment of migration issues (Geddes and Scholten, 2016). This fact seems to be proven by the missing key countries in the list on the EU’s readmission agreements but also in the recent override of the Turkey agreement leading to new tensions outside the Union’s external borders.

The effort of externalising migration policies has been criticised as a mechanism to avoid dealing directly with the migration issue and to delegate it to neighbouring countries, paying them to deal with it instead of the EU. Furthermore, the EU’s actions in promoting the return of migrants in their country of origin is problematic due to the challenge of missing legitimacy. Indeed, countries of origin often lack the political and economic infrastructure to receive migrant populations. Therefore, according to Lavenex (2015), before a safe return can be assured, an internalisation of protection

norms as they exist in the EU and under international law must take place. Additionally, it can be claimed that the externalisation has taken place because it was easier to find an agreement between the key policy actors in terms of external action than in terms of internal action (evident in the failure of the Dublin agreement).

Although this is partly true, the holistic approach of the EU in this matter, combining internal and external aspects of migration management can not be completely condemned. Where the inflow of legal and illegal immigrants and refugees in the years around 2015 has created an urgent need for short term action, it raised simultaneously the question about future responses. In order to find a sustainable way of managing migration in the long term, the combination of internal and external elements in the EU's policy can be defended as a coherent action plan that takes into account the future of European law-making and of European generations.

3. External migration policies in JHA and CFSP

Although a rather precise distinction between the different dimensions of migration policies could be established, responsibilities in the different areas are not as easily separated. Indeed, the EU's external migration policies touch two main policy areas. Most of the formerly outlined aspects, that being the strengthening the EU's external borders, its migration and asylum policies but also cooperation with third countries, belong to the area of Justice and Home Affairs (JHA). The overall goal of JHA legislation is the creation and protection of an area of freedom, security and justice (AFSJ) within the Union. The protection of the external borders and management of migration flows can be considered means to achieve internal stability and security.

Furthermore, the external dimension of migration policies touches the Common Foreign and Security Policy (CFSP), which is responsible for a unified presentation of the Union towards the world. Migration management increasingly happens outside the Union's borders. Hence, the CFSP missions inevitably become interconnected with this policy area, including migration and refugee protection as well as multilateral cooperations and humanitarian responses ("What we do", n.d.).

3.1. Integration of external migration policies - the evolution of a policy framework

With the evolution of the European concept over the years, in form of further integration in different areas and new powers for the EU institutions, the matrix of legislation in the field of external migration policies we see today has changed. Thus, a brief examination of the different stages, the EU's external policies have undergone in terms of migration management, will benefit the construction of an analytical basis for the recent developments.

Since the creation of the European Coal and Steel Community (ECSC), the Union's objectives, the rules for its institutions, procedures for decisions making and the relationship between the EU and its member countries are lined out in binding agreements between the Member States, called treaties (European Union, 2018). With the establishment of treaties, the Member States confer competences upon the EU. Under the principle of conferral, the EU can only take action within the limits lined out by the treaties. All competences that are not specifically conferred upon the EU in the treaties remain with the Member States (Division of competences within the European Union, 2016). By analysing the changes in the EU treaties, one can examine, how the distribution of competences between the EU and its Member States in the field of JHA and CFSP evolved over the years and determine, whether a transfer of power took place.

However, treaties are not the only means to determine trends towards further integration. Council Conclusions, as the Tampere Conclusion for instance, are not legally binding but can, however, show a tendency and a possible readiness to stronger cooperation.

For a long time after the creation of the ECSC, joint-action in the area of JHA and CFSP was based on informal cooperation between the Member States (Peers, 2011). Like the migration crisis in 2015, several events have occurred during the last decades that have triggered a closer, more formal cooperation in these fields.

3.2. The Schengen Agreement and the abolition of internal borders

One turning point was the decision to a joint approach regarding the entry of third-country citizens, resulting in the second Schengen Agreement in 1990. It followed the first Schengen Agreement from 1985 on the abolition of checks at common borders allowing any person, no matter their nationality, to cross the internal borders of the Schengen Area without any border checks. Almost all EU States are part of the Schengen Area, except for Cyprus and Ireland as well as Bulgaria, Croatia and Romania who are currently in the process of joining the area. Furthermore, the non-Member States Iceland, Norway, Switzerland and Liechtenstein are part of the Agreement (“Legal migration and Integration”, n.d.). The *Schengen acquis* was incorporated in the EU’s legal framework in the Treaty of Amsterdam. The lack of internal border controls consequently made stronger security on the external borders but also closer cooperation within the single market more necessary (Lavenex, 2015).

3.3. The Treaty of Maastricht: the foundation of a common migration policy

Two years after the second Schengen Agreement, the 1992 Treaty on European Union addressed this issue. The so-called Treaty of Maastricht was a milestone regarding cooperation in the area of asylum and migration, which thus got a new, formal dimension. The Treaty of Maastricht (1992) defined three founding pillars for the EU. The first pillar of European Communities, and two additional areas of cooperation, CFSP and JHA as second and third pillars. Whereas the first pillar consisted of governance fields, where the Member States had transferred their powers to the Union, the second and third pillars were based on intergovernmental cooperation.

For the CFSP, the second pillar, the Treaty of Maastricht defined provisions for the Member States to act in solidarity and loyalty to support the EU external and security policy and not to undermine or contradict the Union’s international relations (Treaty of Maastricht, 1992). Member States were to consult and converge any external action,

whereas the Council provides common guidelines and actions through unanimity voting (Treaty of Maastricht, 1992).

Regarding cooperation in the field of JHA, the third pillar, Member States should cooperate in various issues considered of interest to all of them, like asylum policy, the crossing and control on external borders, immigration policy for legal immigrants (entry and movement on EU territory, residence, family reunion and access to employment) and illegal immigrants (Treaty of Maastricht, 1992). The Council can unanimously adopt joint positions and actions or make recommendations for the Member States. Nevertheless, the Member States keep their responsibilities in these areas, especially as they concern the maintenance of national law and order as well as the internal security (Treaty of Maastricht, 1992). Thus, any action in the common AFSJ should be implemented through cooperation.

Resuming, in this first phase of integration, the second and third pillars were still built upon intergovernmental cooperation between the Member States who needed to adopt joint actions unanimously and could collaborate within the common institutions on certain matters. However, the Treaty of Maastricht already involved certain supranational elements, as the Commission was involved and the Parliament consulted (Sokolska, 2019).

During the period when the Treaty of Maastricht was signed and in the following years, the external European migration policies were strongly influenced by the migration crisis from the Balkans (Lavenex, 2015). After the dissolution of the Soviet Union in 1991, several Balkan states opted for independence, leading to the Yugoslav war. In total, the violent clashes in the region lasted over ten years, from 1991 to 2001. During that period, many people were forced to leave their homes and to search for protection in the neighbouring EU countries.

Additionally, and with the objective to stabilise the region after the downfall of the Soviet Union, the Council initiated accession talks with ten Eastern European countries in 1997 (De Munter, 2019). The possible EU accession of Cyprus, Czech Republic,

Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia raised the question about the necessity to implement stronger controls on the EU's new external borders and to intensify migration and asylum policies outside the Union's borders (Lavenex, 2015).

3.4. Power transfer under the Treaty of Amsterdam

Under these circumstances, another move towards a common asylum and migration policy happened in 1999 with the Treaty of Amsterdam. Contrary to the Treaty of Maastricht, the Treaty of Amsterdam gave specific indications regarding the evolution of asylum and migration policies. Still with regard to the establishment of an AFSJ, it determined that the Council should establish “measures with respect to external border controls, asylum and immigration” (Treaty of Amsterdam, art. 73i, 1997, p. 28), within five years after the entry into force of the Treaty. In the same period of time, the Council was to establish a set of common standards and procedures of external border checks for all Member States as well as uniform visa policies (Treaty of Amsterdam, 1997).

The Treaty of Amsterdam amended the Treaty of Maastricht and the Treaty Establishing the European Community and shows a clear trend towards further integration. Article 1.3 of the Treaty of Amsterdam adds for instance, the implementation of “a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence” (Treaty of Amsterdam, art. B, 1997, p. 8).

Furthermore, some aspects concerning the AFSJ now seemed too important to be dealt with in a purely intergovernmental setting. Thus, they were moved from the second and third pillar to the first one, meaning that the EU institutions increased their power in these fields. One of the powers conferred on the Community in the Treaty of Amsterdam was the conclusion of readmission agreements with third countries on behalf of the Member States (Treaty of Amsterdam, 1997). The transfer of powers from the Member States to the Union is irreversible, meaning that once a competence is transferred upon the Union, it will stay with the Union.

3.5. A bright future for internal and external cooperation in the Tampere Conclusion

Shortly after the entry into force of the Treaty of Amsterdam, the Council defined common political guidelines in the area of JHA, putting a focus on the management of migration flows, especially outside the Union's external borders.

With the Tampere Conclusion from 1999, although it had no legally binding effect, the Council made a clear statement of the priorities and expected developments in the field of migration. The Tampere Conclusion lined out the need for common asylum and immigration policies and for the strengthening of the external borders in order to fight illegal immigration as well as the importance of partnerships with countries of origin to manage legal and illegal immigration outside its borders was strengthened (Tampere Conclusion).

Hence, readmission agreements, a competence of the Union since the Treaty of Amsterdam, should increasingly be put into place by the Council on behalf of the EU. Whereas the Council acknowledged that the Union and its Member States should each act according to their competences, it underlined the importance of the Schengen acquis and the necessity for stronger European cooperation with regard to border controls (Tampere Conclusion, 1999).

3.6. The Treaty of Lisbon and the current legal basis for the EU's external migration policies

The most recent treaty in force is the Treaty of Lisbon, which is effective since December 1, 2009. It amends the Treaty on European Union and the Treaty Establishing the European Community, becoming the Treaty on the Functioning of the European Union (TFEU). Most importantly, the Treaty of Lisbon abolished the three-pillar-structure of the EU and introduced a new decision-making process between the EU institutions. The ordinary legislative procedure is thus applied to policies on irregular

and regular immigration, meaning that Council and Parliament decide together on legislation regarding these areas (Schmid-Drüner, 2019).

In the Treaty of Lisbon the competences between the EU and its members are clearly divided into three categories. Exclusive competences design those areas, where the EU as an institution can legislate by itself and adopt binding acts, meaning it acts on behalf of its Member States. If Member States want to adopt acts or legislate in areas of exclusive EU competences, they have to be empowered by the Union. These fields include for instance the customs union or rules for competition, but most importantly the „conclusion of international agreements under certain conditions“ (Division of competences within the European Union, 2016). Readmission agreements with third countries are thus an exclusive competence of the EU.

On the contrary, supporting competences apply in areas where the EU can only intervene to support the Member States in their actions. There is no requirement to harmonise legally binding EU legislation in the single countries' laws or regulations. Policy areas such as protection and improvement of human health, industry, culture and tourism fall under the category of supporting competences (Division of competences within the European Union, 2016).

The third category of competences are shared ones, where the EU and its Member States legislate and adopt legally binding acts together. In areas where Member States exercise their own competence, the „EU does not exercise, or has decided not to exercise, its own competence“ (Division of competences within the European Union, 2016). Areas of shared competences include the AFSJ as well as the development of cooperation and humanitarian aid. Additionally, the management of the Union's external borders as well as asylum and migration policies belong to this legislation field (Division of competences within the European Union, 2016).

In addition to the distribution of competences, the Treaty of Lisbon provides a new legal basis for the Union's actions in migration matters. Chapter 2 of the TFEU lines out legislation regarding policies on border checks, asylum and immigration, notably in the

articles 77, 78, 79 and 80. The TFEU foresees, that the Union should provide a policy for the control of external borders and additionally gradually introduce an “integrated management system for external borders” (Treaty of Lisbon, 2.62c, 2007, p. 60). Policies for border checks and entry conditions for third-country nationals, as well as the establishment of a common management system for external borders, are decided in the ordinary legislative procedure (Treaty of Lisbon, 2007). Nevertheless, they should not interfere with the competences of the Member States regarding the geographical separation of their borders, or, as mentioned earlier, the number of admissions of third-country nationals (Treaty of Lisbon, 2007). The TFEU furthermore provides for what has happened in 2015 and 2016, as it gives the Council the possibility to act fast, on a Commission proposal and after consulting with the Parliament, in case of heavy, unpredicted inflows in order to support any Member State concerned (Treaty of Lisbon 2007).

Besides, the development of a common asylum policy including the establishment of partnerships with countries of origin and transit in order to manage migration inflows becomes subject to the ordinary legislative procedure (Treaty of Lisbon 2007).

Many JHA policies linked to migration management were moved to a supranational level, being subject to the supranational decision procedure, the ordinary legislative procedure. Intergovernmental, unanimity voting prevailed according to the Treaty of Lisbon in the Council as to take decisions regarding the CFSP (Treaty of Lisbon, 2007). Only in certain areas can the Council decide based on qualified majority (Treaty of Lisbon, 2007).

The implementation of a common policy in foreign actions and defence should be based on an increasing convergence of the actions undertaken by the Member States. To this end, the European External Action Service (EEAS) was created in 2011 as part of the Treaty of Lisbon. The EEAS coordinates the EU’s cooperation with third countries and has the mission to "help strengthen the European Union on the global stage, give it more

profile, and enable it to protect its interests and values more efficiently” (“Creation of the EEAS”, 2019).

3.7. Subsidiarity and solidarity

Subsidiarity and solidarity are two elements of EU law that are especially important for the aspect of policy integration. The Principle of Subsidiarity has been part of EU law since the Treaty of Maastricht. In the Treaty of Lisbon, it is lined out in Article 3(b), basically stating that “in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States” (p. 12). Consequently, it has to be evaluated, whether a Member State could take an action or decision on a local or regional level, or whether the aim of an action can only be achieved on an European level.

Furthermore, the reference to solidarity appears in all of the EU treaties. In the case of the Treaty of Lisbon, it refers to a number of policy fields. In terms of external actions for instance, the Treaty obliges Member States to act in solidarity to one another when considering their external actions. Furthermore, this principle should apply to asylum and migration policies.

3.8. The Global Approach to Migration and Mobility

Shortly after the entry into force of the Treaty of Lisbon, the Commission pushed for further actions in terms of migration and refers to the EU’s cooperation with third countries as a necessity to efficiently manage migration and respond to security challenges. The 2011 Global Approach to Migration and Mobility, short GAMM, defines the EU’s objectives in terms of its external migration and asylum policies. It is a revised, newly evaluated version of the 2005 Global Approach on Migration (GAM). According to the agenda, the EU’s external migration and asylum policies focus on better management of legal migration and mobility, preventing and fighting irregular migration and human trafficking, maximising the impact of development on migration

and lastly, fostering international protection of human rights. It strongly focuses on the cooperation with third countries, in order to facilitate migration management, which means in terms of visa facilitation and mobility as well as control of illegal migration with partners, mainly located in Africa and the Mediterranean (European Commission, 2011). The GAMM is not legally binding but sets out guidelines and objectives for the EU action in the field of migration and asylum. Chapter three will examine whether these objectives were achieved.

3.9. From Tampere to the New Strategic Agenda

As mentioned with regard to the Tampere Conclusion, the convergence of migration policies has long been on the Council's agenda, whether it was legally implemented through the treaties or not. However, the optimistic, common guidelines agreed upon by the Council guidelines did seldom result in the predicted outcome. For instance, the guidelines set in the 1999 Tampere Conclusion were only partly implemented. The conclusion was followed by the 2004 The Hague programme, defining priorities in the area of JHA, and the 2009 Stockholm Programme for the AFSJ. The Stockholm programme expired in 2014 and was replaced by a document of the Commission, the 'strategic guidelines for legislative and operational planning within the AFSJ' (regular and irregular migration, external borders, protection) for 2014 - 2020. The guidelines focused on implementing the current legal instruments rather than providing a whole new programme, or even new policies, but stressed the need for a holistic approach to the issue of migration management and external border control (Schmid-Drüner, 2019).

The current strategic agenda for 2019-2024 was rather vague. It briefly mentions the development of a fully functioning migration policy, further cooperation with countries of origin and transit in terms of illegal migration, human trafficking and return policies (European Council, 2019a). However, this could be due to the fact that various other documents and guidelines have been put forward by different European institutions since 2015, each focusing partly or entirely on the management of migration.

Resuming the integration of JHA and CFSP, it can be concluded, that the Member States of the EU have acknowledged the need for closer cooperation in the areas of migration, external border controls and readmission, serving the protection of the European AFSJ since the early years of the Union. In several cases, this realisation was strong and urgent enough to drive forward the integration of the policy areas covering legislation in these fields.

4. The evolution of external migration policies in the view of the main integrationist theories

Chapters two and three show an overall evolution in the area of migration policies, border control and third-country cooperations since the establishment of the European Community. The first part of this thesis thus provides a historical and legal framework for the implementation of measures in this field. However, in order to analyse current developments, a third framework is needed, examining the theoretical dimension of European integration. The set of common rules and standards that has evolved since the creation of the European Community as well as the gradual transfer in several policy areas happened in different ways and for different reasons.

The process of European integration has thus been subject to numerous analyses, looking at it from different points of view. Scholars have provided a set of theories explaining to which extend, on which level and with which purpose the EU's policy and governance has evolved over the years. As this thesis attempts to analyse decision making and governance tendencies of the European external migration policies since 2015 with regard to a possible further integration of the latter, theories of integration can be used in order to verify, confirm or reject this hypothesis.

4.1. Integration process in the European Union

The process of integration is an evolving one. It has to be examined over the years. As defined by Chrysochloou (2009, p. 6), "the EU has contributed to the systematisation of regional politics in such diverse fields of activity as solving issues of collective action, satisfying conditions of stability, managing complex interdependencies and striking a balance between collective governance and self-rule". Integration is thus based on a process of experience sharing and common learning, which will finally result in a change of the social as well as the political sphere of the Member States (Chrysochoou, 2009).

What makes European integration an issue difficult to grasp is the unique character of the EU as a *sui generis*, which makes it impossible to compare it to other political

systems. Its unique political system strengthens at one hand the sovereignty and self-rule of its Member State which is often reinforced through its institutions, and implements on the other hand a form of shared sovereignty and shared rule through the integration of policy areas. Taking the time-based evolution adapting to external factors as well as the unique character of the Union into account, it is self-explanatory that theoretical approaches on integration diverge, in particular at different time periods.

Additionally, not all policy areas have evolved similarly. Some saw a more intense integration and transfer of competences than others. Whereas the integration of economic elements in the beginning of the creation of the European Community was relatively swift, other policy areas tend to be more sensitive and integration thus problematic. So does the dragging process in strongly politicised areas, continuous resistance and setbacks put further integration to a halt in several policy fields. The area of migration management is a sensitive issue that often touches the core of national security. Member States have so far been reluctant to confer powers in this matter upon the EU and prefer to cooperate on a transnational level.

Traditional theories of European integration, like intergovernmentalism or neo-functionalism, focus on the institutional elements of EU policy and their evolution. These elements are the integration of Member States or new policy areas as well as the power shifts between the Union, its members and its institutions (Schimmelfennig & Winzen, 2019). Additionally, institutionalism analyses, how the European institutions have influenced policy-making within the Union.

4.2. Neo-functionalism

Neo-Functionalism is the first existing theory that attempted to explain European integration. As a "supranationalist school of thought" (Schimmelfennig & Rittberger, 2006, p. 38), it was the main theory during the first years of the European project. According to its first defender, Ernst B. Haas (2001), the theory is opposed to the realist theory, where each state struggles to maximise its power and to secure its position. Instead, neo-functionalism is based on the assumption that states cooperate in order to

achieve their goals instead of struggle to protect their own power. The objectives of a state result from the interest which emerge from a state's internal divergences and can vary according to them.

For Haas (2001) there is no unique national interest. A state's agenda is rather the result of the clash and bargaining process of several internal actors, influencing domestic politics. Regional integration in this case focuses also on non-state actors. Member States do indeed set terms for initial agreement, but regional bureaucracies determine the direction and extent of the change. Neo-functionalism thus defends the idea of democratic pluralism. It is this pluralism based on values that leads to the decision of the political groups within one state, that power in certain policy areas ought to be transferred on a supranational level rather than contained on their own government's level (Haas, 2001). It comes to a regional integration, where institutions simultaneously gain power as they become legitimate to make policies (Haas, 2001).

4.2.1. The spill-over effect

The so-called spill-over effect is one famous component of the neo-functionalist theory. It assumes that the integration of one or several policy areas on a supranational level will unavoidably make the integration of further, related policy areas necessary. Hence, one can talk of a spill-over effect when a state government needs to respond to a supranational responsibility not only regarding the initially integrated issue but also regarding other of its, normally interdependent, activities (Haas, 2001). Whereas the integration process itself is initiated based on the interests of nations, the following integration is an automatic process caused by the inevitable spill-over effect. The integration process is thus "transformative and self-reinforcing" (Schimmelfennig & Rittberger, 2006, p. 84).

The spill-over theory thus argues that Member States would "end up resolving their conflicts by conceding a wider scope and devolving more authority to the regional organizations they have created" (Schmitter, 2004, p. 46). The institutions will thus automatically gain competences. An economic-social integration on a regional level will eventually „spill-over" to a political integration (Schmitter, 2004). It is argued that the

neo-functional approach and the automatic spill-over were, what Jean Monnet, creator of the European idea, had in mind when he initially suggested the foundation of the European Coal and Steel Community in 1950.

Schimmelfennig & Rittberger (2006) define three forms of spill-over: functional, political and institutional. Functional spill-over occurs when governments decide to integrate additional sectors after one first integration step, in order to improve the gain from the first sector. Political spill-over on the other hand describes how domestic political actors from different states will transfer decision power on a supranational level after a first integration has taken place. The more integrated a policy area is, the more likely it is to handle it on a supranational basis. The third form, the institutional spill-over, can be analysed regarding the institutions of the European Union. Activities undertaken by the Commission, the Parliament or the Court of Justice can promote further integration. Moreover, these institutions can point out common interest between Member States and thus guide them towards cooperation. This work is only possible if the supranational institutions have sufficient information about the Member States' agendas and can propose cooperation before the latter do so on their own, which would be an intergovernmental process.

4.2.2. The supranationalist dimension of neo-functionalism

Neo-functionalists defend a supranationalist approach to European integration, rooted in the pluralist theory (Schimmelfennig & Rittberger, 2006). According to Bickerton (2015), supranationalism describes, how competences are transferred from the national level to a higher, pan-European level. This shift of power means, that the nation states' position in certain matters is weakened. It stands opposed to the intergovernmentalist idea, which protects the sovereignty of the nation state. In the understanding of the supranationalism theory, European institutions themselves, despite of being created and legitimised by the Member States, drive forward automatically the process of integration and could, by doing so, have an impact on the identity of its Member States (Schimmelfennig & Rittberger, 2006). According to this approach, the international

system is transformed through institutionalisation and a change in identity (Schimmelfennig & Rittberger, 2006).

However, the initial neo-functionalist theory and the additional spill-over effect had to be revised after the first years of European integration (Haas, 2001; Moravcsik, 2005). Indeed, as history showed, the spill-over from economic to political policy areas was anything but automatic or natural. On the contrary, there are many state-related policy areas the Member States were and are still reluctant to transfer to a supranational level.

4.3. Intergovernmentalism and liberal intergovernmentalism

The intergovernmentalist theory of European integration surfaced several years after the neo-functionalist theory, when it became clear that a functionalist approach would neither be sufficient nor entirely coherent to explain the European Community's dynamics. Intergovernmentalism aims to understand why states do or do not cooperate with each other (Bickerton, 2015). The theory puts agreements between states in the centre of European cooperation. The final instance for decisions lies with the Heads of State and Government or the representatives of the Member States in the concerned policy fields (in the case of the EU the Council), who prefer taking decisions representing the will of their citizens rather than giving this power to a supranational organisation.

Hoffmann (1982), who analysed the relation between nation states and society and put them in context with developments on the European policy level, found, that despite some form of integration the nation state remained the principal actor in Western Europe. He bases his thesis on the observation that the individual political life in Europe was principally influenced by domestic factors rather than decisions from Brussels, that national administrations throughout the Union remained divergent and that, lastly, views on foreign policies continued to be different amongst Member States. However, Hoffmann (1982) admits the existence of pro-European tendencies in certain policy areas. Thus, his thesis defends a co-existence between the nation state, being the principal power, and the European Community, with limited powers.

4.3.1.Liberal intergovernmentalism

The founder of the liberal intergovernmentalism, Andrew Moravcsik (1993), explains European integration by combining two classic theories of international relations, which is the liberal theory on one side and the intergovernmental theory on the other. The liberal approach can explain, why governments favour or oppose integration on an European level in different policy areas. According to Moravcsik (1993), liberal intergovernmentalism consists of three key elements. Firstly, states behave as national states. Secondly, their national preferences can be explained by liberal theory. Thirdly, they negotiate with each other in an intergovernmental setting. Given these three factors, liberal intergovernmentalism argues that states follow their own interests which they can achieve by forming coalitions with other states. Often based on economic factors, state actors weigh the costs, benefits and alternative options of cooperations. When evaluating these elements, state behaviour is explained as state rationality, driven by the need to meet objectives that have been defined on a domestic level. Additionally, "states have issue-specific preferences" and "issue-specific bargain power" (Schimmelfennig & Rittberger, 2006, p. 82). This means, that different states will act differently in a certain situation and will accordingly have more or less interest in cooperating.

Therefore, a spill-over effect from one policy area to the other is no natural component of the liberal intergovernmentalist approach. Whereas liberal intergovernmentalism acknowledges a process of integration, it is the Member States who are in control of this integration, its pace and its depth (Schimmelfennig & Rittberger, 2006).

The liberal dimension of this theory is the relation between the state and its population. It has to be taken into account as it sets the states' external agenda from the inside, through the power struggle between national political movements (Moravcsik, 1993). These groups will influence the foreign policy agenda of a state. Their inter-state bargaining about different norms, values, priorities and interests result in the state's agenda, which is the base for new bargaining on an interstate level (Moravcsik, 1993).

Once a state has defined its set of goals, it will co-operate with other states that have the same interest in order to meet these goals. The intensity of the national needs and options for alternatives are decisive in the bargaining process (Moravcsik, 1993).

Additionally, liberal intergovernmentalism acknowledges the need for institutions, mainly to observe and implement the compliance to EU rules. They serve as a place for checks and balances. Member States do put issues under the responsibility of institutions where they want to assure and control the compliance of other Member States. Institutions are thus a means for big and powerful but in particular for small and relatively weak states to exercise control (Schimmelfennig & Rittberger, 2006). According to Moravcsik (1998) governments decide based on the importance of the issue subjective to their national interest, whether they would benefit from transferring this area to a supranational institution (as cited in Schimmelfennig & Rittberger, 2006).

However, the fact that states agree on the implementation of common policies in one area, does not automatically mean that the state internal divergences disappear (Moravcsik, 1993). Thus, as soon as common policies are implemented or power is transferred to a supranational level, some groups within the states will likely oppose this development. The pressure coming from inside the state is decisive for a government's flexibility in interstate negotiations. Whereas some areas cause little divergence within the population, others can be highly polarised, such as the sensitive issues of external border controls and national security linked to migration and in particular illegal migration.

Liberal intergovernmentalism has mostly been used to explain European integration in economic and commercial aspects. However, it also explains integration which serves to assure the protection or establishment of "non-socio-economic collective goods" (Moravcsik, 1993, p. 494), and in particular common and foreign security policy. Admits the different factors that influence a state's reasoning is the "liberal national security motivation" (Moravcsik, 1993, p. 484). According to Moravcsik (1993), states consider economic integration as well as the creation of common

institutions as a means to enforce peace between national actors, that have formerly been opposing each other in conflict. Hence, one security-based reason for the closer cooperation of states was the building of a common block against the anti-democratic system of the Soviet Union. However, since the collapse of the Soviet Union in 1991, the EU has been facing different other external security threats. As outlined in chapter two, international crisis and external shocks often were the trigger that pushed forward European integration in the security field. So was the threat of the spreading of the Soviet communist system replaced by the arrivals of big numbers of migrants, whether illegal or not, which demanded a close standing Union.

4.4. Institutionalism

Institutionalism originally derives from analyses of the role of US institutions and their influence on policymaking. However, during recent years, the theory has been used to describe policymaking in the EU, acknowledging the increasing importance and power of the European institutions. Historical institutionalism explains, how national actors are influenced over a longer period of time by the institutions they initially created (Pollack, 2005). Thereby, it puts the evolving influence of institutions on policymaking in the centre of the theoretical analysis (Pollack, 2005). This focus on developments over time is well-fitted to understand the process of European integration, which shows a similar pattern, also evolving over time, especially with regard to the introduction of the co-decision procedure (Pollack, 2005).

The historical, rationalist institutionalism bases developments within institutions on the rational choices of the actors, aligning their view in this matter with intergovernmentalists. Two other forms of institutionalism, the sociological and the constructivist institutionalism, take norms and values into consideration. For these approaches, informal elements like norms, traditions, and customs are as much a part of institutions as formally defined official rules. Taking into consideration this informal setting, institutions will automatically transfer elements of their unofficial code of conduct on their members, as well as participate in shaping their identity (Pollack,

2005). Consequently, "EU institutions matter, shaping both the policy process and policy outcomes in predictable ways, and indeed shaping the long-term process of European integration" (Pollack, 2005, p. 364).

Establishing a link between economic and political institutions, Pierson (2000) argues that, once actors are part of an institution, they tend to stay part of it. This phenomenon results mostly from the fact that the creation of new institutions is linked to adaptive expectations, to an effort of coordination and involve important learning effects. Additionally, the integration of an organisation creates a "positive feedback" resulting from the inner-institutional cooperations. For Pierson (2000), the difference between established policies and established institutions lies in their longevity. Whereas with the change of the powerful parties the policies tendencies are susceptible to change, institutions tend to remain the same even for a longer period of time. Additionally, "established institutions generate powerful inducements that reinforce their own stability and further development" (Pierson, 2000, p. 255).

Path-dependency is a strong factor determining this historic institutional approach. According to Margaret Levi (1997, p. 28), path dependence describes that, "once a country or region has started down a track, the costs of reversal are very high. There will be other choice points, but the entrenchments of certain institutional arrangements obstruct an easy reversal of the initial choice". Depending on decisions that have been taken on an early stage of institutional integration, further steps will be undertaken based on the first decisions, as they seem to be more likely to be successful and add value. The institutional and policy choices are thus "inherited from the past" (Pollack, 2005, p. 363). Consequently, once a Member States has agreed to join an institution like the EU and to transfer some of its competences and policies upon the supranational institutions, a disintegration is unlikely.

Historical institutionalism argues, that even though Member States are at the origin of European institutions and policies, they have lost parts of their initial power to them over time (Pierson, 1996). According to Pierson (1996), this is due to several factors:

National governments' have a tendency to give up competences on the long term if this would be favourable for short-term electoral results. They are unable to close formerly created gaps between their and the institutions' competences, even though it would be in their interest. Although national preferences and interests can change when new governments are in place following elections, they have little impact on the formerly agreed *acquis communautaire*, inherited from their predecessors. Lastly, over time EU institutions gain increasingly legitimacy out of their support from below and are thus not likely to give up power.

4.5. European integration in the field of migration and asylum policies

As lined out in chapter three, migration and asylum policies have undergone a gradual process of integration. Starting from unique intergovernmental cooperation between states, several policy elements linked to this field have been integrated and competences have been transferred to a supranational level.

The former third pillar, JHA, for instance, has seen a strong tendency towards further integration. From a functional point of view, this can be explained by several factors. Firstly, the free movement of people within the border of the European Union affected the policies determining the entry requirements. Therefore, an EU-wide policy network for entry, residence and work requirements became necessary. The integration of internal policies thus had a direct spill-over effect on the field of migration and asylum policies. The Eastern enlargement and its influence on the legal provisions in the Treaty of Amsterdam had a similar effect on the integration of JHA, necessitating stronger cooperation in the field of internal security and border control. However, as Member States are reluctant to give up sovereignty in policy fields directly linked to their internal security, the ASFJ remains a shared competence in the Treaty of Lisbon. The fact that EU and Member States cooperate in this policy field defends the neo-functionalism but also the intergovernmental theory. The securitisation does thus take place at a European level, but also at the regional level speaking in terms of Member States (Triandafyllidou & Ricard-Guay, 2019). However, as Gedden and Scholten

(2016, p.145) state, „the EU and its institutions play important roles in immigration policy, it is also the case that the EU is a creature of its member states and reflects their interests".

Nevertheless, it can be argued that the EU has gradually gained power in several policy areas, especially in the areas of border control, asylum and visa policy where the EU institutions have the competence to initiate and legislate common policies (Lavenex, 2015). The importance of the European institutions became especially clear when the co-decision process was introduced, involving Commission, Council and Parliament in the elaboration of legislation. The application of this procedure in the policy field of JHA thus represents the perfect example for the role of institutions in the integration process. By compromising in the legislative procedure, they form new policies that are automatically transferred to a national level.

Besides the gain of power for the European institutions, additional agencies like Frontex or Europol have been created, which both contribute to the secularisation of JHA. Although they had no legal power in 2015, their creation represents an effort to join European forces in order to reach a common goal and can lead to the creation of further institutions. As this thesis will attempt to prove in the next chapter, it is particularly the development of these agencies that has been an important element for the integration of migration policies during the last five years.

Although Member States are aware of the necessity of action through a transfer of competences, some of them are hesitant and opposed to ceding powers to EU institutions (Geddes and Scholten, 2016). This becomes particularly clear in the field of the former second pillar, the CFSP. As chapter three explained, CFSP was and remains largely intergovernmental. Member States need to decide with unanimity or qualified majority voting. The latter might ease the hard bargaining for policy agreements, nevertheless, the policy field of defence and external policies remains with the Member States. One exception here is the conclusion of international agreements, which is, as lined out in the Treaty of Lisbon, an exclusive EU competence. As Caviedes (2016)

finds, the integration of asylum and migration policies remains difficult as they have not been transferred right away to the first, supranational pillar in the Treaty of Amsterdam. Hence, changes in these policy fields inevitably necessity continuous renegotiation and bargaining.

Another reason explaining why the integration of migration policies has been lagging behind is the divergence of the different policies in the Member States. Whereas some policy fields have been newly established, like the monetary union, the European Member States already had their own migration policies (Caviedes, 2016). The convergence and competence shift on a supranational level thus proved more problematic than the creation of a new EU-wide policy field, but was not impossible.

5. Recent developments in the European external migration policies and integrationist trends

"People only accept change when they are faced with necessity, and only recognize necessity when a crisis is upon them." Jean Monnet

It is proven that international crises have played an important role in the integration of policy areas, where Member States used to be reluctant to give up decision competences to EU institutions (Carrera, Juan Santos Vara and Tineke Strik, 2019). External or internal shocks usually call for urgent and exceptional actions (Carrera, Juan Santos Vara, and Tineke Strik, 2019), which can happen on the level of Member States acting individually but also on EU level. However, besides ad-hoc solutions, they can trigger a more broad, unified and integrated response to future challenges. Following this hypothesis, the heavy population movements in the years around 2015, that have been labeled as the migration crisis, potentially had a similar impact on EU policies linked to the field of migration and asylum.

The year 2015 has indeed marked an exceptional tense moment for European politics. The radical increase in people arriving at the EU's borders put migration and asylum on the top of the EU's agenda. The EU's work was hence heavily concentrated on finding ad-hoc and long term responses to the migration issue, not only in 2015 but also in the following years. The main actors in the search for effective solutions were the Commission with the High Representative/Vice President (HRVP) and the Council of the EU, in particular the JHA Council constellation, the Foreign Affairs Council configuration and the Political and Security Committee, who met regularly to discuss further steps in the field and implement new measures.

Based on the previous chapters, the following chapter will analyse developments that have taken place in the external dimension of European migration policies since the occurrence of the migration crisis. By analysing isolated acts, undertaken by the above-mentioned institutions, it will determine, whether some form of integration has taken place. As there has been no treaty amendment since 2015, a direct transfer of competences in the related fields to a pan-European level can be excluded. However,

the examination of legal acts, the establishment of agencies or the simple acting of institutions on behalf of the Union will help to determine, whether the migration crisis and the external shock have led to a higher convergence and integration within the Union. Thus, the following paragraphs will examine whether EU decisions and actions have primarily resulted from purely intergovernmental settings or whether the EU institutions have behaved on a supranational level, defending the neo-functionalist approach.

5.1. European Agenda on Migration

Following several incidents in the Mediterranean, the Commission presented the European Agenda on Migration in May 2015. The agenda acknowledged how recent developments put the EU Member States' asylum systems under unpredicted pressure and recognised the need for change, especially with regard to the expected numbers of arrivals throughout the upcoming year. Hence, the agenda evoked the limitations of the EU migration policy, the need for all EU actors to work together in order to manage migration and to enhance coherence between different policy sectors (European Agenda on Migration, 2015):

“This calls for a set of core measures and a consistent and clear common policy. We need to restore confidence in our ability to bring together European and national efforts to address migration, to meet our international and ethical obligations and to work together in an effective way, in accordance with the principles of solidarity and shared responsibility. No Member State can effectively address migration alone. It is clear that we need a new, more European approach. This requires using all policies and tools at our disposal – combining internal and external policies to best effect. All actors: Member States, EU institutions, International Organisations, civil society, local authorities and third countries need to work together to make a common European migration policy a reality.” (European Agenda on Migration, 2015, p.2)

Alongside action plans on reception and resettlement of migrants, the agenda evoked sea rescues, the fight against trafficking and cooperation with non-EU-states as necessary actions for the management of the unusual situation.

The following analysis will take the Commission's European Agenda on Migration as a starting point in order to assess, whether the proposed and operated actions fostered integration of the EU's external migration policies. The agenda addressed a number of measurements that concern the internal as well as the external dimension of migration and asylum policies. Based on the external policy dimension defined in chapter two, the analysis focuses on measures and actions directed on the EU's external borders, its direct neighbours and countries of origin.

5.2. Actions alongside the migratory routes

Already before but particularly during 2015 and the years after, the migratory flows arriving to the EU were not concentrated on one single location. Refugees and migrants as well as networks specialised in the movement of people had found several routes to reach their final destination: Western Europe. The EU's efforts to control these flows outside its borders had thus to be destined to different geographical locations, involving a number of target countries and potential partners. Three of these migration routes necessitating special attention and combined effort were identified: the Eastern Mediterranean Route, the Central Mediterranean Route and the Western Balkans Route.

The Central Mediterranean Route involves not only the waters between the southern European states Italy and Spain and the African continent. An additional effort needed to be directed to the North African countries, serving as a departing point for the dangerous journey at sea, and mainly on Libya, which served as a major transition country on the migrants' way to Europe. Further measures were implemented in Africa with the goal to efficiently address the underlying causes of migration movements.

The Eastern Mediterranean Route describes the sea crossing between the European country Greece and Turkey. Migration management on this passage needed response in

the direct neighbourhood of the EU, by the deployment of operations on sea and enforced cooperation with Turkey. Additionally to the sea path, a passage over land from Turkey in the EU evolved. The so-called Western Balkans Route refers to the pathway between Turkey and Western Europe over Greece, Albania, Bulgaria, the former Yugoslav Republic of Macedonia, Serbia, Romania, Croatia, Slovenia and Hungary.

5.3. Management of external borders and coasts

The management of land and sea borders, relevant for all migratory routes, represents the closest dimension of the European external migration policies. In this field, the European Agenda on Migration foresaw the following actions:

„The scaling up of action in the Mediterranean exposes the reality of the management of external borders increasingly being a shared responsibility. As well as a European System of Border Guards, this would cover a new approach to coastguard functions in the EU, looking at initiatives such as asset sharing, joint exercises and dual use of resources as well as the possibility of moving towards a European Coastguard.” (European Commission, 2015b, p. 17)

In order to assure the security at the Union's external borders, the agenda (European Commission, 2015b) envisaged stronger cooperation between the essential EU agencies and the national coastguards, stressing the fact that it would become an increasingly shared competence, meaning with increasing influence from the supranational level.

The most relevant agency in the domain of border and coast security is Frontex. The agency was founded in 2004 with the initial missions to rapidly intervene on the Union's external borders and to set up and coordinate joint cooperations. During the last years the agency coordinated several Joint Operations in the waters of the Central Mediterranean region "to control irregular migration flows towards the territory of the

Member State of the EU" ("Joint Operation Triton 2014," 2017).² Furthermore, the agency is charged with the monitoring of migration movements and the analysis of risks and vulnerabilities. Hence, Frontex has a supporting function, assisting the Member States with return activities and in the combat of crime and terrorism at the borders.

To prevent shipwreck disasters in the Mediterranean, the European Agenda on Migration (European Commission, 2015b) announced to triple Frontex' financial capabilities. The additional funding was meant to expand the geographic scope of Frontex' operations as well as its capabilities to coordinate border security and to support Member States under pressure. Additionally, the agenda envisaged the creation of an integrated European Coastguard. Furthermore, whereas the agency initially was only coordinating return mission, it should in the future be capable of initiating them. The Parliament has already been calling for a similar change and the strengthening of Frontex' capacities in view of dealing with the rising number of migration flows already prior to 2015. Also the Council has welcomed a "gradual establishment of an integrated management system for external borders" (European Council, 2015a, p. 2).

Consequently, as suggested in the agenda, the European Border and Coast Guard Agency (EBCGA) was established in 2016 (Regulation 2016/1625, 2016), on the foundation of Frontex. The new agency's mission was to continue to cooperate closely with and support Member States in the field of external border security and to implement and, unlike before, initiate returns. Moreover, with the amendment of its mandate, another of the agency's missions became the support and training of the Libyan Coast Guard. Additionally, the amendment of the Frontex regulation foresees closer cooperation with other EU agencies involved in maritime operations, such as the

² Operation Triton had been in place since 2014 and was replaced by operation Themis in 2018, controlling inflows from Algeria, Tunisia, Libya, Egypt, Turkey and Albania to Italy. Operation Poseidon has been in place since 2006 and manages the sea area between Turkey and Greece, whereas Operations Minerva and Indalo operate in the international waters between Spain and Monaco.

European Maritime Safety Agency and the European Fisheries Control Agency, but also but also EASO³, Europol⁴ or Eurojust⁵.

Simultaneously, together with Frontex, another EU agency's mandate was revised in September 2016, when the Parliament and the Council agreed to amend the European Maritime Safety Agency (amending Regulation (EC) No 1406/2002). With the mission to monitor activity on sea and analyse information, the European Maritime Safety Agency should support the EBCGA in its mission. However, this new agency should not have any powers on its own as its implementation did "not affect the division of competence between the Union and the Member States or the obligations of Member States under international conventions" (Regulation 2016/1625, 2016, p. 77).

In November 2019, Frontex was again to gain a new, stronger mandate. After a proposal by the Commission in 2018 to strengthen the EBCGA, it acquired its own executive powers to protect the EU's external borders, carry out returns and additionally cooperate with third countries. The new mandate is meant to be fully operational by 2021. It also includes the increase of manpower within Frontex, whose funding should be included in the multi-annual framework for 2021 - 2027 (Regulation 2019/1896, 2019).

The amendments of the agencies' mandates took place in order to push the Union's external border management closer to an European integrated border management.

"The objective of Union policy in the field of external border management is to develop and implement European integrated border management at national and Union level, which is a necessary corollary to the free movement of persons

³ European Asylum Support Office: centre of expertise on asylum to support Member States and advice them on their European and international obligations

⁴ European Police Office: supports Member States in combating terrorism, cybercrime and other serious and organised forms of crime, and cooperates with non-EU partner states and international organisations

⁵ European Union Agency for Criminal Justice Cooperation: agency that supports and enforces the coordination of investigation and prosecution in the Member States as well as the coordination between them in juridical matters

within the Union and is a fundamental component of an area of freedom, security and justice." (Regulation 2016/1624, 2016, p.1)

Undoubtedly, the high income of refugee seekers and immigrants in 2015 had created a clear need for a better-coordinated management of the external borders. The European integrated border management would thus not only respond to current challenges but help to quickly respond or even prevent high, sudden pressure on the borders of this kind. Furthermore, the integrated management of entries should contribute to the Union's internal security. Regulation (EU) 2016/1624 thus clearly calls for better cooperation between the EU bodies but also between the actors and agencies involved in the maritime environment, in order to evolve towards efficient security strategies concerning maritime actions.

As Frontex was founded in 2004, the need for intergovernmental cooperation and thus the bundling of interests in order to protect the Union's internal security has existed before 2015. However, the further strengthening of the mandate can be defended by the neo-functional as well as the institutionalist theory. In accordance with what Haas defined for the neo-functionalist approach to integration, Member States cooperate to achieve a common goal, in this case, the management of their common, external borders and the protection of the ASFJ. Hereby, they do not attempt to maximise their own profit, but to increase their common gain. Furthermore, as far as the spill-over effect is concerned, the convergence of internal migration and asylum policies can be interpreted as the trigger of a functional spill-over, necessitating an integrated external approach, as well as of a political spill-over, underlining the coherence and efficient coordination a common border management would provide. However, the most suiting neo-functional approach in this context could be the institutional spill-over. By proposing the strengthening of Frontex' mandate, the Commission pointed out an issue, where stronger cooperation and integration could meet the interest of all Member States but especially those on the outer borders of the Union. Hence, Frontex as well as the European Maritime Safety Agency gained new mandates, in order to serve this interest.

However, the integration of border management is not entirely supranational. Taking an intergovernmental approach explaining Frontex' evolution explains, why agenda-setting and governance in the common management of external borders remains mainly with the Member States and Frontex as a supporting organ. Each country has their own coast guard and border authorities. Nevertheless, the security dimension of a common effort to protect borders has been urgent enough in the intergovernmental bargaining process to agree on a joint effort. As mentioned in Chapter four, not all Member States have the same interest in political issues. Nevertheless, in the case of the EBCGA frontline Member States as well as those without external borders agreed on the necessity to act swiftly and unified by strengthening the coast guard.

From an institutional point of view, the strengthening of Frontex' mandate can be interpreted as a steady step in the direction of integration. Based on Piersons (2000) assumption that commonly established institutions have a higher longevity than simple policy changes, the reinforcement of the EBCGA is likely to stay steady if not continue, and to gain even more powers. If one can refer to Frontex as a powerful institution, that wisely and efficiently uses its power, the agency's stability and own development will be automatically promoted.

Although an entire integration has not taken place, Frontex has gained enormous autonomy in its operational missions. This became especially obvious when it was accorded to power to initiate returns on its own. Another factor contributing to the agency's independence is the additional funding and the manpower Frontex received since 2015.

5.3.1.EUNAVFOR Med / Operation Sophia

The operation EUNAVFOR Med is one direct response to the migratory pressure, taken in an intergovernmental setting. In an extraordinary European Council in April 2015, the Political and Security Committee agreed to the set up of a naval force and that would carry out CFSP operations in the Mediterranean Sea from May 2015 onwards (Council Decision 2015/778, 2015).

The main mission of this operation is to combat criminal activities linked to immigration, like smuggling and trafficking, by identifying, capturing and disposing of suspicious vessels (Council Decision 2015/778, 2015). EUNAVFOR Med has its base in Rome and undertakes operations in the southern and central regions of the Mediterranean.

The second phase of the operation was agreed upon by the Council in September 2015, while the name of the operation was changed to Sophia (Council of the EU, 2015). As of January 2016, Sophia got new powers at was hence implemented to board, search and seize suspect vessels on sea, who could be used for human trafficking in international waters (Council Decision/CFSP 2016/118, 2016). A further resolution strengthening Sophia's mandate was adopted unanimously in June 2016, enabling the operation to carry out inspections of suspected vessels in front of the Libyan coast (Council Decision/CFSP 2016/993, 2016). Furthermore, the operation participated in the training of the Libyan Coast Guard. Sophia's mandate has been extended several times since 2015. It eventually ended on March 31, 2020 and was replaced by Operation IRINI, who has a similar mandate.

Operation Sophia has been one prime example of an intergovernmental policy decision, according to the competences that were allocated accordingly in the Treaty of Lisbon. By swift action in the Council, it was set up in order to directly respond to the migratory pressure in 2015. As a CFSP operation focusing on criminal activities, it was furthermore directly linked to the sensitive core of state security. As detailed in Council Decision 2015/778 (2015, para. 10), "the Political and Security Committee (PSC) should exercise, under the responsibility of the Council and of the HRVP, political control over the Union crisis management operation, provide it with strategic direction". Additionally, funding will not be provided by the European budget or the multi-annual framework but has to be taken care of by the Member States (Council Decision 2015/778, 2015).

5.3.2. Technical evolution and unification

Besides the mandate changes of maritime and border agencies, the migration crisis pushed forward the development of integrated information systems, controlling the entry into and exit from the Union. Hence, the establishment of an Entry/Exit System (EES) was adopted by the Parliament and the Council in November 2017. The system's mission was to "register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States" (Regulation 2017/2226, 2016, p1).

In the same context, another proposal for the revision of the Schengen Information System (SIS) was put forward by the Commission in December 2016. Like the Entry/Exit System, it aimed on improving the management of the EU's external borders and the migration flows (European Commission, 2017a). The SIS has been in place since 2001. However, it has been revised and adapted several times. A new regulation has indeed been approved by Council and Parliament in November 2018 and will be fully implemented in 2021. The new regulation enables an upgraded, enlarged exchange of information as well as better cooperation with the European agencies ("Schengen Information System", n.d.).

The creation and revision of these two systems can be interpreted as a convergence of the technical aspect of border management. Although no transfer of power takes place, the migration crisis has revealed the need for better coordination of European action in the management of incoming people, by using technical support. Both systems enable unified access to information for all Member States. Although no transfer of competences takes place, there is a general tendency to integrate and converge all aspects of external border management.

Concluding, action at the Union's borders have not only gained increasing attention during and after 2015, but have also seen a number of developments, that can be described as partly integrationist and mainly converging. As the neo-functional theory states, it is more likely for a policy area to be handled on a supranational level, the more

integrated policies in this area are. Consequently, the evolution towards an European Integrated Border Management is likely to result in the further integration of this policy field.

5.4. Western Balkans Route

"The development of high standards inside the EU will also make it easier for Europe to support third countries developing their own solutions to better manage their borders." (European Commission, 2015b, p.11)

A meeting between the Heads of State and Government of the countries lying on the Western Balkan Route was initiated in October 2015 by the Commission. Representatives of Albania, Austria, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Germany, Greece, Hungary, Romania, Serbia and Slovenia agreed on a 17-point plan of action fostering better cooperation between the countries (European Commission, 2015c). Whereas the action plan included the exchange of information and cooperation in the field of border management, between the countries and the EU agencies, it remained a punctual interstate agreement on operational actions without resulting in any new legislation.

However, further progress was made in the deepening of the European relations with non-member countries like Albania, Montenegro and Serbia. In order to allow a more efficient migration management on the Western Balkan Route, agreements on border management have been signed in 2018 and 2019 with all three third-countries. They are based on the fact that Frontex' new mandate foresees the cooperation with Member States but also with third countries (Regulation 2016/1624).

The agreements, foreseeing the deployment of staff of the EBCGA in third countries, were negotiated by the Commission after authorisation from the Council and signed by the Commissioner for Migration, Home Affairs and Citizenship and the respective Ministers of Internal Affairs of the Republic of Albania, the Republic of Serbia and the (European Commission, 2018c ; 2018d; Status Agreement between the European Union

and Montenegro on actions carried out by the European Border and Coast Guard Agency in Montenegro, 2020). Further similar agreements with North Macedonia and Bosnia and Herzegovina are currently pending finalisation (European Council, 2020b).

Although strategic guidelines from the Council as well as consent from the Parliament are required, the Commission is in charge of concluding this type of status agreements with third countries. As already lined out, this has been a part of the exclusive Union competences since the Treaty of Amsterdam. The current basis for this status is Article 3a.2 of the Treaty of Lisbon (2007, p.12), providing that "the Union shall have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union." Hence, status agreements with third countries like Albania, Montenegro and Serbia are equally concerned.

5.5. EU Turkey Agreement

Turkey is a key country for the EU's external migration management. The country is essential for migrants and refugees in order to reach Western Europe. Due to its geographical position, Turkey is of high importance for land and sea journeys, and has thus attracted the Union's interest both on its land border with Bulgaria and from the seaside through its closeness to Greece. The cooperation with Turkey has thus become a forceful tool to manage migration flows on the Eastern Mediterranean Route and the Western Balkan Route.

In 2014, the EU set up a readmission agreement with Turkey, enabling an efficient return of Turkish nationals residing without authorisation on the Union's territory to their home country. Furthermore, Turkey should readmit stateless persons and third-country citizens back to its territory, who do not fulfil the entry and residence requirements of the Union. The EU agreed to do the same (Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorisation, 2014). This initial agreement was signed by the Commission. In order to assure that Turkey would comply with the newly established cooperation, the Union agreed to offer technical support in the form of financial transfers to Turkey.

Consequently, the country had received € 79 million between the beginning of 2014 and the release of the Agenda on Migration in May 2015, in order to "contribute to its efforts to deal with the pressure on its refugee management system and to help prevent hazardous journeys in the Eastern Mediterranean" (European Commission, 2015b, p.8).

However, the readmission agreement between the EU and Turkey laid only the basis for further, strengthened cooperation in the field of migration management. In November 2015, the EU Heads of State or Government activated the Joint Action Plan, directed to support Syrian refugees in Turkey. They agreed to "increase their cooperation with Turkey and step up their political and financial engagement substantially" (European Commission, 2016b), in order to actively manage the refugee flows outside the European border. The Joint Action Plan's main focus lay on supporting the Turkish migration management by providing financial assistance. The financial means were directed to support the strengthening of the Turkish Coast Guard and to help the country to provide humanitarian aid to the high numbers of Syrian refugees that were staying on Turkish territory by that time. Furthermore, an increased exchange of information between the EU and its neighbour should be enabled by the set up of a Frontex liaison officer in Turkey (European Commission, 2015d).

Building on the EU-Turkey Joint Action Plan, the European Council and the Turkish government agreed on a further deepening of their relations in the EU-Turkey statement from March, 2016. Additionally to reconfirming their mutual commitment to their agreement and to implementing a structural resettlement scheme between the two partners, the Heads of State and Government and Turkey discussed stronger cooperation in the fight of human trafficking by enforcing NATO operations. Moreover, Turkey recommitted to preventing the opening of new routes over land or sea between the Turkish and the European territory, that could enable illegal migrants to cross the border. Turkey also accepted the swift return of all those persons who were crossing the Turkish border to get into Greece or who were intercepted in Turkish waters and not in urgent need of international protection (European Council, 2016).

The European-Turkish cooperation that has been intensified in view of migratory pressure evolved on a supranational as well as on an intergovernmental level. On a supranational level, there was the initial readmission agreement, set up in 2014 between the Republic of Turkey and the European Union. Furthermore, the Commission launched the Facility for Refugees in Turkey, consisting of € 3 billion in 2016-17. However, this Fund was only partly financed EU budget. Additional resources came from the Member States, who also had to give their consent on the funding (European Commission, 2016c). In the further development of the European migration management in Turkey, the Commission was restricted to resume its position as the protector of law enforcement. Indeed, it was to assure that Turkey as well as the European Member States would comply with the rule of non-refoulement (European Council, 2016).

Besides from the conclusion of the readmission agreement and partly the funding, the European-Turkish cooperation on the management of the migration crisis with regard to numerous Syrian refugees arriving in Europe over the Western Balkans Route was a product of intergovernmental negotiations and bargaining. The key agreement for the effective implementation of the European ambition on external migration management resulted from the 2015 Joint Action Plan. The plan was negotiated and implemented in an intergovernmental setting, between the Union's then 28 Heads of State and Government and the Turkish president. Based on Hoffmann's thesis, Member States have divergent views in foreign policies, which can be applied to the Turkey statement, which necessitated an agreement between the states rather than between the Commission and Turkey.

The intergovernmental nature of the collaboration becomes particularly evident taking into consideration the scope of the whole agreement. Turkey did not only receive financial assistance for its effort in keeping migration flows away from the Union's external borders. Additionally to the set up of a facilitator package, the EU pushed forward its effort in visa liberalisation for Turkish citizens in all EU Member States. Another incentive to assure the Turkish cooperation was the process of EU accession

that brought Turkey one step closer to EU membership. These particularities, going far beyond the initial key issue of migration management, are a prime example of the typical bargaining process between states.

Whereas the EU-Turkey statement was a cooperation necessitating compromise on both sides, it also needed compromising within the European partners. The European Member States had and have highly diverging views on the future of the European-Turkish relations. Whereas some Member States were and are still in favour of the Turkish EU accession (Mediterranean countries, Visegrád Group) others would prefer cooperation without a full membership (Germany, Austria). Facing the scope and the urge of the 2015 migration crisis, those opposed to the Turkish EU-membership had to put aside their interests in order to reach an agreement serving the European interest of securing its territory.

5.6. Migration policies beyond the European border region

"The EU must continue engaging beyond its borders and strengthen cooperation with its global partners, address root causes, and promote modalities of legal migration that foster circular growth and development in the countries of origin and destination." (European Commission, 2015b, p.7)

Besides within the direct geographical environment, the European institutions have together defined key actions in countries further away on the migratory routes, including countries of origin. These operations can be located at the outer edge of the external dimension of migration policies. Actions in these countries or other countries in their neighbourhood do not directly affect border management and are a less present danger for the European AFSJ. Geographically, the European cooperation with countries of transit is mainly geographically located on the Central Mediterranean Route, involving mostly North and West Africa.

Before taking a closer look on developments in the third dimension of EU migration policies, the question of leverage has to be treated. The EU's influence in its direct

neighbourhood differs from its influence on remote countries. Whereas countries like Albania, Montenegro, Serbia and Turkey are highly important to the EU in terms of migration management and for security reasons, the EU has an enormous value for these countries in return. Besides the financial aspect of these kinds of cooperations, the EU has long been involved in these regions through its neighbourhood policy. The neighbourhood policy has without regard to the migration crisis, contributed to a strong implementation of western, European values in eastern countries. Additionally, most of the countries mentioned above have ambitions to become part of the EU, creating strong leverage for the Union.

Countries like Niger or Libya, where many European efforts have been concentrated during the last five years, do not take that kind of interest in cooperation with the EU. Although they benefit from financial support in form of special funds that have been set up in the eye of the migration crisis, they do not necessarily wish to intensify their relations with the Union or even identify with its values. However, they remain a priority on the Union's agenda on external migration management. Therefore, the EU's leverage in the third dimension of migration management is limited, which will become obvious in the next paragraphs.

5.7. Partnerships with third countries

The European Agenda on Migration clearly underlines the need for stronger cooperation with countries of origin and transit. Therefore, the Commission proposed a second package of actions based on the agenda, dedicated to the external dimension of the refugee crisis with the intention of a new focus on the reinforcement of diplomatic actions to address the conflicts in Syria, Iraq, and Libya in September 2015. Actions that would tackle the root causes of immigration and strengthen the regions facing heavy armed conflict and humanitarian crises should finally be bundled in a Partnership Framework, operating under the European Agenda on Migration.

The Partnership Framework was eventually presented in 2016 by the Commission and the HRVP, concretising calls for better cooperation. The communications on the

establishment of a Partnership Framework (European Commission, 2016d, p.2), states that in order to be "standing ready to provide greater support to those partner countries which make the greatest efforts, but without shying away from negative incentives, EU assistance and policies should be tailored to produce concrete results in stemming the flow of irregular migrants".

Hence, the framework (European Commission, 2016e) should be established between the EU and countries of origin and transit. Its main objective was to support and strengthen countries with high numbers of displaced persons and to enable them to build up safe, long-lasting reception capacities as well as perspectives. By concentrating its efforts directly at the crisis regions, the Framework aims at giving displaced persons an incentive to stay in their region, with the perspective of an eventual return to their homes, of origin and at preventing them from making the hazardous journey to Europe. Therefore, dialogues should be stepped up with the countries closer to the crisis regions.

In accordance with the framework, five key countries were identified: Mali, Nigeria, Niger, Senegal, and Ethiopia. Dialogue and cooperation with each of these countries is different, depending on their situation, and consist of different policy elements which mostly are: development aid, trade, mobility, energy, security and digital policy. An important element in this context is the individual financial assistance that is accorded to all partner countries, depending on whether they need to manage a high number of refugees or train their security forces. The Partnership Framework is implemented by the Commission in joint effort with the Member States. Consequently, visits to the key regions were undertaken by Commission representatives as well as ministers of the Member States (European Commission, 2016e). Furthermore, EU funding for CFSP missions in that region was increased, the Trust Fund for Africa implemented in all five priority countries and readmission negotiations taken up with, for example, Nigeria (European Commission, 2016e). Additionally, Migration Liaison Officers (see below) were to be deployed in all five countries (European Commission, 2016e).

Admits the envisaged target countries in the initially proposed Partnership Framework, Niger showed the most promising evolution. According to the Commission's Fourth Progress Report on the Partnership Framework (2017b), a Joint Investigation Team has been set up in the country, supported by the EU Trust Fund for Africa (see below). Assisted Voluntary Returns from Niger have also been increased, supported by EU funding. Additionally, cooperation with Frontex and Europol in the region as well as the exchange of essential information has been set up.

5.8. European Migration Liaison Officers

Better support and cooperation with third countries should be attained by increasing the presence of European officers within the target regions. A network of immigration liaison officers was first established in 2014.

However, the urgency of the situation strengthened the need to increase the number of officers. Thus, the European Agenda on Migration (2015) does line out stronger migration diplomacy through the implementation of a European Migration Liaison Officers in the EU Delegations in key countries. Especially in countries like Turkey, this is considered a crucial element. The network has thus been expanded and existing gaps were filled in a new regulation in 2019. The new role of the liaison officers foresees a stronger focus on the facilitation of readmission and return processes and the fight against human trafficking. A steering board at EU level should additionally be established to better coordinate the officers' efforts in the single countries (European Council, 2019b). The European Migration Liaison Officers are deployed by the Commission and are considered a crucial element in the cooperation and communication with key countries (European Commission, 2018a).

5.9. Return and Readmission

An important element of migration diplomacy and of the new role of the Migration Liaison Officers in the 2015 Agenda and in the Partnership Framework are readmission and return agreements. Agreements with countries of transit and origin should assure

that immigrants without permission to stay within the Union could, in compliance with the principle of non-refoulement, safely return to a place, where their lives and human rights would not be put at danger (European Commission, 2016d).

In order to provide immigrants with the possibility for a safe return in their country of origin, the EU supports the latter to meet their international obligations and to assure safe reintegration. In that matter, readmission agreements have to be revised and enforced, especially with strongly impacted countries of origin and transit, and ongoing negotiation swiftly concluded in order to achieve better results on the EU's admission politics. The Commission and the HRVP are charged with the conclusion of such agreements.

The role of the HRVP, supported by the EEAS was to carry out "high-level political dialogues on readmission" (European Commission, 2015e, p.10), with newly defined key countries for the management of migration. As possible new partners for readmission were initially mentioned Morocco, Algeria, Egypt, Nigeria, Senegal, Guinea, Mali, the Democratic Republic of the Congo, Ivory Coast, Ethiopia, the Gambia, Afghanistan, Bangladesh, Pakistan and Sri Lanka (European Commission, 2015e).

Dialogues at ministerial level were held with the authorities of several countries. Most Dialogues were carried out by the HRVP and the Commission, and in some cases by Member States on behalf of the EU as a whole. German, French and Dutch ministers have visited third countries in this context (European Commission. 2016e, annex 2).

Under that circumstances, and as the implementation of return policies often lack operational cooperation, Frontex' mandate was reinforced and its capacities in the area of return should be legally revised (European Commission, 2015b). However, although the Commission (European Commission, 2015e) was promoting closer cooperation and the establishment of an integrated system between the different EU agencies and EU networks charged with the return and readmission of migrants, that are European Integrated Approach on Return towards Third Countries (EURINT), the ERIN and the

European Return Liaison Officers network (EURLO), this did not automatically transfer powers to any other of these agencies. They remained with their usual mandate (European Commission, 2015e).

5.10.Libya and Syria

Many of the EU's diplomatic efforts were directed at the countries Libya and Syria, with the ambition to stop migration flows towards Europe.

„As a major global political player and leading humanitarian and development donor, the European Union is at the forefront of international efforts aimed at addressing conflicts and instability, as well as supporting affected populations. The EU provided substantial support to countries of origin and transit over the last years.” (European Commission, 2019)

Libya as a key partner for the European intervention on the Central Mediterranean Route, has already been defined as such in the 2015 Agenda. As migrant flows transit through the country to reach Western Europe, Libya has furthermore become a hotspot for human trafficking networks during the last years.

In 2017, the European Council decided to tackle trafficking on this route by intensifying cooperation with Libya. This was lined out in November 2017 in the Malta Declaration, issued under the Maltese Presidency (European Council, 2018). In the Malta Declaration, the EU leaders amongst other point agree to: support Libya's national coast guard, remove pressure from Libya's coastal area and helps develop the local communities in this area, help to provide suited reception capacities for migrants in Libya, launch communication campaigns, support activities for voluntary returns, tackle smuggling through cooperation with “relevant international partners, engaged Member States, CSDP missions and operations, Europol and the European Border and Coast Guard” (European Council, 2018).

EU intervention in the regions thus involves the dimension of migratory diplomacy in the support of the Libyan government in its migration management but also a security

dimension in the fight against smuggling. To respond to the refugee challenge, the EU funds programs that enable a direct response and cover basic services such as health, education, sanitation, and water. Furthermore, it cooperates with international organisations like the International Organisation for Migration or the United Nations Refugee Agency UNHCR (European Commission, 2018b).

Furthermore, a joint migration task force was established together with the African Union and the United Nations in November 2017. The EU-AU-UN task force was agreed upon during the African Union/European Union Summit with Commission president Jean-Claude Juncker and High Representative Frederica Mogherini as representatives of the EU side of the deal (Statement European Council, 2020).

Additionally, the Libyan Coast Guard has been receiving training since 2016. The decision to increase training and the delivery of equipment for the Coast Guard was made by the Council in 2017. The training was initially undertaken by the CFSP operation Sophia, specialised in the combat against human trafficking in the Mediterranean sea. However, after the end of Sophia's mandate in March 2020, Operation Iriini takes over the training of the Libyan Coast Guard ("Central Mediterranean route", 2020).

In Syria, however, the EU's effort has mostly been limited to the provision of humanitarian and development aid. Besides, the set up of funds to protect and strengthen the civilian society, Western values like democracy, human rights and freedom of speech should be promoted. Furthermore, the EU has participated in the set-up and operations of an International Support Group for Syria, in cooperation with the United Nations (European Commission, 2016c). As one of the most sensitive conflict areas, the actual action on migration with regard to Syria is the strengthening of the country through assistance and international cooperation.

5.11.CFSP operations in key countries

The EEAS under the CDSP has several ongoing missions on the African continent which contribute to fighting the root causes of immigration. One particularly vast operation is the EUCAP Sahel Niger, an EU mission that has been put into place in January 2012 (Council Decision 2012/392/CFSP, 2012). Its initial mission was the fight against organised crime and terrorism in the region, by improving the capacities of the Nigerian security forces (Council Decision 2012/392/CFSP, 2012).

However, as the need to effectively combat the root causes of irregular migration became more evident, the official decision of the mission was amended by the Council. Hence, additional to the mission of fighting organised crime and terrorism, EUCAP Sahel Niger's mission was enlarged to the combat of irregular migration in 2018 (Council Decision (CDSP) 2016/1172, 2016). Consequently, an increase of the mission's financial means was agreed upon in the Council (Council Decision (CFSP) 2016/1172, 2016 ; 2018/1247, 2018).

As a part of CFPS, EUCAP Sahel Niger has been launched out of an intergovernmental agreement. in the European Security Council, who under, the Council and the HRVP, exercises political control and gives strategic directions to EUCAP Sahel Niger (Council Decision 2012/392/CFSP, 2012).

5.12.Integrational tendencies in the third dimension of migration management

The third concentric circle of the EU's migration policies consists of neo-functional, intergovernmental and institutional elements. From a supranational perspective, the Commission as well as the HRVP, speaking for the EU in its external relations, have been key actors in the negotiation with countries of origin and transit. This thesis can be based on several elements. Firstly, readmission agreements and return policy have become a key tool in external migration management. As negotiations for these kind of contracts are carried out by the Commission or the HRVP, they took place on an

supranational level. Secondly, the reinforcement of the Migration Liaison Officers and well as the enlargement of their missions to the stronger support of readmission agreements can be identified as a supranational element. Indeed, the officers report to the Commission and are not dependant on the Political and Security Committee or the EEAS. In this context, the set up of a distinct steering board on EU level can be seen as an additional neo-functional element. Indeed, the establishment of a network of Migration Liaison Officers with its own directorate can be interpreted as a spill-over from the integration of readmission agreements on EU level that took place in the Treaty of Amsterdam.

Regarding the high-level dialogues that were launched with key countries, they were carried out by the HRVP in the name of the Union. Most dialogues have been carried out by HRVP Frederica Mogherini as the external representative of the whole Union and thus a supranational instance. However, some of these dialogues involved representatives of Member States, especially from those who are particularly involved in certain regions like Germany, France and the Netherlands in the African region. Additionally, the HRVP, together with the former Commission president Juncker, represented the European position in the set-up of the EU-AU-UN task force for Africa.

Regarding the Partnership Framework, it has been proposed and carried out mostly by the Commission in cooperation with the HRVP, defining the key countries for external migration management on the African continent. An additional factor that has to be taken into consideration with regard to the implementation of the framework is its funding, which will get more attention in the following section.

Concluding, the institutional integration of the European actions in the third concentric circle has created a path-dependency, that has started before 2015 but was reinforced through the re-enforcement of the Migration Officers and the increase of readmission negotiations on an EU-level. Simultaneously, a political spill-over in this area can be a fitting explanation for the competence to act the Commission and the HRVP already had and acted out since 2015.

However, similarly to the actions undertaken in the second dimension of migration management, Member States have on their level participated in the policy-making on the migratory routes and in the countries of origin. Like operation Sophia (EUNAVFOR Med), military actions have been agreed upon on an intergovernmental level. As a CFSP operation, EUCAP Sahel Niger, although established before 2015, saw its mandate and especially its funding enlarged or increased. This decision from the Security Council came out of a swift intergovernmental agreement, to react to the migration pressure. It was acted in accordance with the Partnership Framework, which also defined Niger as one of the priority countries for a stronger dialogue. The liberal national security motivation as part of the liberal-intergovernmentalist theory is one striking argument for the implementation of this operation.

Finally, actions in the third concentric circle have not been black and white. Especially because single Member States and notably former colonial states got involved in dialogues with African countries but also in Syria and Libya. Furthermore, as this dimension of foreign policies involved serious humanitarian crisis, the UN was more involved than at the European borders. The cooperation with UN operations was thus not only carried out by EU representatives but also by the representatives of the single Member States within the UN's bodies.

5.13.Funding

Funding has been an essential component of the EU's actions with regard to external migration management. It has indeed been the centre part of what can be labeled development aid. Since 2015, several different funds and packages have been made available in different settings, in order to support priority partner countries in their migration management. The analysis of all financial assistance destined for migration and released by different EU bodies since 2015 would have been too vast for the scope of this work. Funding was provided by the Commission as well as by the Member States, and thus in supranational and intergovernmental settings. However, it seems that financial assistance was more easily made available on the Commission level, as for

instance in the case of the Trust Fund for Africa, the Readmission Capacity Building Facility, the funding of the Libyan Coastguard. It can also be argued that the set up of funds was easier than decision directly linked to the security dimension.

6. Conclusion

After a detailed analysis of the recent developments in the EU's external migration management and policies, it can be concluded that all instances stayed in their field of competence as lined out by the current official legislative document of EU law, the Treaty of Lisbon. This was to be expected, as no treaty change has taken place since 2015. Furthermore, it can generally be stated that a strict separation between the supranational and intergovernmental level for this research was not entirely possible, as many decision making processes involved consultation or/and co-operation between the EU institutions and the Member States on different levels.

As mentioned, most, even if not all international treaties and negotiations have been carried out by the Commission and the HRVP on behalf of the EU Member States, with the exception of Turkey. CFSP operations, however, continued to be decided upon in the Council as an intergovernmental decision without the consultation of any other European body. Nevertheless, one integrationist tendency can clearly be made out after the examination of the EBCG's evolution over the years. Whereas other agencies were modernised in order to respond to the crisis, the EBCGA was the only one to gain significant executive and financial power with its new mandate.

The case of the EBCGA and the step towards an integrated border management show, that the security of the European external borders is a common interest, which concerns and serves all Member States and thus allows a convergence and possible integration. However, Member States will continue to have their own border checks and guards, as lined out by EU law. Additionally, the principle of subsidiarity has to be taken into consideration, raising doubts about the real necessity and the legal status of a full integration of border management. That actions in the direct neighbourhood of the Union continue to remain a national interest that can not easily be given up to the supranational institutions becomes evident in the intergovernmental conclusion of the Turkey agreement.

The interest for intervention in the third dimension of migration management, strengthening the EU's presence in countries of origin and transit and the promotion of European values, seems to be of equal interest for the Member States. In this dimension, most competences have been transferred to a supranational level. Therefore, the Commission has mostly undertaken actions on this level, on behalf of the Member States. Furthermore, its position has been strengthened by the establishment of a network of EMLOs. The increasing externalisation of migration management to other spheres on the globe has moreover proven two points. Firstly, long lasting solutions need a holistic and strategic approach, that cannot be based entirely on EU-internal action but needs to efficiently address the root causes of migration in an external dimension. Consequently, the balanced approach of internal and external changes the EU migration policy has undergone since 2015 is undoubtedly legitimate. Secondly, EU intervention in this sphere has mostly been limited to financial support of crisis regions in form of development aid or of countries hosting refugees. Other implemented measures like the announced high-level dialogues have not shown real results, or were at least not promoted as successful missions by official EU communication. This leads to the conclusion that the EU is still lacking leverage and influence on an international level, that limits the Union's chances to have a real impact in the third dimension of migration management.

Directly linked to the question of international influence is the European defence policy. As it touches several areas of migration management and the tackling of root causes, the question of a more integrated CFSP has necessarily to be raised in order to better control migration flows. Besides development aid, a stronger European military presence in the regions of origin could benefit the stabilisation of the latter and decrease the need for people to leave their home regions.

As the beginning of 2020 has shown, the EU remains vulnerable to external migratory pressure. The implementation of the European Agenda on Migration has partly been successful, especially in the strengthening of the external borders, but root causes of migration remain. The outbreak of the Corona pandemic and the resulting border

closings have not solved but only put off the migration issue. To better respond to external pressure in the future, a better coordinated, swift EU response is necessary. This could be achieved by a further transfer of powers in policy fields related to migration policies, especially in the intergovernmental CFSP. For this end, another change of the European Treaty would be necessary. Such a development, however, is unlikely, given that current political tendencies are marked by euroscepticism (Brexit) and nationalism (protectionist crisis responses during the Corona pandemic). Only if the pressure on the AFSJ will grow stronger and more eminent, it is possible that a transfer of competences could acquire the necessary support from all Member States for a further integration of external migration policies.

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