THE ROLE OF EXTERNAL ACTORS IN THE SECURITISATION OF
ASYLUM AND MIGRATION IN THE EU AND THEIR IMPACTS ON THE EU'S
NORMATIVE POWER

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ALİ CAN ÖZKAN

DEPARTMENT OF MIGRATION STUDIES

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I certify that this thesis satisfies all the requirements as a thesis for the degree of Master of Arts.

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Prof. Serdar SAYAN
Director of the Graduate
School of Social Sciences

This is to certify that I have read this thesis and that, in my opinion, is fully adequate, in scope and quality, as a thesis for the Degree of Master of Arts in the field of Migration Studies at the Graduate School of Social Sciences.

Thesis Advisor

Assoc. Prof. Başak YAVÇAN MERİÇ   _____
(TOBB ETU, Political Science and International Relations)

Thesis Committee Members

Assoc. Prof. Başak KALE   _____
(METU, International Relations)

Assoc. Prof. Hakan Övünç ONGUR   _____
(TOBB ETU, Political Science and International Relations

I hereby declare that all information in this document has been obtained and presented in accordance with academic traditions and the rules of ethical conduct. I also declare that I have fully cited and referenced all material and results that are not original to this work, as required by these traditions and the rules of ethical conduct.

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Ali Can ÖZKAN

ABSTRACT

THE ROLE OF EXTERNAL ACTORS IN THE SECURITISATION OF ASYLUM AND MIGRATION IN THE EUROPEAN UNION AND THEIR IMPACTS ON THE EU'S NORMATIVE POWER

ÖZKAN, Ali Can

Master of Arts, Migration Studies

Supervisor: Assoc. Prof. Başak YAVÇAN MERİÇ

The European Union's prominence in international relations with its unique structure has been associated with the concept of normative power. This thesis examines the change in a normative power of the EU by focusing on the policies of securitization of migration and externalization of migration management within the scope of cooperation with third countries. Thesis presents three different case studies by examining normativity through the Mobility Partnership between the EU and Morocco, the Memorandum of Understanding between Italy and Libya, and the readmission agreement and statement between Turkey and the EU. These cases are analyzed with the explaining outcome process-tracing method, one of the qualitative research methods. This study shows that the EU's securitization and externalization policies give third countries bargaining power and political maneuverability, and as a result, the EU takes more protective border measures in migration management with third countries and underestimates the human rights dimension of migration, thus a cyclical securitization is formed by moving away from its normative power.

Keywords: European Union, Normative Power, Securitization, Externalization, Migration Management

ÖZ

AVRUPA BİRLİĞİ'NDE SIĞINMA VE GÖÇÜN GÜVENLİKLEŞTİRİLMESİNDE DIŞ AKTÖRLERİN ROLÜ VE AB'NİN NORMATİF GÜCÜ ÜZERİNDEKİ ETKİLERİ

ÖZKAN, Ali Can

Yüksek Lisans, Göç Çalışmaları

Tez Danışmanı: Doç. Dr. Başak YAVÇAN MERİÇ

Avrupa Birliği'nin kendine özgü yapısıyla uluslararası ilişkilerde öne çıkması, normatif güç kavramıyla ilişkilendirilmiştir. Bu tez, üçüncü ülkelerle işbirliği kapsamında göçün güvenlikleştirilmesi ve göç yönetiminin dışsallaştırılması politikalarına odaklanarak AB'nin normatif gücündeki değişimi incelemektedir. Tez, AB ile Fas arasındaki Hareketlilik Ortaklığı, İtalya ile Libya arasındaki Mutabakat Muhtırası ve Türkiye ile AB arasındaki geri kabul anlaşması ve mutabakatı aracılığıyla normatifliği inceleyerek üç farklı vaka çalışması sunmaktadır. Bu vakalar nitel araştırma yöntemlerinden sonuç açıklama süreç takibi yöntemiyle analiz edilmektedir. Bu çalışma, AB'nin güvenlikleştirme ve dışsallaştırma politikalarının üçüncü ülkelere pazarlık gücü ve siyasi manevra kabiliyeti verdiğini ve bunun sonucunda AB'nin üçüncü ülkelerle göç yönetiminde daha koruyucu sınır önlemleri aldığını ve göçün insan hakları boyutunu küçümsediğini, dolayısıyla normatif gücünden uzaklaşarak döngüsel bir güvenlikleştirme oluşturduğunu göstermektedir.

Anahtar Kelimeler: Avrupa Birliği, Normatif Güç, Güvenlikleştirme, Dışsallaştırma, Göç Yönetimi

"El Que Nos Roba Es De Aqui y Rico, No Immigrante y Pobre."

With respect to the memory of those who died in the high seas for the sake of a dream.

For those who dream of a borderless world.

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ABBREVIATION LIST

ACP : African, Caribbean, Pacific Countries

AFSJ : Area of Freedom, Security and Justice

CEAS : Common European Asylum System

CORPI : Copenhagen Research Peace Research Institute

DGMM : Directorate General of Migration Management

EC : European Commission

ECtHR : European Convention on Human Rights and Fundamental Freedoms

EEC : European Economic Community

ENP : European Neighborhood Policy

ENPI : European Neighborhood Policy Instrument

ESDP : European Security and Defence Policy

EU : European Union

EUBAM : European Union Border Assistants Mission to Libya

EURA : European Union Readmission Agreement

FRIT : Facility for Refugees in Turkey

FRONTEX : European Border and Coast Guard Agency

GAM : Global Approach to Migration

GAMM : Global Approach to Migration and Mobility

HLWG : The High- Level Working Group on Asylum and Immigration

IBM : Integrated Border Management

IOM : International Organization for Migration

JHA : Justice and Home Affairs

LFIP : Law on Foreigners and International Protection

MCMREAM: The Moroccan Ministry for Moroccan Residents Abroad and Migration Affairs

MENA   : Middle East and North Africa

MoU   : Memorandum of Understanding

MP   : Mobility Partnership

MPF   : Mobility Partnership Facility

NATO   : North Atlantic Treaty Organization

NPE   : Normative Power Europe

NSIA   : National Strategy for Immigration and Asylum

SAR   : Search and Rescue

TEU   : Treaty of European Union

TNC   : National Transitional Council

UDHR   : Universal Declaration of Human Rights

UNHCR   : United Nations High Commissioner for Refugees

CHAPTER I

INTRODUCTION

In the 1950s, the six initial member nations banded together to form the European Community in an effort to rebuild their economies following the devastation of World War II. Thanks to the integration and growth processes, the Community has become a union of twenty-seven member states and a significant international player with its own character and unique structure. The deepening and broadening processes of the Union have inevitably heightened interactions with the non-European world, necessitating the EU to develop its foreign policy instruments in order to bolster its position and credibility in the international community. These changes inside the Union prompted many to debate the Union's international position, mission, and identity with reference to certain power categories, such as military, civilian, and normative power Europe, while analyzing the EU's foreign relations and internal policy-making mechanisms.

The expanding and deepening structure of the EU and its relationship with the outside world shaped a unique power relationship of the union. This power comes from values, principles, and international agreements. Thus, the EU formed its identity in international relations as a supranational structure acting with a normative mission and purpose in its relations with external actors. In this context, the EU prioritizes normative values and directs regional and global policies. The normativity that shapes the EU's foreign policy stance also finds its response in migration management with third countries. Within the scope of the EU's value system, its relationship with third countries in migration

management is frequently discussed. With its expanding structure, the EU transfers migration management to third countries with multilateral policies. Therefore, this thesis evaluates the EU's claim to normativity in migration management within the context of its relationship with third countries and examines the role of non-EU actors.

The primary purpose of this thesis is to evaluate how the values that define the European Union as a normative actor have changed in the migration-security context, especially in its relations with third countries. This thesis focuses on the influence of securitization and externalization of migration on the maneuverability and bargaining power of third countries in migration dialogue. Through examining these objectives, the thesis will answer the following research question:

- What is the role of external actors/third countries in the securitization of migration, asylum, and border management in the EU?

- Does the securitization of migration by the EU strengthen third countries while weakening the normative power, and does this process cyclically lead to the EU taking tougher border security measures and suspending the right to asylum?

Even though EU is not a state nor an international body, it has established its own identity in international affairs. Numerous conceptualizations have arisen to explain the nature of the EU's authority in international relations. Hence, the EU has been categorized as civilian (Duchéne, 1973), military (Bull, 1982), soft (Hill, 1993), and market power (Damro, 2012). However, Ian Manners, who defined "the EU as a normative power" as a "sui generis entity", emphasized the ideal effect of the EU as an international actor and eminent itself from other analysis categories that focused solely on the EU's physical

strength to maintain its international presence (2002, p.252). Since the early 2000s, the examination of normative power has garnered scholarly interest in understanding whether the EU's foreign policies are founded on its normative power or not (Manners, 2002; Diez, 2005; Sjursen, 2006). Whether the EU is a normative force in its foreign policies has been discussed in relation to different concepts. For example, the normative role of the EU in foreign relations has been discussed in the literature by relating it to themes such as environmental policies, neighborhood policies, enlargement policy, and democratization. Nonetheless, the objective of this study is to analyze whether the EU's foreign policy on migration is founded on normative principles and the variables in the migratory connection with third countries that influence the EU's normative authority.

The removal of internal borders within the Schengen area was accompanied by the externalization of migration policies and enhanced cooperation with third countries to ensure internal security. The external component of migration has been included to achieve domestic goals. In other words, the signatory states' cooperation on the laws regulating cross-border movements was motivated first by their economic interests and then by their security concerns. This situation has caused a shift in the EU's migration policies and migration has been defined within the scope of security. Extending the EU's standards and principles outside its boundaries stemmed from security concerns rather than normative obligations of external migration policy. To determine whether the EU can behave as a normative power in this sensible and securitized policy area that originates from the strategic concern of EU member states, it is pertinent to evaluate the EU's migration relations with third countries. Since in order to protect its borders, the EU externalized its immigration policies by securitizing immigration. Thus, the EU

transferred migration management to third countries by signing a migration cooperation agreement with origin and transit countries (Dimitriadi et al., 2018; Triandafyllidou, 2014; Zapata-Barrero, 2013).

In this context, three cases have been selected to show how these agreements affect the normative power image of the Union. Turkey, Morocco, and Libya will be selected as cases in the thesis. The geographical proximity of these countries to the EU and their location on the migration route enabled them to develop a migration dialogue with the EU. In addition, Turkey's status as a candidate country and the fact that Morocco and Libya are within the scope of ENP entail the development of common policies and collaboration on migration. Third, all three countries have signed a migration cooperation agreement with the EU. The effect of securitization and externalization of migration in the EU's relations with third countries on the normative power of the Union will be discussed in the context of these cases. In addition, the scope and positions of these countries' migration cooperation and their reactions to the EU will be examined.

This thesis will contribute to the debate on migration governance in the European Union by focusing on the role of external/non-EU actors in securitizing asylum and migration. While there is growing national and international literature on migration and securitization of asylum, there are limitations in studies on the role of external actors/third countries in the securitization process. While the effect of the EU's externalization of migration policies is often emphasized, especially in the third countries' literature, how third countries instrumentalize migration is less discussed. In addition, this whole process negatively affects the normative structure of the EU shaped by its founding principles. The existing literature provides an EU-sided analysis of the EU's normative values and

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migration relationship. This thesis will contribute to this debate in the literature by addressing different actors and cases. Thus, the case studies used in the thesis will also provide a comprehensive perspective on EU-third countries migration relations to the literature.

This thesis is divided into five chapters. The literature on external migration governance and securitization, as well as the theory of "Normative Power Europe (NPE)", are discussed in the next chapter. It begins with conventional interpretations of the EU's global role to differentiate NPE from traditional approaches. Moreover, the changing process from the EU's formation of a common asylum and migration system to the securitization and externalization of migration will be examined. The chapter will evaluate Europe's claim to normative power considering "the securitization and externalization of migration policy". This thesis argues that the EU's migration policies contradict the EU's normative power claim.

The thesis proposes that the securitization and externalization of migration will lead to a shift in EU normative power. To unravel the series of events linking this shift's cause to its effects, a detailed assessment of the causal processes behind it will be conducted in chapter three. To understand why the EU is retreating from its normative influence in the realm of migration policy, this article will employ process tracing as a qualitative approach to study.

In chapter four, I will examine the cases of Morocco, Turkey, and Libya. To comprehend how the EU operates with external actors on immigration and asylum management, the chapter will continue with a discussion of the tools of externalization of migration policy. In this model, the application of conditionality, the costs of non-

adaptation and negative externalities, and the advanced status are crucial factors of policy transmission. The EU maintains its relations with third countries with political agendas such as enlargement and neighborhood policies. In this context, it accomplishes the transfer of migration management to third countries through instruments such as readmission agreements, mobility partnerships, and memorandum of understanding. Therefore, this section will examine the "EU-Morocco Mobility Partnership of 2013", "EU-Turkey Statement of 2016", and "Libya-Italy Memorandum of Understanding of 2017". Consequently, both the normative power EU in relation to the externalization of migration with these countries and the positions of these countries against the EU will be analyzed.

In the last chapter, the thesis concludes that the EU cannot be defined as a normative power because of the discrepancy between control and security-oriented immigration policies and its founding values, norms, and principles. The securitization of migration and its externalization through legally binding or non-legally binding readmission agreements provide third countries with political and economic bargaining power and lead to the decline of the EU's normative power. In other words, this study contributes to the discussion of the literature by claiming that the EU has experienced a cyclical loss of normative power and that third countries have increased their bargaining power. Therefore, this whole process is shaped by the spiral of -securitization-the loss of normative power-the strengthening of third countries-more securitization, which constitutes my argument in the thesis.

CHAPTER II

THEORETICAL BACKGROUND AND LITERATURE

There are several responses to the matter of how an actor is described within the context of power. Some actors may be called hard powers owing to their military capacities (Wilson, 2018), while others rise to prominence as soft powers due to their influence over others (Nye, 2017). In other words, hard power/soft power is one of the most fundamental distinctions. The development of non-state actors such as the EU has bolstered this field of research, and scholars have created new categories of power. In this part of the thesis, I will examine the EU's international actorness and identity within the scope of Normative Power Europe theory, which has its origins in international relations theories such as liberalism and constructivism. In the continuation of the chapter, I will discuss how the EU shapes its normative discourse in relation to its migration policies and the issue of securitization that affects "normative power in a theoretical framework".

2.1. The Conventional Conceptualization of the European Union's International Identity

The European Union is an integration and peace project pursued by European countries in the aftermath of WWII, the latest in a long line of wars in Europe's history. In the first half of the twentieth century, Europe, a continent has experienced two devastating World Wars, and witnessed an unprecedented and distinctive history. The Union, which the six founding countries established by transferring some of their national sovereignty to a supranational institution with their own will in the 1950s, deepened and widened over

time and took its place in the international arena as a *sui generis* actor. The distinctive entity that the European Union became, derives from being not a nation-state or an international organization but rather from its positioning somewhere between them (Middelaar & Çölgeçen, 2014).

European Union is intensively argued to be a unique international actor. The EU is beyond traditional conceptions (Manners, 2002), not only in terms of the EU's influence on economic and trade manners but also in extending its economic and political governance and democratic ideals to partner countries. With the end of the Cold War, traditional power relations have differentiated, and the EU has integrated itself into the international system beyond military power as a supranational institution. Ian Manners (2002) argued that Europe's domestic political institutions were unique, they could not engage in global politics according to traditional "Westphalian" principles and practices. In other words, rather than being bound by the rules established by conventional great power rulers, the EU would be able to alter them and establish new standards in international politics based on cosmopolitan "human rights, the rule of law, peace, and sustainable development" (Diez, 2021). Instead of the military, civilian, and economic power conceptions, Manners considered "EU is simply similarly promoting its own norms to historical empires and contemporary global power" (Manners, 2002).

At this point, it is essential to examine how the concept of power, which characterizes the EU and is subject to numerous conceptions in the literature, is conceived. In order to understand the concept of NPE, it is important to try to answer the question of what the traditional conceptions of power that define the role of the EU in international relations

are, what NPE theory distinguishes the EU from other power concepts, and what the normative ground of EU is.

2.1.a. Conceptualizing Notions of EU's Power

EU's power is conceptualized by three main theories of international relations: realism, liberalism, and structuralism, respectively. Constructivist theory argues that the EU has achieved many gradual improvements that nurture and strengthen its position as an actor (Wendt, 1999). Constructivists view the identities and interests of actors as socially constructed and variable; identities are not static and cannot be assumed externally. Since the 1970s, social constructivists have defined the EU as a civilian power. Afterwards, according to them, the Lisbon Treaty emphasized the political identity of the EU. These development steps are built on civilian concepts rather than traditional realist approaches focused on the state and military capabilities. This civilian ground is reinforced by EU treaties and other forms of legislation. As a result, these efforts have formulated the EU's political identity; In addition, the EU has started to export these components of political identity, which are fundamental freedoms, supremacy of law and democracy, to other countries.

Louis-François Duchêne was to propound that Europe is a "civilian power with long on economic power and relatively short on armed force" (Duchêne, 1973, p.19). According to Duchêne, the European Community should enjoy its strengths and offer a counterbalance to great power ambitions by advancing international civilization through international law and multilateralism. As an international actor, the EC could disseminate its own model of ensuring security and stability through civilian rather than military means. Kenneth J. Twitchett (1976) and Hanns W. Maull (1990) have made an

outstanding contribution to the concept of civilian power by identifying three characteristics that define it: "the centrality of economic power to active national goals, the willingness to use legally binding supranational institutions to achieve international progress and the primacy of diplomatic cooperation to solve international problems" (Manners, 2002, p.238). Maull's definition emphasized civil means and a willingness to cooperate with other societies. The civilian power elements are implemented in economic, political, and cultural fields: trade, partnership, and cooperation agreements, membership perspectives (EU accession processes and enlargement policy), and development plans.

The most serious criticism of the conceptualization of "Civilian Power Europe" comes from realist and neorealist scholars. Bull (1982) argued that "Europe is not an international actor and does not seem likely to become one without a military capability". From his standpoint, Europe may be a global economic and political power, and the existence of an autonomous military force to protect itself is inevitable to become an international actor.

On the other hand, Neoliberal theory has defined the international system as a pluralistic structure in which different actors are dependent on each other, against the approaches of realists that put the state in the center and define power as a military power. Joseph S. Nye and Robert Keohane, who are the most prominent scholars of the neoliberal school, argue that a new world was forming with more significant ties between states and non-state actors on a new agenda of international issues that blurred the lines between low and high politics via many channels of communication across national borders (Keohane and Nye, 1989). EU is characterized as soft power by Christopher J. Hill (1993). In his soft power model, "the EU is primarily based on persuasion and negotiation when dealing with third countries and international issues, whereas power bloc behavior involves the

EU using its economic and diplomatic power for its own interests." (Hill, 1993, p.4) However, neorealists have criticized these arguments because the dominant motivation in the anarchical international system is that states maximize their interests. Hence, they described the neoliberal theory as optimistic and argued that cooperation between states or institutions could not be achieved easily. Therefore, according to neorealism, the EU cannot be regarded as a sovereign actor yet acts as a vehicle for the collective interests of its member states.

Although the conceptualizations that are often discussed in the literature that associate the European Union with identity are mainly soft power, civil power, and military power, Damro (2012) has defined the EU as a market power. Although "the European Union's identity may have normative and other features, it is a large single market with important institutional features and competing interest groups".

Therefore, the main focus of this part was the discussion of various theoretical approaches and conceptualizations of identity on the existence of the EU in international relations. These theoretical approaches define the EU's role as an international actor to support and maintain its global presence. However, the theory of Normative Power Europe, put forward by Ian Manners, which constitutes the main theoretical framework of the thesis, will be discussed in detail in the next section.

2.2. EU as a Normative Power

After the end of the bipolar order that dominated the world for fifty years, Europe faced multiple challenges. The newly emerging states and increasing regional tensions in Eastern Europe as a result of the resolution of the USSR, reunification of East and West Germany, and devastating wars in Yugoslavia shaped the path that the European Union

would follow as an actor. Alongside the problem of ensuring regional stability, globalization has raised human rights issues, immigration and human smuggling, regional development, democracy promotion, humanitarian interventions, and global climate change. All these obstacles and challenges enabled the EU to identify the critical areas of its foreign policy based on international norms and to pursue them to promote democratic values and the rule of law, protect human rights and fundamental freedoms, and ensure global governance with stable institutions (Savorskaya, 2015). Since then, the concept of "the normative power of the EU", which is outside the conceptualization of civil power and soft power, has dominated the studies of the international identity of the EU in the literature.

Therefore, scholars concentrated on the identity of the European Union, to which numerous conceptualizations were added to the existing literature. One of these concepts has been Normative Power Europe. A seminal work published by Ian Manners in 2002 brought a new approach to the long-discussed identity of the EU in terms of vision, values, principles, means, and ends. Manners suggests that the European Union is neither an intergovernmental civilian power relying on economic tools and international diplomacy nor a military power that depends on armed force and international intervention, but a normative power based on shared values and a willingness to disregard notions of state or international (2001, p.7). Therefore, normative power Europe conceptualized beyond the state-centered understanding and Westphalian world order. Also, it expresses common interests beyond physical possessions. The concept of normative power is rooted in a discussion of "power over opinion," "idée force," or "ideological power," as well as a desire to transcend the argument about state-like characteristics. (2002, p. 7).

2.2.a. The Normative Basis of NPE

While the concept of "normative power in Europe" is relatively recent, the idea of normative power finds a place in the discussions of the 1970s. In his seminal work "Normative Power Europe: A Contradiction in Terms," Ian Manners discussed the notion of norm, which is commonly addressed in the International Relations and European Studies literature, in a different dimension and conceptual framework. In his article, Manners (2002) declared that the normativity in international relations was present in Edward Hall Carr, Johan Galtung, and François Duchéne. While Carr (1962) distinguished power on economic, military, and power over opinion, Galtung (1973) defined ideological power as the power of ideas. Duchéne (1973), conversely, defined the European Community as civil power in the economic framework evaluated the normativity of the EC as an idee force, and argued that it realized the diffusion of international civil and democratic standards (Manners, 2002).

Manners expresses that the EU is a different kind of actor in terms of its ontological quality. The EU can be conceptualized as a changer of norms in their external relations with the rest of the world. He claims that the most crucial factor shaping the international role of the EU is not "what it does" or "what it says, but what it is" (Manners, 2002, p.252). Additionally, what the EU is defined as "principles;" "what the EU says," is specified as "actions;" and "what the EU does" is characterized as "impact." Consequently, according to Manners (2002) "normative power is the ability to shape or change what is considered normal in international relations". The primary distinction between normative power and earlier traditional explanation to power is its special consideration of principles and ideals and its ambition to transcend Westphalian traditions. Hence, the idea of normative power

in Europe is found in the dispute "over opinion," "idee force," or "ideological power" and the need to move beyond the debate about state-like traits by comprehending the international identity of the EU.

Moreover, it is the essential premise of the normative power concept that thoughts have a power that transcends the concept of material stimuli (Savorskaya, 2015). In his article "*The Concept of Normative Power in World Politics*", Manners discussed the role of the power of ideas and thoughts in the transformation of the European Community into a Union in the post-Cold War era. Accordingly, the EU is a supranational structure concerned with economic policies and uses more than material influence and power forms (Manners, 2009, p.2). In foreign policy, normative power is not a means for national objectives. The Union demonstrates its normative power, exempted from material interests, through enlargement, development policies, trade, humanitarian aid, and intervention in global issues (Manners, 2009). Thus, it is not contingent on the actors' self-interests. For this reason, the normative power does not serve the member states of the Union to make foreign policy decisions according to their national interests (Diez and Manners, 2007).

According to Manners, the founding treaties, declarations, pacts made by the EU, and the principles, criteria, and conditions adopted by it form its normative basis. For him, three dimensions constitute the "normative power of the EU": "historical developments (the heritage of two barbarous world wars), the political entity (elite-driven, treaty-based, legal order), and hybrid polity (supranational and international forms of governance)" (Manners, 2002, p.242). This combination of history, "hybrid polity, and the legal constitution" has led to a solid commitment to putting universal norms and principles at

the heart of its relationships with its Member States and the world (Manners, 2002, p.241). Accordingly, as Manners (2002) states, the EU has established its foreign relations, different than other actors, in accordance with the principles of the "European Convention on Human Rights and Fundamental Freedoms (ECtHR) and the Universal Declaration of Human Rights (UDHR)". Manners (2002) operationalizes the EU's normative difference by delving further into its normative foundations, identifying five 'fundamental' norms and four minor norms that have completed by the *acquis communautaire* and *acquis politique*. The main normative principles of the EU are peace, freedom, democracy, human rights and fundamental freedoms, and the rule of law, all of which are declared in the Preamble and founding principles of the Maastricht Treaty. Article 2 of Maastricht (1992) indicates that "the Union is based on the ideals of respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights, especially the rights of minorities. These principles are shared by all Member States in a society characterized by pluralism, nondiscrimination, tolerance, equity, solidarity, and gender equality".

As it is stated in Article 2 of the Maastricht Treaty, in addition to the basic five basic norms defining the normative identity of the EU, there are four minor norms corresponding to the constitutions and practices of the EU; these are social progress, discrimination, sustainable development, and good governance. Besides, the EU's role and objectives in the international community are stated in Articles 3-5 of the Maastricht (1992) as follows:

> "In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in

particular the rights of the child, as well as to the strict observance and the development

of international law, including respect for the principles of the United Nations Charter".

It is clearly understood that the core and minor norms, are indicated in "the European Coal and Steel Community (1951)", "the Treaty Establishing the European Community (1957)", "the Maastricht Treaty, the Copenhagen European Council (1993)", and "the Treaty of Lisbon (2007)". For instance, the article 10A-1 of the Lisbon Treaty (2007) indicates that "democracy, the rule of law, human rights and fundamental freedoms, human dignity, and equality and solidarity" are a crucial elements of EU's external actions, and "10A-2(B), 10A-2(d), 10A-2(c), 10A-2(f) and 10 A-2 (h)" of the Lisbon Treaty (2007) also states "fostering sustainable economic, social and environmental development, preserving the quality of the environment and the sustainable management of global natural resources and promoting multilateral cooperation and good global governance."

In all these texts, sub-articles are emphasizing the normative basis of the EU. However, accepting the EU's normative base does not automatically give it normative power. Thus, it is required to consider where normative power derives from (Manners 2002). In this context, it becomes important how the EU spreads the normative values with declarations, agreements, and criteria and applies them in practice to the rest of the world.

2.2.b. Normative Diffusion Mechanism

Manners claims that "the European Union works as a promoter of norms" (2002). The EU has acted normatively in its relations with the rest of the world by exporting laws, norms, and governance practices beyond its borders (Lavenex and Schimmelfennig, 2009). As a normative power, there are six main ways in which the EU can impose its own norms on third countries intentionally or unintentionally: contagion, informational

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diffusion, procedural diffusion, overt diffusion, and cultural filter (Manners, 2002, p.239). EU disseminates the norms to non-EU countries through symbolic icons, communication strategies, cooperation agreements, economic aid, and financial incentives. Therefore, these six diffusion mechanisms contribute to the spread of EU standards; however, to understand the extent to which they function, it is essential to consider the interest and norms that the EU tries to normalize in foreign interactions.

Although Manners has defined the EU as a norm maker, the most important question is what are the evaluation mechanisms that the EU is a normative actor in the international arena while disseminating these norms. Sjursen (2006) asserts that ideas of normative, civic, or ethical power, all of which share the assertion that the EU is a force for good, are devoid of any standards that would allow them to be recognized, verified, or rejected. Since then, she asked that how do we know if acting normatively is actually a good thing? She emphasizes that claiming an actor to be normative has some distinctive features. "It involves, for example, tackling power politics and transforming its parameters by strengthening international and cosmopolitan law with a great reference to the rights of individuals" (2006, p.243). In this sense, the principle of universalization, which states that a norm can be valid if it meets the condition of being accepted by all the parties affected by its pursuit, may be used as a criterion to assess the validity of the Union's normative dimension, or the legitimate pursuit of norms, consistently, in Sjursen's words (2006, p.243). Sjurssen refers to Habermas' theory of communicative action, which claims that "actors are rational to the extent that they can justify their actions in terms of norms with intersubjective recognition". In other words, whether an action is good or not is determined by the degree of influence of all subjects affected by that action (2006, p.244).

Thus, Sjurssen emphasizes that "the actions of the EU in some cases may conflict with universal values, and that the EU pursues its own interests rather than supporting norms and has inconsistent internal and external standards". In other words, an actor cannot both claim normativity and act hypocritically by violating universal values and legal norms. Likewise, as Manners emphasizes, for an actor to be normative, it must have ethical values and "living by virtuous examples" (2008, p.46). By emphasizing that the EU should be both virtuous and coherent, Manners means that "the EU not only develops its own norms, but also that its basic principles and objectives come from international agreements such as the UN Charter or the Universal Declaration of Human Rights, and thus have a more universal character" (2008, p.46).

The normative power of governance cannot be evaluated only according to the norms it has. It is also necessary to closely examine their actions, considering the actual consequences of these actions. Therefore, when evaluating normativity within the scope of migration policies in the Union's relations with third countries, these criteria should be considered in order to measure the credibility of the claims that define the EU as a normative power in this field. From this point of view, the criticisms of the normative power concept will be discussed in the next part.

2.2.c. EU's Common Interest and Its International Pursuits

Ian Manners expresses that the EU is a different kind of actor in terms of its ontological quality. The EU can be conceptualized as a changer of norms in their external relations with the rest of the world. Based on common interests and values, Manners examines the extent to which the EU can disseminate these normative values in international relations, their actions and impact by looking at five examples.

Based on Barry Buzan and Hansen's (2009) proposal for the five security sectors, Manners focuses on "peace and security, democracy, human rights, development aid, and environmental protection" within the framework of the EU's founding values. Regarding military concerns, one of these sectors, Manners, examines the Union's effort at the Ottawa Convention to strike a balance between peace and security, citing the EU's fight against anti-personal landmines as an example. The second sector, political concerns, is explained by the EU's contribution to democracy promotion globally and in its region. The EU is an active agent in the area of democratization in the provision of election assistance and observation (EAO). Perhaps the most critical role in supporting the theory of NPE, the abolition of the death penalty shows the EU's efforts on social concerns, that is, human rights, which was the measurable success of the EU's normative diffusion (Fiott, 2011). The fourth security sector, economic concerns, covers the EU's tariff-free trade with developing countries under the title development aid by Manners (2001). The last sector points to areas that include the EU's leadership in environmental issues, such as the Kyoto Protocol signed within the European Climate Change Program (CCP) scope, which also provides empirical evidence of NPE. Manners noted that these case studies were by no means randomly chosen but "hoped that their wide distribution across a broad model of EU international action would allow some understanding to be gained about the EU's pursuit of international norms and common interests" (Manners, 2001, p.14).

2.2.d. The Critics of NPE and Its Limitations

The normative power Europe has been under question by several scholars. Its normative function, as well as its incapacity to transcend self-perception or rhetoric, global actorness, and identity of the EU, have been criticized in both theoretical and empirical

ways. While some scholars criticize the lack of harmony between the EU's discourse and its practices on the basis of a capabilities-expectations gap, neorealists have criticized harshly by focusing on the EU's foreign policies and security approaches.

Considering foreign policy instruments and security policies, the EU is no different from other great powers (Hyde-Price, 2006). Civil power or normative power conceptualizations to define the EU are insufficient for the EU to be seen as an international actor. According to Hyde-Price, states are the dominant actors in the international system, and the EU is a structure that defends the collective interests of the member states rather than being an actor. In other words, the EU was utilized as a tool by its most powerful member states to collectively exercise hegemonic power, defining it's 'near abroad in ways that benefited the member states' strategic and economic considerations over the long term (Hyde-Price, 2006, p. 227). While issues such as human rights, environmental protection, and peacekeeping seem to be the EU's priority, he claims that security concern is constantly prior as it is associated with the national concern of the member states. In addition, he claims that "the EU does not function as a normative power in dealing with its near abroad". Instead, the EU uses collective hegemony instruments: a political partnership, economic carrot and stick, and the promise of membership (Hyde-Price, 2006, p. 227). Similarly, Tocci (2008) states that the EU's normative assessment does not mean that it adopts a different agenda in foreign policy but that the EU is sometimes realist and, other times, status quo oriented. Although the EU pursues normative goals through economic and political sanctions in the case of Eastern Enlargement, it uses non-normative instruments in its energy interests with Russia and its commercial partnerships with China. In fact, it maintains a security-oriented imperialist

foreign policy in its Middle East policies. Therefore, the EU does not act differently than the other states such as China, US, or Russia in foreign policy patterns (Tocci, 2008, p.1). In a similar vein, Forsberg (2011) claimed that economic concerns might supersede standards.

The other objection of the NPE from neorealists is the lack of the EU's coercive instruments. They criticize the underestimation of military power by the EU. However, the 9/11 terrorist attacks strengthen the neorealist's hand in terms of developing the "European Security and Defense Policy". They contend that the European Union is no different from other big powers. The EU's increased military spending has contradicted its identity. The EU's genuine character and the image it tries to project in international affairs are incompatible, undermining the EU's credibility in the eyes of the international public. Therefore, this indicates that the European Union does not export its normative offer on its whole but rather a particular image of what the EU intends to be. The authors express that they do not consider the normative image of the EU realistic, but rather that the EU draws *EUtopia*, that is, a utopian self-identity. Moscoe raised a similar argument. Since the 9/11, intensified counterterrorism activities have been challenged for violating universal human rights standards, he argues that under White House pressure to cooperate in "the War on Terror", the European Union has relaxed its traditional conformity to safeguarding human rights. (Moscoe, 2013). Diez criticizes the EU because of its military and security concerns that the more the normative power relies on military force, the less distinctive it will be from other conventional kinds of authority. (2005, p.621). Despite this criticism, in 2006, Manners reassessed his arguments due to the ongoing process of militarization in the EU. Manners (2006) argues that militarization of the EU does not

necessarily imply a reduction in the "EU's normative power". However, he acknowledged that if the EU continues to expand its military capabilities and uses them arbitrarily and without regard for norms, it may lead to military responses that are just temporary rather than structural answers to problems, treating the symptoms rather than the causes (Manners, 2006). The EU's image of a reliable normative power is jeopardized by such an approach (Zengin, 2017).

Another criticism against the NPE is specified by Sjurssen, who argues that existing ideas of the EU as a civilian, normative, civilizing power are vague. Additionally, such notions are normatively biased (Sjurssen, 2006). It is necessary to distinguish between values and rights since values are formed by culture or social context. Sjurssen claims "a truly normative power seeks to transcend power politics by strengthening international law because the defining characteristic of a putative normative or civilizing power is that it acts to alter the parameters of power politics by focusing on strengthening the international legal system." (Sjurssen, 2005, p.18). Otherwise, the EU could be a Eurocentric cultural imperialism.

The EU's foreign policy faces one of the most glaring conflicts between financial gains and moral obligations. Pace emphasized the paradoxes and contradictions in the EU's efforts to promote democracy in the Mediterranean, stressing the need to distinguish between interests and norms clearly. Although the EU seems to be normative in its foreign relations, it follows its regional political and economic interests (Pace, 2007, p.671). Moreover, the EU's wandering off normative goals creates an asymmetry of power in its relationship with the regional states. In a similar way, Bicchi argues that the EU pursues Eurocentric foreign policy in their relations with the Mediterranean. Moreover, the EU

imposes its own norms in its relations with the Mediterranean countries rather than universal norms with a non-reflexive Eurocentric approach. In her words, the EU defends its own interests by pursuing a foreign policy that does not fit in the NPE approach with the "our size fits all" approach (Bicci, 2006, p.287).

One of the situations when material interests and normative commitments do not coincide is due to the arms trade between China, which commits human rights violations, and the MENA countries, which autocratic administrations govern. The lifting of the arms sales embargo to these countries, contrary to the "EU Code of Conduct on Arms Export", has been criticized by some scholars in the literature (Erickson, 2011; Hansen and Marsh, 2014). As Erickson, the EU's normative power has been eroded because of varied national interests, preferences, and identities. The EU has a multidimensional identity in which economic, military or normative components may take precedence depending on the situation. Thus, it is placing Europe's normative power in serious trouble. Hansen and Marsh (2014) claim that standards were subordinated to material and strategic gains, and that the arms trade in practice may be an exception to the NPE.

Haukkala (2011) criticize the concept of NPE as a normative hegemon. Contrary to Manners' approach, Haukkala adopts a more regional focus that examines how the EU operates its normative power in Europe and how the same regional context uniquely constrains this power. Haukkala (2011) criticizes Manner's view of the "EU as a passive norm maker", claiming that "the EU is more active in disseminating its norms, as evidenced by its enlargement policy", which aims to maintain regional stability while also increasing the EU's legitimacy and influence in candidate countries through the transfer of its principles and norms. He also emphasizes that the EU's ability to project its

normative authority toward other countries is diminished without the promise of membership. (2011, pp. 46-48). Schimmelfenning (2003) and Allen (1997) also note that without the potential membership and financial assistance, the EU's normative influence on other states is likely to be limited. This is why the European Union is not a normative authority but rather a normative regional hegemony of disputed legitimacy.

As seen in studies on NPE, EU is defined with adjectives such as regional hegemon, non-reflexive Eurocentric, 'Eutopia' power, coercive power based on interest, and collective hegemon. Although the EU is claimed to be a normative power by producing discourses such as human rights, solidarity and the rule of law, both globally and regionally, its approaches to migration and human rights are contradictory. For example, the EU and individual member states collaborated with authoritarian leaders to prevent illegal immigration. In this respect, it can be mentioned that NPE is controversial, especially when it comes to immigration policies. For this reason, the NPE theory has been criticized within the scope of the EU's responses to the migration and refugee crises in recent years.

New challenges, especially the Arab Uprisings, have led to more questioning of the NPE (Diez, 2013). The 2015 Migration crisis corresponds to a turning point where the EU has shifted from its existence in foreign policy with declarations, treaties, policies, criteria, and conditional normative values to interest-oriented policies that are not legally binding. Informal and illiberal immigration policies mean a change in the essence of Europeanized foreign policy. This contradicts with the value system of Europe (Escartin, 2020). Indeed, the EU seems to be less normative and a bit more of a fortress after the migration crisis (Siitonen, 2021). The reason for this shift is that the increasing instability at the

international level shows the deficiencies of the normative power of the EU (Newman and Stefan, 2020). Thereby, this shift can be called a radical departure from the EU's constitutional values (Siitonen, 2021). Similarly, David Owen (2019) argues that the Europeanization of refugee policies through the reform and strengthening of "the Common European Asylum System (CEAS)" is necessary to adequately respond to the combined crises of refugee protection and EU integration. However, this approach faces practical challenges and normative dilemmas. Especially when it comes to migration governance, the Union approaches the issue as a security issue that needs to be resolved to ensure the safety of EU citizens (Lavenex, 2019). Therefore, there is a clear gap between the values and direction of the immigration policies implemented by the EU; the latter is still largely determined and influenced by national interests and politics (Dimitriadi and Malamadis, 2019). However, this understanding harming the NPE by leading to controversial policies. According to Lauri Siitonen, it is seen that the normative coherence in European foreign policy has decreased by being subject to egoistic immigration policies both at domestic politics and in cooperation with third countries. (Siitonen, 2021). Senem Aydın-Düzgit (2018) emphasizes that "NPE is most commonly contested by moral argumentation such as the EU's mistreatment of its migrants and refugees". Although EU made a migration agreement based on power asymmetry, considering countries such as Turkey, Morocco, Libya, and Egypt as passive subjects, in the most likely scenario, their most valuable assets, soft power, and reliability in their relations and on the international stage on a broader scale will be lost (Yılmaz-Elmas, 2021). Therefore, after examining the Normative Power Theory in detail, I will now examine the EU's approach that prioritizes security within the scope of securitization theory. This section will also address the role of securitization in the EU's shared asylum

and migration policies. The normative power and securitization relationship is inherently contradictory and undermines the EU's image. For this reason, it is argued in the thesis that the EU's securitization and externalization policies reduce the normative power of the union. Thus, the claim of normativity in the EU's relations with third countries remains a weak claim and it can be said that third countries use this process in their favor.

2.3. EU Migration Policies Within the Scope of Securitization

In this thesis, the EU's external migration policy has been chosen as the field to evaluate the Normative Power Europe claim. However, it is also necessary to mention the internal policies that shape the external dimension of the EU. In other words, the process of establishing a common asylum and migration management has also affected its foreign policy position. Accordingly, the normative or non-normative international character of the Union is anticipated to be shown by an examination of internal and external variables influencing the policy-making process and the goals, methods, and outcomes of migration policies. To assess the validity and reliability of normative theory, this study will explore how theoretical explanations work in practice in immigration policy making. Considering the security-oriented approach of intergovernmental cooperation in the field of migration and asylum, it will be determined why the EU cannot be accepted as a normative power in this context. The emphasis will be on how the securitization of migration has affected the official and informal intergovernmental cooperation among EU member states.

2.3.a. The Evolution of EU Migration Policy

The increase in the number of global migration and displacement because of the increasing pressure of migration from the Global South to the North necessitated some changes and innovations in the immigration, asylum and border policies of the countries

receiving the migration. Especially after the 2011 Arab Uprisings, the large waves of immigration putting pressure on the EU borders and the ever-increasing number of asylum seekers led the Union to include immigration as a sensitive item in the political agenda and to regulate the relevant legislation, treaties, and institutional cooperation in compliance with this political priority (Wiesbrock, 2016, p. 160; Vatta, 2017, p.13). Hence, the external character of this policy will be considered more comprehensively than its internal dimension to understand normative stance within the scope of developments with third countries.

The objective of this section is to trace the EU's migration policies in a historical process, to examine the steps leading to common measures and the process of *communitarization* and *judicialization* in migration, and to focus on the effects of the securitization of migration by the EU under pressure and its member states on policy making. The time frame for the analysis covers the period from the second half of the 1970s to 2020. It is possible to divide the EU's immigration policies into four periods within this time frame: non-legally binding ad hoc initiatives from the 1970s onwards from the restriction of foreign workers to the Amsterdam Treaty, comprehensive Europeanized migration policies with the Amsterdam Treaty, and re-nationalization with readmission agreements and offshore practices with third countries after 2011.

2.3.a.i. The Early 1950s to 1973 Recruitment of Contract Workers

Since the 1950s, transnational migrations have increased in number and diversified in nature. From 1945 through the early 1970s, the fundamental economic strategy of large-scale capital was the concentration of investment and growth of industry in countries that were already highly developed. Consequently, substantial numbers of migrant workers

from less industrialized nations were attracted to the rapidly developing industrial regions of Europe (Castles and Miller, 1998, p.67). In order to meet the restructuring of the Western European economy and the accompanying economic boom, industrialized Western European countries - Germany, Belgium, Netherlands, Austria, Denmark, and the UK - began to recruit short-term contract workers from their former colonies and periphery. During this period, several countries signed labor recruiting and association agreements. Western European countries invited immigrants to their countries in two different groups to meet the labor deficit. In the first group, the guest worker model was based on the idea of temporary migration, accepting migrants on the grounds that they would return to their country of origin after a few years. The migrant workers were recruited with temporary status by special agreements in Western Europe from Southern Europe and North Africa (Hansen, 2003, p.25). "Colonial workers were the second group, and they had come to countries with former colonies, such as the Netherlands, France, and the UK, to meet the labor shortage" (Castles and Miller 1998, p.77).

2.3.a.ii. 1974 to 1980s- The Restricted Migration Policies and Family Reunifications

Following the 1973 oil shock, Europe experienced a recession that signaled a broader economic downturn. The recruitment of guest and colonial workers was primarily terminated. As a result, all governments closed the doors to further labor migration and anticipated guest workers to turn away. Western European states established restrictions on the immigration of foreign labor. Rising unemployment rates in Western Europe at the beginning of the 1970s were the primary impetus for the passage of more restrictive immigration restrictions (Penninx and Roosblad, 2000). Immigrants were not yet "unwanted," and from 1973 to the 1980s. Initial attempts by governments to restrict family

reunions were unsuccessful. It was eventually reluctantly acknowledged as a human right (Castles and Miller, 1998, p.80). Therefore, guest workers in Western European countries took their families with them. For instance, Germany accepted around 3 million family members of guest workers from 1973 to 1980 (Lederer, 2001). The Netherlands received around 40.000 persons each year for family unification until the 1980s (Naborn, 1992). Consequently, entrance and residency requirements for immigrants were entirely governed at the national level (Wiesbrock, 2016, p.162).

2.3.a.iii. 1980s to 2000s- Asylum Seekers, Refugees, and Irregular Migrants

In the second half of the 1980s, migration to Western Europe increased again. The primary impetus was economic and political crises in the origin countries. The new migrants arrived as laborers and asylum seekers in growing numbers. Late in the 1980s and early 1990s, the number of asylum seekers and refugees has raised immensely. Eastern Europeans are not the only ones who have fled their homes. Ayatollah Khomeini's Islamic revolution in 1979, have triggered significant asylum movements. Likewise, after the 1980 military coup, there was a considerable increase in the number of refugees from Turkey to Western European countries, especially Germany. Moreover, the displacement of Vietnamese refugees because of the war, albeit much smaller than that of the United States, produced a flow to Europe (Peach, 1997). According to Salt (2000), more than 4 million people claimed asylum in Europe between 1989 and 1998, with 43 percent coming from other European countries, 35 percent from Asia, and 19 percent from Africa. The number of asylum seekers has reached a significant number has led to their identification as a cultural and economic threat to public order. Therefore, governments began to take more stringent asylum applications and adopt a common security-oriented policy.

2.3.a.iv. After the 2000s- Highly Skilled Labor Migration

The European Community was designed to facilitate the unfettered movement of goods and people inside its boundaries. The Schengen Agreement of 1985 permitted the free movement of people among the member states of the European Community. While this momentous agreement abolished borders within the community, it drew a clear boundary against the outside. After the Schengen Agreement, with the acceptance of national borders as the borders of the community, some new regulations were adopted on migration. Although the Dublin Convention in 1990 has an intergovernmental structure, it was designed to prevent multiple applications for asylum applications. Subsequently, the 1992 Treaty of Maastricht, the five-year multi-annual programs (Tampere, Hague, and Stockholm), and the 1997 Treaty of Amsterdam introduced many regulations and restrictions in migration. While the EU has adopted more drastic regulations by including asylum and irregular migration within the scope of its security policy, it has encouraged the immigration of highly skilled labor. Particularly in Europe, population shifts, and a shortage of qualified labor are compelling governments to use immediate steps to attract economic migrants, particularly highly skilled people (Burmann et al., 2018). The "EU Blue Card" was launched in 2009 as part of a directive from the European Council to prioritize a selective migration strategy. It is a work authoritarization for highly qualified employees that aims to make Europe an attractive destination for qualified foreign employees. While the EU supports a highly skilled labor force, it continues to strengthen its external borders in the context of preventing irregular migration and combating human trafficking. After 2000, the EU externalized migration control tools by giving importance to cooperation and readmission agreements. On the other hand, it has adopted a "root causes" approach to producing solutions for the hotspots. In other words, the EU tried to

take preventive measures by changing people's decisions to move or factors affecting their chosen destinations.

In the next section, I will elaborate on the EU immigration policies, but it should be underlined EU is trying to keep third-country citizens away from its borders by adopting more restrictive and preventive policies. In other words, the EU's post-2000 migration and border policies can be defined as "selective but impermeable".

<u>2.3.b. The Europeanization of the National Migration Policies: Communitarization and Judicialization</u>

Until 1999, immigration in Europe is regulated by national governments. During the 1950s and 1960s, these policies were relatively liberal despite their diversity. There is a widespread opinion that the Union's migration policy is a part of the liberal paradox, especially granting the right of free movement within the borders of the Union with Schengen. However, these policies are as restrictive as those of third-country nationals (Vatta, 2017). In the extensive literature, it is very important whether the EU's migration policies have an intergovernmental or supranational character, as well as whether these policies indicate a normative identity. One of the important scholarly debates in the literature on migration management is the intergovernmental approach to cooperation at the EU level. According to this approach, states allow supranational cooperation and agreements in line with their strategic priorities. Geddes (2003) characterizes it as the "escape to Europe" concept that concentrates on interests and believes that states seek new venues to expand their capacity to regulate migratory movements and avoid domestic restraints that strengthen their sovereignty via supranational collaboration. Guiraudon (2000) emphasized that immigration and refugee policy in Europe is increasingly

developed in supranational forums and carried out by transnational actors. He argued that states use transnational cooperation to overcome local political constraints while pursuing national policy goals and that a "venue-shopping" framework is best suited to consider European cooperation's timing, format, and content in this area. In other words, states choose a common European-level migration policy to achieve their domestic goals. In this way, they tend to eliminate national and legal barriers and public pressure threatening their security interests and restrictive policies. Kaunert and Leonard (2012) reviewed the "venue-shopping" argument, particularly regarding EU asylum policy, arguing that the development of EU asylum policy and that it did not lead to a reduction in legal asylum standards should take into account the wider "system of venues" in which the EU asylum policy venues is embedded. Contrary to Guiraudon, they contended that after ratifying several EU treaties, particularly the Lisbon Treaty, member states are now bound into a more open policy space framework. In the same manner, Hoffman (2013) elucidated the transition from national policies to common supranational policies in migration management with a series of treaty changes that led to an increase in the "*communitarization*" and "judicialization" of policy venue.

While the EU's *communitarization* policies provide an explanation of the internal dimension of migration, it also has an impact on the external dimension of the policies of the member and candidate countries. The EU prefers the policy of Europeanization instead of the Europeanization of policies (Geddes, 2008). Since the Europeanization of policies will bring the EU's intervention in the decision-making authority of national migration policy actors. As emphasized above, states prefer the "escape to Europe" route in the face of their limited means of regulating migration movements. In this case, the member states

assign the responsibility to the union by evaluating the external dimension of migration, that is, the non-normative elements in their relations with third countries, in the template of the common migration policy of Europe. Although the degree of influence of the member states by immigration is different, Europeanization is observed in every member country and relative candidate countries. The effect of the internal dimension of the transformation of Europeanization on the external dimension is generally within the scope of securitization. Although the internal dimension in EU migration policies points to normative values, the EU common asylum and migration system in the external dimension functions as a common defense system.

Before the 1999 Amsterdam Treaty, EU could not adopt legally enforceable measures in the domain of justice and internal affairs. Cooperation in this area could only take the shape of intergovernmental agreements, resulting in a number of non-binding and ad hoc efforts. Between 1975 and 1985, intergovernmental collaboration began in the sectors of immigration, asylum, and police and judicial cooperation. These include the intergovernmental regulations of three different working groups affiliated to the Council of Europe as TREVI, Ad hoc and Schengen in migration and border management.

Adopting the Schengen Agreements, first signed in 1985, was one of the most important developments. In 1990, they were institutionalized in the Schengen Convention, which brought the EU closer to a borderless union and a set of shared rules on immigration and asylum. The relevance of "the Schengen Agreement of 1985" and "the Convention of 1990" for the shared migration policy is attributable to the compensating measures they enacted to strengthen external border controls. Although Schengen is the first important step towards a common immigration and asylum policy, its focus is establishing an

intergovernmental border regime that enhances economic and security interests by abolishing internal borders. Subsequently, the Ad Hoc Group was tasked with drafting a proposal for the Union's common asylum system. The proposal was adopted in 1990, and it was later known as the Dublin Convention. The Dublin Convention defining the State responsible for examining asylum applications lodged in one of the Member States of the European Communities was a key step in the direction of collaboration on the issue of asylum. As highlighted in Convention, a single member state would evaluate asylum applications in accordance with national laws, international obligations, and criteria defined in the convention. Thus, asylum seekers would be prevented from multiple applications to member states. As a result, a buffer zone was established to keep asylum seekers out of the European Union. Thus, the way was opened for states, not members of the EC, to regulate asylum laws in accordance with the Dublin Convention. In the long term, the EC has transferred its burden by shifting asylum applications to non-EC states. In addition, the definition of the "host third country" was made in the Council Resolution, prepared in 1992, considering the Geneva Convention and the additional protocol. Accordingly, the third countries are designated as a safe country as long as the asylum seeker is provided with protection in the third country or has the chance to apply for asylum in the country of origin or stay before seeking refuge in a Member State. This has allowed EC member states to repatriate asylum seekers who came from places they identify as host third countries. Thus, informal security-oriented immigration and asylum policy steps were taken to prevent unwanted immigration. However, it should be noted that ad hoc initiatives, the Dublin Convention and the Council Resolution, are intergovernmental in nature. The Maastricht Treaty formalized this intergovernmental

cooperation, integrated asylum, and migration policies into the legal framework of the European Union and defined them as "issues of common interest."

The European Union Treaty, signed in 1992, and came into force in 1993. By establishing the European Union, the Treaty of EU represented a new phase in creating an "ever-closer union among the peoples of Europe" (European Parliament, 2022). Title V of the Treaty established the unified foreign and security policy. As Geddes (2008) emphasized, before the Maastricht, the ad hoc cooperation of the member states became formalized with the definition of Justice and Home Affairs as the third pillar. The insertion of Title VI, which includes rules on cooperation in the justice and internal affairs sectors, was the most significant contribution of the Maastricht Treaty to the development of a European migration and asylum policy. As stated in Title VI, Member States should take into consideration of shared interest, in order to realize the Union's goals, in particular the freedom of mobility, and without prejudice to the competencies of the European Community: within the framework of the immigration policy for third-country nationals, asylum policy, laws controlling the transit of individuals across Member State borders, and the exercise of restrictions; entry and exit conditions, residence permits, family reunification rights, to combat the unauthorized presence, residence and employment of third-country nationals (TEU,1992). The new pillar structure of the Maastricht Treaty was desired to provide a "good institutional framework for coordinating immigration and asylum policy with foreign policy" (TEU, 1992).

In 1997 the Amsterdam Treaty was signed and entered into force in 1999, which envisioned the establishment of the area of freedom, security, and justice (AFSJ). This paved the way for the development of standardized immigration policies and procedures.

The Treaty integrated visa, asylum, immigration, and other measures linked to the free movement of persons into the supranational European Community (EC) under the Treaty's new Title IV. Immigration and asylum policy, border control, and judicial cooperation in civil issues were now grouped under the first pillar and managed by the Community system of decision-making. "Provision on police and judicial cooperation in criminal matters" remained under the new third pillar (The Amsterdam Treaty, 1997, Article K.1). Immigration, asylum, and external border control were transferred to the Commission's joint decision-making mechanism, while intergovernmental judicial arrangements involving police and judicial cooperation remained the responsibility of the Council. Therefore, the role of the supranational organization in immigration and asylum policy has been expanded, thanks to the transfer of relevant sections of the JHA to the Community pillar. Migration being placed under the first pillar, which had a supranational character, enabled the European Commission a larger responsibility not only in developing policy, but also in negotiating immigration and refugee agreements with third countries. Thus, it can be argued that, unlike the previous policies of the EU, it has adopted a more security-oriented approach to immigration and asylum. The characterization of irregular migration and asylum as an internal security problem for EU citizens with the Treaty of Amsterdam pointed out that the EU would produce more security-oriented policies in the future. The Amsterdam Treaty has provided a clear legal basis for the European Union to create a common European migration policy. The Union had the capacity to establish laws on the terms of admission and residency of citizens of other countries and to take actions on unlawful immigration and residence, such as the return of illegal inhabitants. In addition, the Amsterdam Treaty was a milestone in that it established

a Common European Asylum System and consolidated immigration and asylum (Wiesbrock, 2016).

The European Union has adopted five-year multi-year programs to establish immigration and refugee legislation since the Treaty of Amsterdam was signed. The first of these five-year programs was held in Tampere in 1999 when the heads of government called for a common migration and asylum policy and, among other things, emphasized a root-cause approach to migration and the importance of migration relations with third countries (Geddes, 2005). Therefore, one of the "turning points" of the Tampere Council was that it invited the European Union to develop common policies on asylum and migration. The Tampere program had two main features in terms of emphasizing cooperation with third countries on migration and asylum. The first is to authorize the Council to sign readmission agreements with these countries, which is one of the most common means of externalizing the EU's migration policy (1999, para.27). The other emphasizes that the EU would embrace a holistic strategy to migration that addresses challenges in origin and transit nations and zones. (1999, para.11). In this context, while the EU aimed to externalize migration with authority to sign readmission agreements, which was given to the council, on the other hand, it has also opened the way for regional development plans and cooperation by evaluating migration in the context of migration-development.

The creation of CEAS began in 1999 in Tampere to bring together the disparities in Member States' asylum systems and establish minimum asylum criteria. Düvell and Jordan (2002) argue that with the CEAS, the EU was replacing the extreme immigration restriction approach of securing external borders and limiting asylum applications with an

approach intended to maximize the advantages of inevitable migration. Although the objective was to create an effective and common asylum system EU-wide, with the launch of the Hague Program, the EU toughened asylum and border control following the upshots of international circumstances and policies. In November 2004, after the five-year Tampere Program, the European Union determined a new program, called The Hague Program, "to strengthen freedom, security, and justice" to address "a central concern of the peoples of the States gathered in the Union" (Hague, 2004, para.1). The Hague Program aimed to improve refugee protection beyond the European Union and integrates migration management into wider foreign policy issues. Instead of relying on ambiguous ties with countries of origin, the new approach acknowledged "the external component of asylum and immigration policy". The Program emphasized the importance of collaboration between JHA policies' internal and exterior components in dealing with cross-border concerns such as illegal immigration, human trafficking, terrorism, and organized crime. Scholars and human rights organizations criticized the Hague program for focusing excessively on security concerns at the expense of fundamental rights protection, as Wiesbrock (2016) states that the Hague Program was more security-oriented than its precursor. The external dimension of migration highlighted in the Hague Program and the measures for the governance of borders were realized with the Council Regulation (EC) No. 2007/2004 on the establishment of FRONTEX in 2004. It was created mainly to arrange operational cooperation between the Member States in the management of the EU's external borders, to support them in situations demanding increased technical and operational assistance at external borders, and to offer them with the imperative support in the organization of joint return operations. In other words, the EU realized the external dimension of the joint border management that they had agreed upon with the Frontex

agency on operational cooperation and assistance. Thus, the EU's securitization and externalization policies have progressed in parallel with the establishment of a common asylum and migration policy.

The Lisbon Treaty, which was signed in 2007 and went into force in 2009, amended the two preceding treaties that established the foundation of the European Union. The Treaty of Lisbon, which updated the regulations for the European Union, briefly created a more centralized leadership and foreign policy, legal regulations for the enlargement of the Union, and a streamlined process for enacting new policies. The most important contribution of the Lisbon Treaty to the common asylum and immigration system had put an end to the pillar structure in the field of justice and home affairs and unite all the issues of JHA that were previously divided between the asylum, immigration, and visa regulations under the first pillar and police and judicial cooperation in criminal matters under the third pillar. Thus, integrating the previously intergovernmental third pillar with the other pillars means that the decision-making procedure of almost all policy areas related to justice and home affairs had been *communitarized*. The strengthening of EU institutions brought by the Lisbon Treaty and the special position of the Commission and the ECJ, especially in the field of asylum, have enabled the *communitarization* and *judicialization* of EU immigration and asylum policies by some scholars (Léonard and Kaunert, 2012). Consequently, the Lisbon Treaty significantly impacted the common asylum and immigration system developed with the two previous Treaties (Maastricht and Amsterdam) and action plans.

The EU has developed a wide range of tools to enable comprehensive cooperation with third countries of origin and transit of migration flows, with GAM and later GAMM

reinforced by the Stockholm Program (2010). Among these instruments are readmission agreements, which the EU frequently instrumentalizes in the externalization of migration, mobility partnerships, visa facilitation agreements, regional development programs. Stockholm Program was a third five-year political and strategic document in this area. The Program includes recommendations for shared policy on fundamental rights protection, privacy, minority rights, and the rights of vulnerable groups, as well as European Union membership. The proposal also outlines intentions for measures like data exchange between state agencies at border crossings and Internet surveillance. The work program of the Program places a high value on how the EU should cooperate to ensure respect for basic freedoms and privacy while maintaining European security (European Commission, 2009a). The Stockholm Program also approved the significance of consolidating, strengthening, and implementing the GAM/GAMM.

The GAM plan strengthened the notion of mobility packages and bolstered the concept of a "more for more" approach: the more third countries collaborate, the more advanced visa facilitation will be for their citizens. Therefore, mobility is formally contingent upon cooperation with FRONTEX and completing a readmission agreement with the EU. Mobility partnerships were signed with many countries following this new migration strategy. Additionally, readmission agreements have been signed and apply to nationals of third countries and stateless people transiting or originating from these nations.

Although the EU has announced presidency conclusions, programs, and conventions to make improvements in the common refugee and migration policy after the Arab Uprising, most have pragmatic objectives. In this process, the EU introduced readmission agreements and mobility partnership plans to restrict the entrance of asylum seekers and

stateless people. EU signed MP with Morocco in 2013, EURA with Turkey 2013 (later EU-Turkey Statement 2016), and a MoU with Libya (2017 and renewed 2019), which I choose as a case in the thesis.

This section examined the EU's migration policies in a historical process, the steps toward common measures, and the *communitarization and judicialization* in migration through treaties, programs, action plans, conventions, and agreements. In the remaining part of the chapter, I will discuss how the EU's common migration and asylum policies affect its relations with third countries. In this context, securitization and externalization of migration are discussed, and it is examined whether the securitization practices of third countries move away from the normative nature of the union with the EU in migration dialogue. The subsequent part discusses the securitization and externalization of migration. In addition, whether the EU is normative in its migration dialogue with third countries is evaluated considering the securitization practices.

2.4. The Securitization of Migration and Asylum

Since the conclusion of the Cold War, changes in the international system have resulted in advanced capitalism trends, instability in some parts of the world, and increasing global mobility. Initially, the political and ethnically motivated inter-state conflicts that occurred in the Middle East and the Balkans in the early 1990s created more insecurity in these geographical regions and increased international migration to Europe after these events. The consequences of these events did not stop for the decade following the breakup of the USSR. In the bipolar world order, the efforts of the countries that were ideologically under the control of the Soviets to integrate into the capitalist world order after the dissolution of the Soviet Union, the determination of national borders, and the formation of nation-

states caused tensions, conflicts, and wars to jeopardized international security. Thus, regional tensions have led to more conflict and instability in the Middle East, Central Asia, and generally around Europe, as elsewhere (Bello, 2017). When the Cold War between the two superpowers ended, with the fall of the Soviet Union and the end of the Iron Curtain, the Third Way of Europe triumphed over communism (Giddens, 1998). The worldwide acceleration of capitalism after this victory of the West led to some erosions in the welfare state system in Europe and facilitated neo-liberal policies. However, the continuation of regional tensions, the rise in oil prices caused production costs to increase, resulting in more flexible wages and job descriptions but harsher working conditions. On the other hand, with the increase in regional tensions because of the relative retreat of the superpowers, people from these regions moved en masse and took refuge in the West to live in better conditions. According to IOM's World Migration Report in 2000, there were an estimated 120 million international migrants in 1990, while by 2000, this number had reached 150 million. It reveals that in 1990 and 2000, approximately 13.5 million immigrants reached Europe because of voluntary or forced migration (IOM, 2000). Although Europe is not home to the world's largest refugee population, it was a privileged destination for movements. The fact that such a large movement of people is targeting Europe, together with the previously emphasized economic recession and the weakening of the welfare state, has led to the increasing presence of immigrants in the eyes of European citizens as the reason for the worsening of working conditions, public health, and education systems. Negative attitudes towards immigrants based on social, economic, and cultural reasons from the society also allowed states to evaluate immigration within the scope of security. During this period, Schengen, which the European Union agreed to and put into practice, created areas where goods, services, and citizens of member states

could move freely by abolishing internal borders while strengthening external borders and making non-EU citizens the object of increased security controls. In short, as Bigo emphasizes, immigration became part of the "governmentality of unease" since the end of the Cold War (Bigo, 2002, p.73). This "governmentality of the unease" has evolved into a process where the state, especially security experts, problematized immigration, and especially with the end of the Cold War, various actors intervened in human mobility with different aims and means. Therefore, in this part of the thesis, how the securitization-migration nexus is established, the theories of securitization, and the aims and means by which the EU includes immigration.

2.4.a. The Securitization Theory

At first, the concept of security was considered from a realist perspective under Strategy Studies, focusing on the state and the military. In other words, until the end of the Cold War, it developed under the influence of realism, which is one of the dominant schools of thought in international relations theory, within the scope of fields such as international security studies, war studies, and strategy studies. Hence the end of the Cold War not only ceased bipolarity but also limited conventional security studies. In this setting, security researchers have expanded security studies to encompass new non-traditional security problems, such as political, economic, human, and environmental security difficulties that affect not just states, but also people and other actors. The military state-centric agenda was logically, politically, and normatively challenging to those wanting to broaden the idea of security. While challenging military state centrism was not new, alternative and critical new approaches originated in the late 1980s and 1990s, with the emergence of new problems that reconfigured and expanded the realm of security.

Thereby new broadening and deepening approaches -Human Security, Conventional and Critical Constructivism, Feminism, Postcolonialism, the Copenhagen School, the Paris School, the Aberystwyth School, and Poststructuralism - broadened and deepened the security concept by introducing new security matters and referent objects beyond the traditional understanding of security. In this context, three important schools contribute to the widening and deepening securitization theory: Copenhagen School, Paris School, and Aberystwyth School. It is possible to characterize them as a linguistic approach, a practice-based approach, and a philosophical approach, respectively. The Aberystwyth School is a radical interpretation of traditional security studies. It provides a very stark understanding of how to rethink security studies. Centering on the concept of human security, this school emphasizes that true security is achieved through an understanding of "emancipation". Although Aberystwyth has made valuable contributions to securitization studies, it would be more appropriate to discuss securitization of migration within the EU's migration policies within the bounds of Paris and Copenhagen Schools.

The Copenhagen School was founded around the work produced in the 1980s by a group of researchers at the Copenhagen Peace Research Institute (CORPI) as part of the discussion of broadening the concept of security. At that time, many studies discussed the elements that may or may not be included in the definition of security. While studying the conventional methods to security, Wæver determines that the concept of security evolves in two distinct ways and evaluates each of these characteristics differently. First, classic security studies consider security as a given or as being before to language. Wæver (1995), who argues that it may be preferable to go to the core of the concept as opposed to treating security as a given phenomenon that exists independently of discourse, asserts that it is

necessary to consider how security is constructed by those who use this concept in speech-act or discourse. In other words, security is constructed through discourse and acquires meaning with discourse. The Copenhagen School does not problematize the state as the reference object of security. Their work is more about what threats to security are, how they are defined, or how they are constructed, rather than the discussion of whose security should be ensured. Instead of explaining the reference object to be secured, Wæver (2012) explains how any problem may become a security problem. Thus, securitization refers to the discursive framing of an issue as a security concern or, more particularly, as an impending and existential threat. As stated by Buzan et al., "securitization can be seen as a more extreme version of politicization" (1998, pp.23-24). Thus, any non-security concern (migration, environment, religion, economy, and identity) may be simply included into the security domain.

The Copenhagen School's approach to "securitization as a speech-act" has been studied and criticized in the literature. The Paris School claimed that the securitization theory of the Copenhagen school could not be proven sociologically and contained many questionable assumptions. They appraised the securitization theory within the scope of its practical implication. The Paris School takes its roots not from the discipline of International Relations but from political theory, particularly European studies of border management and sociology of migration. According to studies that adopt this school's approach, securitization does not only occur with the rhetoric of state elites. According to Balzacq (2016), security is not necessarily a rhetorical performance, but can also be designed through different technical or physical modalities. As Bigo emphasized, "securitization works through everyday technologies, through the effects of power that are

continuous rather than exceptional through political struggles…" (2002, p.73). Thus, securitization occurs because of the practices of the police, field officers, and other security-related units. Therefore, securitization is a reproduction of routine, as opposed to being an exception.

2.4.b. EU Migration Policies in scope of Securitization

Taking into account the existing theoretical frameworks of securitization, this section analyzed the causes and means of the securitization of immigration and asylum concerns in the context of the European Union. The *communitarization and judicalization* of national migration policy was significantly tied to the process of European integration. The abolition of internal borders, which has been the main goal of European integration since the inception of the European Community, required unification of national policies, particularly on entry and residence requirements for non-EU citizens. As a result of the elimination of internal borders and the establishment of a shared external border, member states have opted to implement compensating actions in order to protect the security of this borderless region.

Since the 1997 Amsterdam Agreement, while the EU has established a common migration and asylum system, they have also developed new security agendas and restrictive policies by taking migration within the scope of security. With Schengen, the abolition of internal borders required the strengthening of external borders. While prioritizing security by registering immigrants with computer-aided databases such as Eurodac, SIS and VIS, which are considering as preventive securitizing practices, stipulated by the EU Dublin Agreement, they also practically securitized immigration. Balzacq (2008) argues that the operation of EU information sharing systems on internal

and external security, including multiple databases, has resulted in the establishment of a particular region of insecurity. In a similar vein, Huysmans (2006) notes that the development and application of knowledge and technological artifacts such as statistical tools, information technology, and scientific data often precedes political framing or speech act and is pre-structured in important ways. In other words, securitization takes place without speech act, but also with technocratic and technological processes. When migration management becomes regulated and managed by security and related public order units, the issue of migration is also securitized. Institutional representatives of the EU define migration as a security issue through discourse – although it is not often emphasized in documents, treaties, and action plans – however, security units in cooperation with the EU, such as Europol and Frontex, securitize migration with everyday practices. The sociological approach that prioritizes practices over discourses and the linguistic focus on the speech act are genuine in their analyses of the securitization of migration in the European Union. The EU discourses have normative values such as human rights, the rule of law, accountability, cooperation, burden-sharing, and humanitarian intervention that are frequently emphasized, especially in treaties, bilateral agreements, protocols, and migration pacts, while in practice EU is reciprocating with pushbacks, offshore practices, and incentives given to countries that are parties to migration.

In this section, the normativity of the EU's migration policies is explained in two fundamentally interrelated sections. In this context, the *communitarization and judicialization* of migration policies and the securitization of migration are important to understand whether the EU is a normative power on migration. Since these two processes

developed together in a sense that the common migration policy was formed by the securitization of migration. In this context, the securitization theory of the Copenhagen and Paris School has been applied to explain the role of securitization of migration in the development of a unified EU migration strategy. In this context, the EU's migration policies are on the table within the scope of both securitization and (in)securitization theory and are open to discussion within the framework of the EU's normative argument. While normativity accepts common values, human rights, solidarity, and the rule of law as embedded within the scope of international agreements, on the contrary, it requires doing what real politics requires with securitization discourse and practice sets.

The following section will present the externalization of migration politics and practices, which are instruments of cooperation in the EU's migration relationship with third countries. The securitization of migration has driven the externalization of migration policy towards third countries. Thus, the external dimension of EU immigration policy was developed on the basis of security and control-oriented policies, not on the basis of normative values. The analysis of the EU's means of externalizing and securitizing migration on the basis of the EU's normative power regarding common European asylum policy and migration will provide us with both practical findings for each case.

2.5. Externalizing Migration and Asylum in the EU

The preceding chapters covered the dynamics at play in the process of European level collaboration on the concerns of migration and asylum. Rigid and security-oriented policies and tools were developed to deal with the migration issue at the EU level, and this was largely attributed to the process of European integration, which involved the elimination of internal borders inside the Union. The role of EU institutions has increased

with the transfer of migration and asylum issues of the EU from the intergovernmental dimension to the Community Pillar. Thus, these developments have led to a greater consolidation of asylum issues and an increasing judicialization of the EU asylum policy area, which has imparted this policy venue more suitable for the fulfillment of restrictive and control-oriented migration and asylum preferences.

Nonetheless, as the literature on migration, asylum and border studies present restrictive, exclusionary, or physical and technocratic security practices lead to an increase in irregular migration. The humanitarian crises experienced on the borders of EU member states or in international waters in recent years are also a result of the EU's bitter response to the increasing pressure on asylum seekers in various ways. The EU labels asylum and migration as a crisis and seeks to overcome this impasse by tracking alternative plans and establishing formal, diplomatic, or informal, ad hoc cooperation with third countries.

2.5.a. Formation of External EU Migration and Asylum Policy

Over the last thirty years, the migration and asylum policies of the European Union have faced considerable internal and external obstacles. Combating irregular migration has long been a major component of the EU's foreign policy to effectively balance and manage migrant flows. Due to the pressures on migration from beyond EU borders, the external aspect of EU immigration and asylum policy became a crucial policy domain. Since the 1990s, the EU's immigration policy has evolved in terms of its external component. It is difficult to define this exterior dimension since it might take many distinct forms. In an effort to characterize the Member States' actions outside of their conventional borders, a variety of words has been used: 'external relations', 'foreign policy', 'extra-territorialisation', 'juxtaposed control', 'remote control', 'outsourcing', and 'offshoring'

(Guiraudon, 2003; Lavanex, 2006; Bialasiewicz, 2012). The EU's incorporation of migration into its interactions with third countries is regarded to as the external dimension. The external component concerns the mobilization of non-EU countries to manage migration into Europe. As Zapata-Barrero denotes that "externalization of migration as design the expanding scope of its rules beyond EU borders" (2013, p.6). In a similar vein, externalization refers to a sequence of procedures involving the geographical and administrative extension of a state's migration and refugee policy into other nations (Stock et al., 2019, p.5). The EU's extension or transfer of migration and asylum management to third countries has been manifested in many different conceptual frameworks in the literature. The process of externalization has been defined as the "spatial and legal stretching" of migration control beyond national borders (Casas-Cortes et al., 2016). While also the EU's externalization of migration and asylum, especially in border studies, corresponds to the definition of "transportable and deployable" border policies according to Weizman (2007), externalization takes place where the migrants are, according to Casas-Cortes (2016). There are several ways that these transportable and deployable externalization policies and practices can be implemented in third-party nations. For instance, the dissemination of non-negotiable and predetermined European norms to third countries under conditionality logics of enlargement is commonly known as the "Europeanization of Europe's neighborhood" (Karadag, 2019). In this respect, tracing the historical process of the EU's externalization policies, and understanding the different forms and mechanisms of externalization is essential to comprehend how the EU deploys migration and asylum to third countries and makes it transferable.

In the 1990s, migration and refugee policy within the EU and its member states became highly political. As a result, EU officials prioritized promoting collaboration with sending and transit nations on immigration and asylum policy (Gökalp-Aras, 2021). The European Union's Commission reports, treaties, and communication documents point out legal externalization policies. Under this banner of collaboration with third countries, two distinctly different approaches can be discerned. According to Boswell, these are "externalization of migration management" and "root cause" approach (2003, p.619). The first entail types of collaboration that externalize existing domestic or EU migratory control instruments. The second form of policy might be loosely described as "preventive": actions intended to alter the circumstances that impact people's decisions to migrate or their preferred destinations. While the measures taken in the first include strengthening the borders, preventing illegal entries, combating human and migrant smuggling, the second commits immigrants to stay in their own country by increasing their economic and social opportunities. In the same manner, externalization is operationalized primarily through the "remote-control strategy" and the "root cause approach" (Zapata-Barrero, 2013). Aristide Zolberg (1997) used the term "remote border control" to describe the transatlantic visa system and outward screening in European ports that took shape in the nineteenth and early twentieth centuries. He states that remote controls are utilized to filter, as opposed to only exclude. Similarly, Zapata-Barrero (2013) stated that the rationale behind externalization is that potential immigrants who want to enter Europe can be controlled before they reach the destination country, and that it is necessary to act beforehand, as it is much more difficult to deport unwanted immigrants after they reach European territory due to legal and humanitarian protections. In this respect, remote control can be defined as a control-oriented and selective border strategy.

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In this respect, according to his definition, remote control, one of the EU's externalization approaches, is restrictive, security-oriented, and reactive. Contrary to the remote-control, root-cause approach, which is a development-oriented and proactive, aims to build an alternative with political innovations. The rationale for this is to understand the push factors that motivate people to leave their home country and focus on the causes rather than the effects of immigrants' exit options. Although this definition of Zapata-Barrero is not different from Boswell's conceptualization, it is valuable because it analyzes the EU's externalization policies through regional cases with this set of concepts. There are three ways to achieve the so-called externalization of migration policies. Apostolos Papadopoulos (2007) contributes to these scholarly debates by emphasizing that there are three ways to ensure the so-called externalization of migration policies. These are "remote control", "remote protection", and "capacity-building". First, there is the "remote control", which involves the shift of border controls to third nations or border countries. The second is "remote protection", which places greater focuses on the extraterritorial aspects of refugee protection. Third, there is a focus on "capacity-building" in some sending and transit nations, mostly through the transfer of expertise, technology apparatus, and institutions. Papadopoulos argues that the EU's externalization policies are not limited to the introduction of some technological and administrative breakthroughs, but also a new way of conceptualizing and organizing the European landscape by redrawing the maps of security risks and creating zones of (in)security. (2007, pp.98-99). In this respect, the regions that I will discuss as a case in the rest of the thesis can be seen by the EU as regions of insecurity with its conceptualization.

The externalization of EU migration policy did not occur in a hollowness and consists of several significant phases. The period when the EU shifted migration and asylum cooperation with third countries into its main political agenda and thus focused on the external dimension consists of three main empirical cornerstones in the literature. Lavanex (2006) and Hallvik (2019) periodizes these process as follows: "(1) the Schengen Agreement of 1990; (2) the safe third country rule that became leading in the Dublin I of 1990; (3) agreements on readmission that have been a hallmark of EU externalization since 2015". Moreover, Hallvik operates the EU's externalization policies in three periods :1990 – 2003, 2004 – 2014 and, 2015 – 2019. On the other hand, Zengin (2017) considers Tampere a turning point due to the EU's official acceptance of the external dimension and divides it into two parts: pre-Tampere and post-Tampere. In this context, the model for explaining the process-tracing of the outcome process of the externalization of the EU's migration policies is as follows in Figure 2.1:

Figure 2.1. The Different Processes of EU Migration Policies (Hallvik, 2019, p.49)

The external dimension of European Union (EU) migration and asylum policies is not a novel issue. Since 1987, both the European Parliament and the European Commission

have emphasized the importance of extraterritorial control of asylum and migration, as well as the links between migration or asylum policies and development assistance or overall economic and political collaboration with countries of origin (1987, cited in Triandafyllidou, 2014, p.9). The Council made a drug-related decision in 1987, mandating that EU foreign policy include countering the drug trade. However, the external component of European Union migration policy, which was initiated in the early 1990s, also precedes the formal introduction of the JHA external dimension. The first step toward comprehensive externalization was marked by the Schengen Agreement of 1990 and the concept of remote control. People in European Member States could travel freely since the Schengen Agreement ended passport checks at borders. Due to the removal of internal borders within the EU, individual member states were more susceptible to the impacts of migration. Thus, additional security measures have been imposed at the EU's external borders. Meanwhile, the 'safe third country' rule, later renamed the 'first safe country', was first established in the Dublin Convention of 1990, and later reaffirmed in the Dublin II Regulation and the Dublin III Regulation. According to the 'safe third country rule,' an asylum seeker should not be returned to their home country if they have applied for protection. However, they may be relocated to another country that has signed on to basic international treaties and conventions protecting human rights and refugees. The use of the safe third country rule was a significant step in mobilizing third nations in managing migrant flows into the EU, making the Dublin Regulation one of the first EU migration policies to actively include third countries. While the Schengen and Dublin Conventions were the first steps in the EU's externalization of migration, the first major development was made at the European Council Meeting on Justice and Home Affairs in Tampere in 1999. Tampere has implemented the common policy of unity in the fields of justice,

freedom and security defined by the 1997 Amsterdam Treaty, which built on previous initiatives to accelerate the formation and development of a European migration regime, with an external dimension. The external dimension issues were cited in the Tampere Presidency conclusions as "should be integrated in the definition and implementation of other Union policies and activities including external relations" (Tampere EU Council Presidency Conclusion,1999). While emphasizing the development of common policies on asylum and immigration in Tampere, Article 3 states that "the need for a persistent control of external borders to stop illegal migration" (Tampere EU Council Presidency Conclusion,1999). Moreover, Article 11 emphasizes the need for a comprehensive approach that addresses political, human rights, and development issues in countries and regions of origin and transit, and states that "partnership with third countries concerned will also be a key element for the success of such a policy in order to promote co-development" (Tampere EU Council Presidency Conclusion,1999). Thereafter, the external aspect of cooperation in asylum and migration issues has evolved to be the most active (Lavenex and Uçarer, 2004). Partnership with origin and transit countries, which was mentioned as the main element of a comprehensive approach, was stated as the legal output of Tampere. In this respect, it was the first critical turning point in the EU's externalization of migration as a proactive action plan. The High-Level Working Group on Asylum and Immigration (HLWG), established before the Tampere Summit, defined, and implemented action plans to combat the root causes of migration and protect refugees in their source countries, as well as a common readmission policy. The objectives of the HLWG were defined as strengthen the external dimension of the EU's asylum and migration policies based on dialogue, cooperation and partnership with countries of origin and transit in the conclusion paper (Commission, 1998). While the objectives of the

HLWG required in principle both externalization of means of control and a preventive approach, the measures taken in the action plans failed to balance these two approaches by focusing on the readmission agreements with other countries. The HLWG's intensive focus on readmission agreements has also allowed the Tampere Council to include standard readmission provisions in all partnership (Lavanex and Uçarer, 2004). In 2001 the Laeken European Council and the Seville Summit 2002 emphasized the need of concluding readmission agreements. Thus, at the Sevilla Summit, it was decided to include migration management and readmission provisions in all kinds of cooperation negotiated and implemented with third countries. In addition, new incentive packages were also presented to be convincing in readmission agreements to be signed with third countries (Commission, 2002).

Despite the ambitious and dynamic nature of the Tampere, external relations were first placed in the context of externalizing border management and establishing a buffer zone (Papagianni, 2013). In this context, cooperation with third countries intensified in practice and the important externalization policies began to take shape. The European Neighborhood Policy (ENP) was created in response to growing migration and expansion demands from the south and east. The Barcelona Process was one of the initial stages in this framework and envisioned collaboration with sixteen neighboring nations, all of whom were viewed as potential origin or transit country. According to Zapata-Barrero, the ENP, which is characterized as 'spatial shift', is expanded to include Tunisia, Israel, Jordan, Egypt, Algeria, Lebanon, Libya, Morocco, Palestine, Syria and Azerbaijan, Moldova, Armenia, Georgia, and Ukraine in the east (Zapata-Barrero, 2013). In addition, various incentives have been defined in the ENP externalization policy to accelerate the

process in readmission agreements and mobility partnerships with these countries and to adopt the EU's migration norms. Within the scope of ENP, which was based on economic, political, and cultural cooperation in migration, trade and human rights, EU has been defined as the European Neighborhood and Partnership Instrument (ENPI), -which is replaced as ENI- to support the neighboring countries that perform well. During the same period, the GAM was established and revised in 2011 as the GAMM, aimed to offer a global and inclusive approach to migration. GAM was designed within the context of the EU's need to improve legal migration channels in migration management and redesign its migration cooperation with third countries. Casas-Cortes defined the EU's policy of externalizing migration management through instruments such as ENP and GAM with the concept of "itinerant geopolitics of governing mobility." According to them, new institutional arrangements and different configurations of border management change the traditional relationship between state power and the region, leading to a series of yet unresolved debates that lead to an institutional and legal stalemate in the field of foreign relations (Casas-Cortes et al., 2016). In addition, as an important part of GAM, a number of Mobility Partnership (MP) agreements have been ratified between the EU and Eastern European and African countries in a long-term bilateral framework to facilitate policy dialogue with third countries. MP focus is on externalizing migration management through readmission agreements and visa facilitation agreements. It is also supported through the Mobility Partnership Facility (MPF). In this context, while signing nine MP with the EU and related third countries, it has signed seventeen readmission agreements. Compared to other EU externalization instruments, MP are more flexible and bilateral nature and cause national reluctance for third countries that are expected to be signatories. Especially the MP offered by the EU to countries where it could not directly conclude

readmission agreements with various African countries could not achieve the expected effect. For example, MP signed between Morocco and the EU are the result of lasting for many years of migration dialogue. Although ENP, GAM and relatedly MP had objectives such as strengthening regional dialogue, economic cooperation and democratization, the main focus was on the externalization of migration with these countries, combatting irregular migration, and strengthened border management. In support of this argument, Frontex was established by the EU in the same period to strengthen migration and border management with third countries, in accordance with the EU fundamental rights clause and Integrated Border Management. Frontex works closely with non-EU nations to oversee the implementation of the European system for integrated border management (IBM). Frontex plans and organizes cooperative operations and swift border interventions to support Member States at their external frontiers, notably in humanitarian crises and maritime rescue. In addition, Frontex's mission is designed to be able to conduct operations on the territory of non-EU countries bordering at least one Member State in case of immigration pressure at the border of a non-EU country. For example, Frontex provides technical support for the training of Libyan border guards and operations in international waters under the MoU between Italy and Libya. In the case study section, this will be addressed in detail. Thus, Frontex was designed to help and coordinate the government of the EU's external borders, but it has also become an integral part of the EU's externalization agenda (Triandafyllidou, 2014).

2.5.b. Identification of Institutional Links Between EU and Third Countries

The operationalization of the EU's externalization of immigration policy with third countries is as important as its practical implementation. The important question here is

how the existing institutional links between the EU and several groups of third countries and the relevant rights and obligations contained in them. In this context, it is necessary to discuss how the EU spreads its migration policies to third countries within the scope of the five country groups operationalized by Lavanex and Uçarer (2004), taking into account institutional belonging and geographical proximity. Lavanex and Uçarer generate a representative picture of the different dynamics of the EU's external influences, and it shows the adaptation of EU migration policies to third countries. The point that makes this operationalization significant for the thesis is that it reveals whether third countries can internalize these policies or not. These groups are shown in Table 2.1.

The first group includes Western European countries such as Norway and Switzerland, which are non-EU members who have intersectional borders with the EU. Both countries have internalized migration and asylum procedures with a strong degree of integration through bilateral agreements with the EU.

Moreover, by closely observing the internal developments in the EU and then adapting the internal regulations to the developing EU policies, these countries also comply with the acquis that the EU imposes on candidate countries. Those in the second group specifically include the ten Central and Eastern European countries included with the enlargement of the EU in 2004. Although migration policies are largely incompatible with the EU in the beginning, these countries have to necessarily internalize the EU migration acquis. Due to the rapid change in immigration and asylum policies of these countries, institutionalization and adaptation laws have also gained momentum.

Type of Relation	Political and Operational Instruments	Group of Countries
Comprehensive Association	Schengen Conventions, Dublin Conventions	Western European Non-EU Countries: Norway and Switzerland
Accession Association	EU migration acquis, EU visa policies	The 2004 Enlargement and Beyond: Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia + Cyprus, Malta
Pre-Accession Association	EU acquis as a special Accession Partnership, Readmission Agreements	Turkey and former Yugoslavian countries:
Neighborhood Association	European Neighborhood Policy, Euro-Mediterranean Partnership, Readmission Agreements, Partnership and Cooperation Agreements	the Maghreb and Eastern European Countries: Russia, Ukraine, Moldova, Morocco, Tunisia, Libya, Egypt
Loose Association	Lomé Agreement Cotonou Agreement, Readmission Agreement	the ACP countries: 49 African countries,16 Caribbean countries and 15 Pacific countries

Table 2.1. The Institutional Framework of EU Migration Policy with Third Countries (Lavanex and Uçarer, 2004)

According to Heather Grabbe, the conditionality for membership offers the Union tremendous influence in the transmission of its standards, values, and administrative system to third countries (2002, cited in Lavanex and Uçarer, 2004, p.431). The Union provided financial as well as technical support for the regulation of these countries' migration acquis and their adaptation to EU criteria. Although these CEES countries compliance with the legal and administrative regulations regarding EU membership is considered as 'opportune conditionality', the inconsistencies in immigration and asylum policies can be defined as 'inopportune conditionality' (Lavanex and Uçarer, 2004, p.431). Especially during the 2015 Refugee Crisis, the four CEES countries, the Visegrad Group where strengthened their national borders by violating Schengen and subsequently did not accept the burden-sharing and quota principle envisaged in addition to Dublin caused complicated situation within the EU.

The third group of countries affected by EU migration regime are the former Yugoslavian countries and Turkey. It is expected that these countries, which have completed their official application to the EU and guaranteed in candidate status, shall comply with the EU acquis in the fields of asylum, irregular migration, and visa policy. For example, the Law on Foreigners and International Protection, which was prepared and entered into force in 2013 by Turkey, was formulated in a way that is compatible with the EU acquis. In other words, although the developments in international relations and law necessitate a new regulation on immigration and asylum, Turkey's need to harmonize its legislation with the EU acquis has been the most important factor in the preparation of Law No. 6458. Although this new law is much more comprehensive than the previous ones, it did not meet the principle of Turkey's making changes in the asylum regime, which was emphasized in the EU-Turkish Accession Partnership Document of 2000. In other words, the expectation of the EU to abolish the geographical limitation clause in the asylum regime from Turkey could not be met. A similar development was experienced in immigration and asylum issues in the countries of the former Yugoslavia. For example, the agreements concluded with the Republic of Macedonia aimed to provide permanent and dynamic cooperation on issues such as visa and border control, as well as the problem of illegal immigration and readmission. Although there are efforts to harmonize the migration and asylum acquis in the relations of the countries in this group with the EU, the ultimate goal of the EU is to use these countries as a buffer in the externalization of migration, rather than evaluating these countries within the scope of membership. As Lavanex and Uçarer (2004) mentioned, despite a strong 'incompatibility' with European regulations regarding the legal administrative tradition and accompanying unfavorable opportunity structures of countries such as Turkey and Macedonia, their efforts motivated

by the conditionality linked to the possibility of eventual EU membership. Thus, it allows them to accept the migration and asylum norms and principles of the EU.

The Southern Mediterranean and Eastern European neighbors make up the fourth category of nations subject to EU migration policies. The EU's regional policies towards these countries are carried out with the ENP, which covers the fields of migration, trade, and stable management with third countries. Although the neighborhood association has a multidimensional character, especially with Mediterranean and Eastern European countries, it has not progressed due to the priority of one-sided EU interests (Lavanex and Uçarer, 2004, p.433). The cooperation that the EU has developed with these countries in the field of migration and asylum is based on the prevention of irregular migration, the fight against human smuggling and integrated border management. In this context, the EU prioritizes signing readmission agreements with other countries on the migration route, especially Maghreb countries. However, because of the one-sided interest, and the insufficient incentives the EU could not achieve success in readmission agreements with these third countries. For instance, Morocco and Tunisia rejected the readmission agreement due to legal, logistical problems and their regional position. While the EU offered Partnership and Cooperation Agreements to Ukraine, Russia, Belarus, and Moldova in its east to overcome these challenges, the 'wider Europe' initiative launched in 2003 was presented to Maghreb and Eastern European countries as one of the possible tools to leverage EU conditionality. (Lavanex and Uçarer, 2004) The developments also show the creativity of the EU's foreign relations agenda and propose potential package agreements that can leverage the policy-transfer conditionality in the long run (Lavanex and Uçarer, 2004, p.434). Although readmission agreements cannot be signed with

countries in particular Morocco and Tunisia within the scope of the externalization of migration, extensive cooperation in this field has been proposed by offering them the option of Mobility Partnership.

The last group consist of the African, Caribbean, and Pacific countries (ACP). The ACP are countries that signed "the Lomé Convention in 1975". The Lomé Convention covered primarily 46 African, Caribbean, and Pacific countries. Cooperation in various fields, which started with this agreement, continued with the Cotonou Agreement signed between the ACP and the EU in 2000. The political dialogue is one of the most important components of the agreements, since it covers new concerns that were previously beyond the purview of development cooperation, such as peace and security, arms trade, and migration. The Cotonou Agreement surpasses previous conventions in many areas and includes extensive provisions on readmission and the fight against irregular migration (Lavanex and Uçarer, 2004, p.434). However, cooperation in migration is linked to the realization of economic and political goals. Within the scope of the EU's 'Global Gateway' global infrastructure project, which includes cooperation in many fields including migration, foresees an investment of 170 billion Euros in Africa (European Commission, 2021). These wide-ranging collaborations also contribute to the migration dialogue between the EU and ACP countries mostly in line with the interests of the EU. For example, the Valletta Summit, which is a continuation of Rabat and Khartoum, the migration and asylum cooperation processes between the EU and African countries, aimed to bolster the cooperation between Africa and Europe. The most important output of these summits has been the readmission agreements signed between these countries and the EU.

Although the readmission agreements are controversial in terms of their humanitarian dimension and legal basis, they are still in force.

Preexisting economic, political, and social linkages, as well as a common tradition in the policy area, facilitate convergence with EU policies in the case of non-member states that are strongly related with the EU member states and have comparable issue constellations. Therefore, the external dimension of the institutional framework of EU migration policy is often characterized by a variety of instruments. Thus, apart from international legal instruments (readmission agreements and visa facilities) immigration provisions in EU cooperation and partnership agreements have developed several other tools that are less legally binding and more policy oriented (Papagianni, 2013). The common point of all these agreements, dialogues and institutionalization processes that shape the external component of the EU in migration management to the prevention and restriction approach emphasized by Boswell (2003). These interconnected, legally binding, or non-legally binding and flexible agreements require a series of initiatives that the EU has instrumentalized in externalizing migration. These initiatives shape the road plans in foreign policy as a reflection of the EU's common migration and asylum policies. Moreover, the process of policy transfer is typically one-sided and as a volunteer or be subject to negative externalities that may cause occur as a result of the continuation of the perceived costs of different approaches in immigration policy between the EU and third countries. In the externalization literature, it is claimed that third countries are passive actors against the EU and that there is a power asymmetry between them (Bicci, 2006; Bialasiewicz, 2012; Icduygu and Demiryontar, 2019). However, one of the basic assumptions of this study is that third countries not only receive various incentives from

the EU, but also gain political and bargaining power in different areas, as active playmakers in the process of externalizing migration. In fact, some studies describing the externalization of migration as a Eurocentric approach emphasize that this process establishes buffer zones, leads to human rights violations, and significantly hinders the EU's claims of normativity (Zapata-Barrero,2013). The Eurocentric approach of externalizing migration undoubtedly affects the normative structure of the EU, but third countries are also involved in this process as active playmakers, maximizing their own positions and political interests. In the context of the thesis, a change in the normative power of the EU is envisaged within the scope of securitization and externalization of migration. For this reason, in the continuation of the thesis, while discussing why the EU cannot be a normative actor, the positions of third countries against the EU will also be evaluated. The cases of Turkey, Morocco, and Libya, which I will analyze in the following section, are not only an empirical example of the EU's practices of externalizing migration, but also a litmus test for the normative power.

CHAPTER III

METHODOLOGY AND CASE SELECTION

This thesis inquiries about the effect of securitization and externalization practices of immigration and asylum on the normative power of the EU in relations with third countries. In this context, by exploring the phenomenon and context, the theoretical framework will be tested to understand the change in the normative power of the EU. An in-depth analysis of the causal mechanisms will be made to understand the process between the cause and effect of this change. In this context, process tracing as a qualitative method of analysis will be used to determine the reasons for the EU's moving away from its normative power within the scope of migration policies.

3.1. Process Tracing

"Process tracing is a fundamental method of qualitative social science research to identify causal pathways" (Beach & Pedersen, 2013, p.1). Process tracing can significantly contribute to describing and evaluating political and social phenomena (Collier, 2011). It attempts to identify the intervening or causal processes between independent and dependent variables (George & Bennet, 2005, pp.206-207). The essence of process tracing, according to Beach (2016), is tracing causal pathways that link causes (X) with their consequences (Y). The goal of tracing causal mechanisms is contingent on two understandings: (a) to make better evidence-based judgments about a causal link and (b) to provide a more robust understanding of how a cause creates an effect. Accordingly,

process tracing, which is an in-case empirical analysis of how a causal process works in a real case, presents a relationship between variables as follows:

Intervention A   ???   Outcome B

Independent Variable(s)   Causality   Dependent Variable
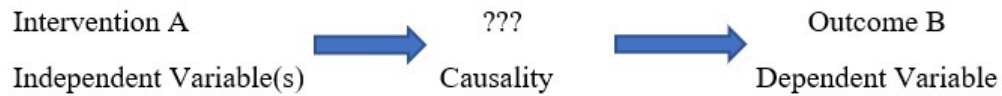
The causal mechanism is revealed by process monitoring techniques that open a black box. This mechanism might be viewed as a force or a power - the thing that causes occurrence A to result in occurrence B. Beach and Pedersen outlined three basic forms of process tracing: "theory-testing, theory-building, and explaining-outcome" (2013, p.144). The first is process analysis that causally demonstrates how an existing theory works in a case, while the second is a general theory-building process from case knowledge. As I concentrate on a particular outcome, I will conduct an explaining-outcome-process tracing because this method's goal is case-oriented rather than theory oriented. Thus, I will examine the variation of a single theoretical situation with multiple cases. This technique combines deductive and inductive methods to follow causal pathways in order to provide a full account of a given historical outcome (Beach, 2017, p.21). To discover an "adequate" explanation for the case's outcome, one does not proceed from theory to evidence or vice versa but instead moves back and forth between the two. Thus, adequacy refers to the subjective judgment that all relevant aspects of the outcome have been explained and that there are no more reasonable alternatives.

In this thesis, following a deductive path, explanation-outcome process tracing will be used to reveal the reasons for the decrease in the EU's normative stance on the migration relationship with external actors. This type of process tracing tries to find the causes of a particular outcome in a single situation. This research defines why the EU is not normative

in its migration policies. Then, the factors (X) connecting the result (Y) were tried to be found. The internal change in the immigration policies of the union was the first determinant in the decrease in the normative power of the EU. Another determinant related to the result is the positions and counter-reactions of the third countries against the EU's securitization and externalization policies. The causal mechanisms between X and Y can be represented as:
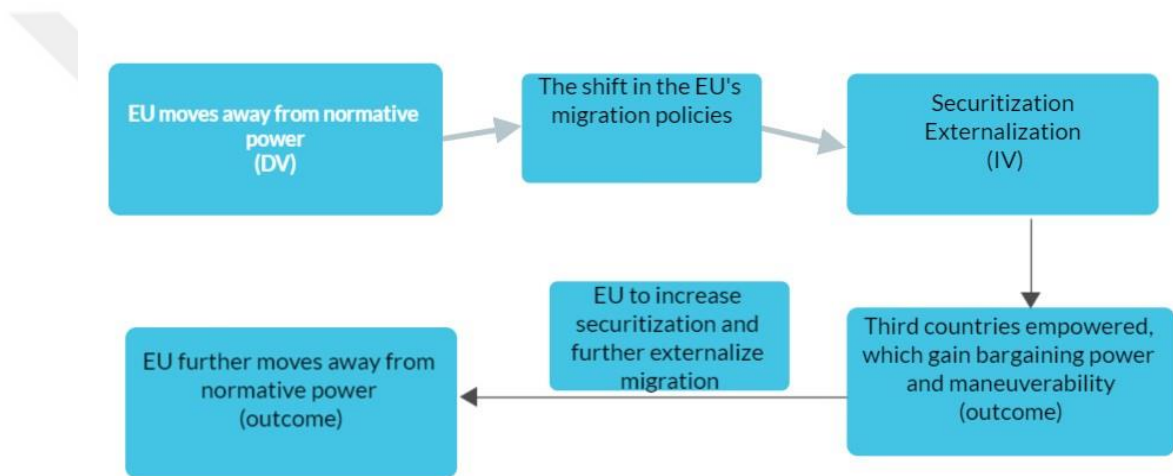
During the research, both primary (EU institutions documents, legally binding and non-legally binding agreements) and secondary (literature on normative power, securitization, and externalization) sources were used. Furthermore, the official primary statements from the EU, Turkey, Libya, and Morocco, as well as documentary sources, open public sources, publications, and scholarly works, were used to compile the data for this study.

3.2. Case Selection

I will explore migration dialogue at large and the externalization policy of the European Union from the angle of the third countries it engages within the MENA region. Mainly, I will try to examine how this policy empowers these third countries vis a vis their foreign

policy with the EU and weakens the normative power of the EU. Turkey, Morocco, and Libya will be selected as cases in the thesis. There are three different reasons for choosing these countries: (1) the fact that all three countries have historical relations with the EU and its member states, significantly they should develop a dialogue on migration. Morocco and Libya are members of the European Neighborhood Policy, and Turkey has been a candidate country since 1999. (2) All three countries are on the key route to the EU due to their geographical location. As seen in Figure 3.1, these three countries are important gatekeepers on the gateway to the EU- Morocco on the Western Mediterranean route, Libya on the Central Mediterranean route, and Turkey on the Eastern Mediterranean route-. The fact that these three routes are frequently used in irregular crossings shows that the EU should address these countries in migration dialogue. (3) Three countries have signed readmission agreements with the EU. Ayşen Üstübici and Ahmet İçduygu emphasize that the symbolic value of these agreements is high, transferring migration to third countries through pragmatic agreements, including bilateral agreements and military border control operations between EU countries and their neighbors, including Italy and Libya, Spain and Morocco, and Greece and Turkey (2018, p.186). First, the Mobility Partnership, which is non-legally binding, was signed between the EU and Morocco in 2013. Secondly, a legally binding readmission agreement was signed between the EU and Turkey in 2013, and a non-legally binding Statement was signed in 2016. Third, the EU-supported non-binding Memorandum of Understanding was signed between Italy and Libya in 2017 and was extended in 2020.

Figure 3.1. Migration Routes for Irregular Migrants (Malakooti and Fall, 2020)

Movements through the three Mediterranean routes, 2012–2019
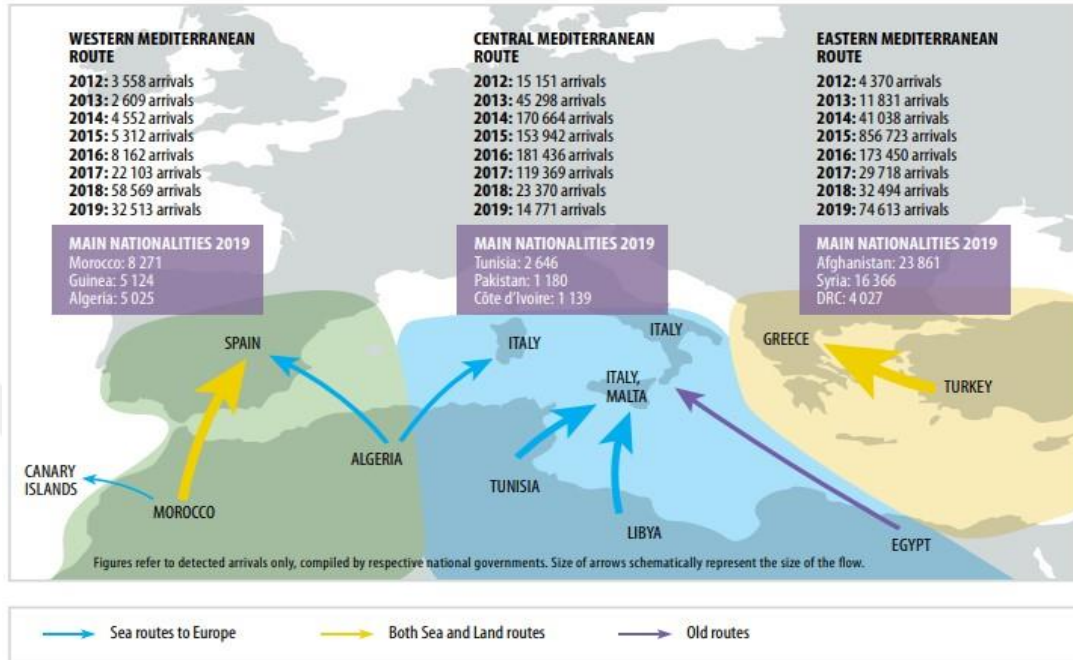
CHAPTER IV

COLLABORATION BETWEEN THE EU AND THIRD COUNTRIES

4.1. The Case of Morocco-EU Cooperation on Mobility Partnership in 2013

EU deploys the instruments such as readmission agreements, bilateral understanding statements, ENP, Mobility Partnership, and Regional Development Plan in migration dialogue with neighboring countries. The European Agenda on Migration focuses specific emphasis on collaboration with third countries. Within the European Migration Agenda, Morocco has a privileged position in bilateral and multilateral relations with the EU. In this thesis, Morocco, a third country where the EU has externalized its migration management, is a crucial case study with many region-specific features. Thus, the relations between the EU and Morocco have been pursued on the basis of interdependence on two issues in the historical process: trade and migration.

Morocco, a rich cultural mix of Arab, Berber, and European influences is a strategic partner in the southern Mediterranean and the MENA region for EU. Morocco and the European Union have maintained relationships for more than fifty years. In 2020, Morocco was the EU's 20th largest trading partner, accounting for one percent of the EU's total merchandise trade with the rest of the world. (European Commission, 2022). In addition, the EU is the country's largest investor, accounting for more than half of Foreign Direct Investment shares (European Commission, 2022). The EU and Morocco established a Free Trade Area under the EU-Morocco Association Agreement, which

entered into force on 1 March 2000. In 2021, within the scope of the new EU Trade Policy Review, the EU put on its agenda a new agreement plan on the modernization of trade and investment relations with Morocco on value chains and the digitization of the economy. The most important factor affecting Morocco's position in its multiple relations with the EU is the added value created by the EU in the country. Morocco is economically dependent on the EU. However, the main reason why Morocco is a strategic actor for the EU is migration management rather than trade and economy.

The common security concerns play a critical role in the EU's multifaceted relationship with Morocco. In particular, Morocco is facing security problems caused by irregular migration, and terrorism constitutes the political pillar in their relations. Due to Morocco's geographical proximity to Spain, several EU members, particularly those in the south, are under pressure over regional security and migration. Since the XV century, the North African cities of Melilla and Ceuta, separated from Moroccan territory by the Mediterranean Sea, have belonged to Spain. Since Spain became a member of the EU in 1986, these enclaves have been the only Union territory in Africa. Ceuta and Melilla are in such a strategic location and are exposed to migration flow from countries in the West African region, especially Guinea, Senegal, Mali, Niger, and Cote d'Ivoire. The Western Mediterranean migration route, where Morocco is in the position of an origin and transit country, has become where irregular migration intensifies with the increase of control and surveillance on the Eastern and Central Mediterranean migration routes, where Turkey and Libya are located, respectively.

Figure 4.1. Irregular Border Crossing on the Western Mediterranean Route (Frontex, 2022)
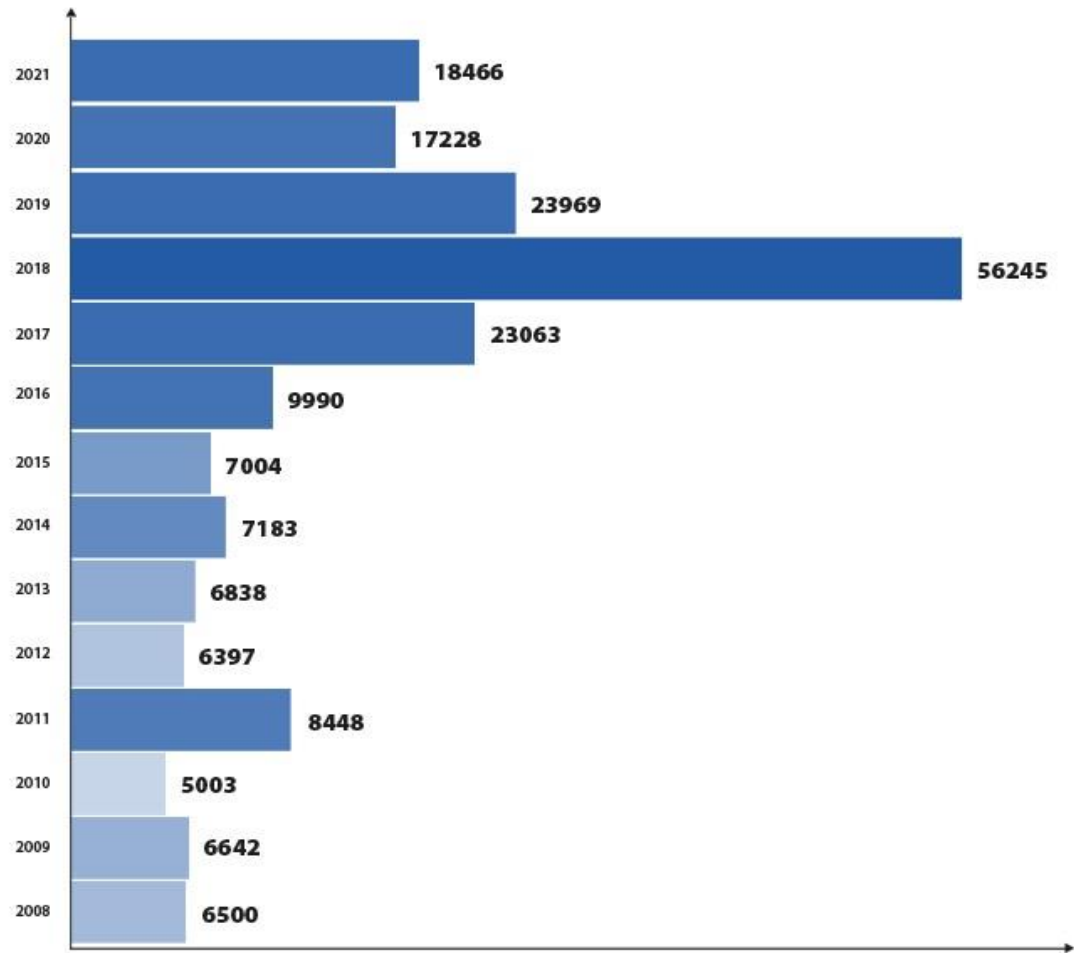
As seen in Figure 4.1, in addition to the fact that the Western Mediterranean Migration route is always active, it is seen that irregular migration from the Central and Eastern Mediterranean routes to the Western route has shifted because of the increase in the control of border crossings after the Turkey-EU 2016 Statement and Italy-Libya 2017 Memorandum of Understanding. Increasing irregular border crossings on the Western Mediterranean Migration Route reveal the need for new action plans and agreements between the EU and Morocco to control irregular migration and combat human smuggling. For many years, the EU has established its political agenda to arrange a

readmission agreement with Morocco by offering various instruments. On the other hand, in addition to these agreements, it pursues a policy of transferring migration management to third countries such as Morocco by providing regional partnership instruments as ENP and supportive financial incentives as ENPI. Thus, Morocco's strategic location and the volume of trade cooperation allowed its relations with the EU to develop on the basis of interdependence. Therefore, it is reasonable to consider Morocco as a case in the EU's migration management with third countries.

4.1.a. EU-Morocco Relations: Pre-Mobility Partnership Period

Morocco, which proclaimed its independence from France in 1956, enjoys a distinctive role as a partner of the European Union due to the scale of trade links and its strategic location for the transit route from North Africa to Europe. A long-standing relationship exists between the European Union and the Kingdom of Morocco. This connection, supported by several political and commercial accords, has proven advantageous for both parties. The relations between Morocco and the European Community date back to the signing of a bilateral partnership agreement in March 1969. This agreement intended to contain a section on financial and technical cooperation, which would have included labor provisions, financial aid, and technical assistance (EU Commission, 1969). Then, with its neighbors Portugal and Spain becoming full members of the European Union, Morocco applied for membership in the Union in 1987. King Hassan II stated that the Kingdom of Morocco has rights as a country with a liberal economy and following democratization steps. In addition, the fact that they have a large trade volume with the EU, especially Spain and France, was a sufficient reason for them to enter the single market (Haddadi, 2002, p.151). However, the Union rejected Morocco's application as it did not meet the

criteria of "any European state" defined in the establishing Treaty of Rome (EEC Treaty, 1957).

Euro-Mediterranean Conference in Barcelona has been the basis for developing Moroccan-EU ties since 1995, which prompted the development of an extensive political, social, and economic framework between EU member states and Mediterranean countries. In the following period, The European Mediterranean Association Agreement, which Morocco agreed in 1996 and it still serves as the foundation for the bilateral relationship. The objectives of this agreement were defined as establishing a sustainable political dialogue between the parties, gradual liberalization of trade in goods, services, and capital, and promoting the integration of the Maghreb countries, especially Morocco. It was stated in paragraph c of Article 69 that "illegal immigration and the conditions governing the return of individuals who are in breach of the legislation dealing with the right to stay and the right of establishment in their host countries" would be regulated within the scope of the dialogue on social issues (European Commission, 2007). This agreement was significant in that it provided a framework on how to manage relations between the EU and Morocco, as well as the fact that the issue of migration was placed on the bilateral relations agenda for the first time. Furthermore, the agreement provided the institutional framework for the European Neighborhood Policy (ENP) through establishing an Association Council and Committee in 2004. The 2002 Copenhagen European Summit highlighted the importance of strengthening relations with neighbors in the East and the South of the Mediterranean to avoid causing new European divisions after enlargement and maintain stability and prosperity (European Council, 2002). Thereupon, the European Commission determined the concrete framework for the ENP with two important reports

it prepared in March 2003 (European Commission, 2003) and later in May 2004 (European Commission). In addition to these documents, it was emphasized in the European Security Strategy Document adopted at the 2003 Brussels Summit that weak governments and neighboring countries in the grip of various social problems also increased the EU's problems. In addition, it was stressed that the enlargement process brings the EU closer to the problematic areas, and as a solution to this, close cooperation with them would be realized around the Mediterranean, and the ring of well-managed countries should be supported (European Council, 2003, p.18). In the scope of the ENP, it was stated that the security, stability, and sustainable development goals of the Union could not be considered separately from the countries that do not have a membership perspective and that are in the neighboring or the immediate vicinity and that the relations between the parties would be based on the adoption and development of common values. These common values are the normative elements that guide the EU, such as democracy, the rule of law, respect for human rights, strengthening civil society, sustainable development, and basic labor standards. It is aimed that the parties to the ENP reform their internal structures according to these political and economic values and cooperate in areas that pose problems for the EU. The EU also envisaged various incentives as a response to the implementation of these reforms and normative values by third countries. For instance, since Morocco is effectively implementing reforms, the country was granted 'advanced status' in 2008, and the budget allocated to Morocco was increased under the ENPI (also known as ENI), the financial arm of the ENP. Thus, Morocco has become the largest recipient of EU funds under the ENP, as it is considered the most collaborative country in the region. Fund support of €1.43 billion for the years 2007-2013 within the scope of ENI (DG DEVCO, 2014) and €1.3 billion– €1.6 billion for the years 2014-2020 under the

scope of ENPI has been allocated to Morocco (EEAS, 2014). It is an example of how the EU's positive conditionality works, and this status's purpose is to further deepen and strengthen cooperation. However, some studies in the existent literature consider the ENP program developed by the EU with third countries to be problematic on the basis of normative values. Celata and Celotti (2016) consider the EU's promotion of so-called "common values" through reforms by supporting foreign aid as a carrot and stick approach within the scope of ENP. In a similar vein, Limam and Del Sarto (2015) described the ENP as "the conspicuously strategic use of EU norms", emphasizing that it advances the interests of the Union within the scope of EU values, especially in immigration policies. Pace (2009) defines the ENP policy, which is declared as common values and interests between the EU and neighboring countries, as a precaution against the fear of mass migration brought about by the socio-spatial convergence of the conflict zones created by the 2004 enlargement of the EU. Moreover, according to Pace, she states that the ENP does not have the ultimate goal of transferring normative values to neighboring countries and its main interest was to prevent mass migration flows by ensuring stability and prosperity in the region.

The scholarly debate in the literature emphasizes that the EU has adopted self-interest-oriented and preventive policies in its neighborhood policy. The EU had made significant trade deals with its neighbors, secured large funds, and adopted a policy of reducing the root causes of migration. Also, EU had also adopted the objective of supporting its neighbors in normative policies such as the rule of law, accountability and transparency in governance, the right to fair and equal elections, and the improvement of human rights. However, the most important problem that justifies the criticisms in the literature is the

EU's unilateral policy transfer, especially in its relations with its neighbors in the MENA region. In other words, normative clauses cannot be expected to fully comply with the democratic transition process, with the countries in the region making reforms. In short, the transmission of norms and practices depends on interacting with the recipient and the context (Limam and Del Sarto, 2015). The EU draws unilateral plans in line with its own interests rather than its neighbors' political and social values. The fact that the EU granted advanced status and increased funds to Morocco, which it describes as more moderate and democratic, can be explained with the carrot-and-stick metaphor. Since the EU did not plan a radical reform with the ENP, considering Morocco's social, cultural, and political structure, it aimed to maintain regional stability and peace, especially regarding migration. In this context, the EU's migration policies toward Morocco intensified within the scope of the fight against human trafficking and migrant smuggling and strengthened border measures foreseen by GAM before the Arab Uprising.

While a profound inconsistency has been observed between EU rhetoric and policies toward the southern environment for years, the EU strategically uses its normative approaches in its relations with its neighbors (Limam and Del Sarto, 2015). In this context, the EU prioritizes its strategic interests while transferring norms to its neighbors in the Mediterranean by using various tools. Countries with coastlines on the Southern Mediterranean, especially Morocco, Tunisia, and Libya, are target countries in the EU's migration dialogue due to their strategic location. Before the Arab Uprising, the EU intended to sign readmission agreements, which is its most important strategic instrument, with these countries in compliance with ENP and GAM to combat irregular migration. Jean-Claude Juncker, former President of the European Commission, reiterated the

importance of an effective readmission policy: "People who have no right to stay in Europe must be returned to their countries of origin…it is clear we need to significantly step up our work" (European Commission, 2017). The EU has so far signed legally binding readmission agreements with 17 countries, including Turkey and the Hong Kong autonomous region. In addition, non-legally binding readmission arrangements have been made with Afghanistan, Guinea, Bangladesh, Ethiopia, The Gambia, and Ivory Coast. Nevertheless, the EU has struggled to reach readmission agreements with its southern neighboring region nations. Although the negotiation mandates with Morocco, Tunisia, Algeria, Nigeria, Jordan, and China were accepted, the readmission agreement could not be signed (Wolff, 2014).

It is particularly remarkable that Moroccan government is unwilling to sign a readmission agreement, given that it has a long history of cooperating with the EU and its member states on migration-related issues, including through the signing of bilateral readmission agreements. There are several reasons why the EU cannot terminate the readmission agreement with Morocco. First, the return of Moroccan citizens to the country due to the obligations of the readmission agreement will result in the loss of remittance, which is a significant source of income for the country.

Figure 4.2. EU Readmission Agreements with Third Countries (European Court of Auditors, n.d)
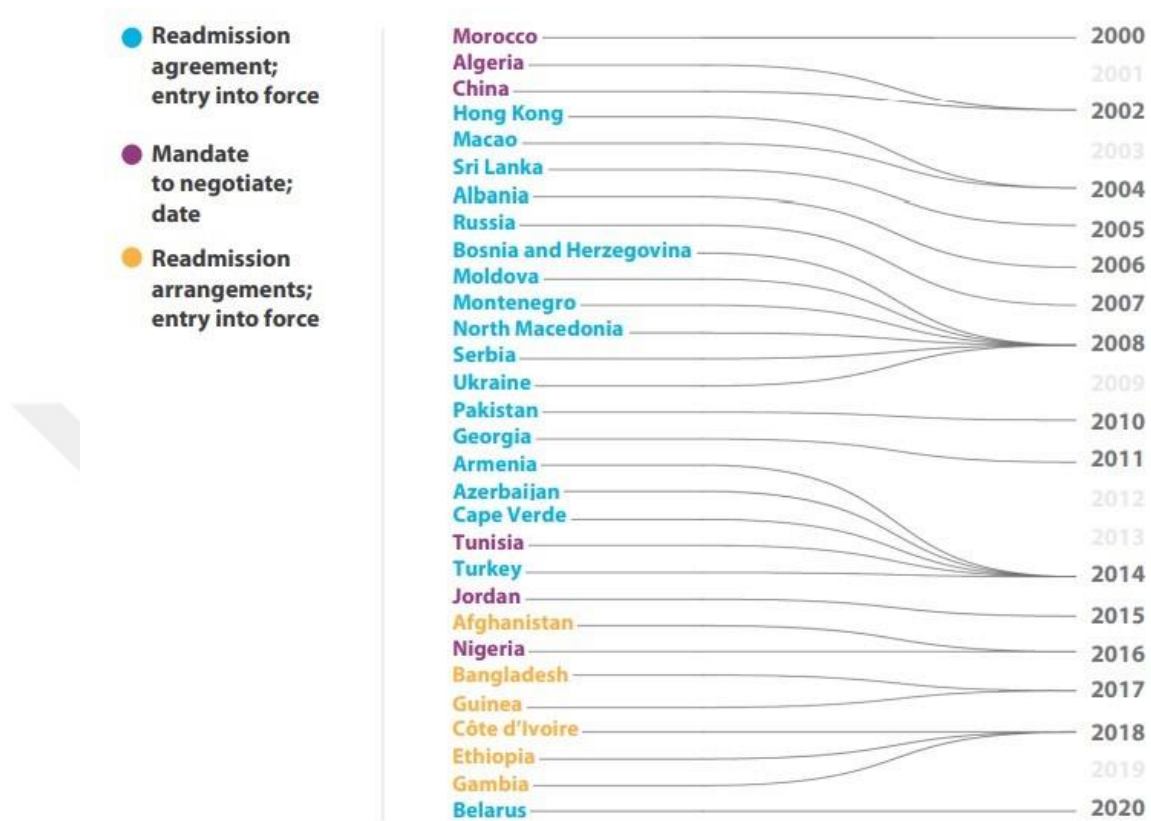
According to the Eurostat 2017 report, net remittance outflow from the EU to Morocco amounted to 3.3 billion Euros. This is several times more than the 189.5 million Euros Morocco receives from the EU under the European Neighborhood Instrument (Eurostat, 2017). Many Moroccan families depend on remittances, as the return of their relatives will result in a loss of income sources. Thus, the Kingdom of Morocco was not willing to sign a readmission agreement. Second, although Morocco has no international legal obligation to accept third-country nationals rather than its own, it is worried about becoming an "asylum seeker warehouse" for irregular migrants, especially from Sub-Saharan Africa. In addition, Morocco does not want its reputation in Africa to be damaged by sending

third-country nationals who are planning to come from the EU to their countries of origin.

Since Morocco, which claims to be a hegemonic power in the region, has improved its

relations with other African countries. Third, there are four important incentives offered

by the EU in signing readmission agreements with third countries. These incentives, which

Kevin Kaiser (2019) describes as the 4M package, are money, mobility, markets, and

membership. Although the EU offers money, mobility, and market incentives as an option

to Morocco in these four M-package, the membership option has not been possible since

Morocco's application was rejected in 1987. Although Morocco's positive political agenda

reports under the ENP have given Morocco advanced status, it remains symbolic and is

not used as leverage for a readmission agreement (Kaiser, 2019, p.16). In other words, the

incentives offered by the EU are satisfactory, but the relative bargaining power of the

union against Morocco is meager for membership. As a result, the readmission agreement

could not be concluded bilaterally due to Morocco's implementation costs, the incentives

offered by the EU, and its relative bargaining power vis-a-vis Morocco. Although the EU

could not sign a readmission agreement with Morocco, it introduced a new instrument

with the intensification of the Arab Uprising. Mobility Partnership (MP), an important

tool of the EU's Global Approach to Migration, was introduced as the EU's "contingency

plan" as it provides a long-term framework based on political dialogue and operational

cooperation with third countries on migration.

4.1.b. EU-Morocco Relations: Mobility Partnership in 2013

Regarding collaboration in migration, Morocco became the first country in the

Southern Mediterranean to ratify the Mobility Partnership (MP) with the EU, which seeks

to prevent irregular immigration and promote the efficient administration of regular

migration. Mobility partnerships are non-binding agreements reached between the EU and third countries to collaborate on immigration and asylum. In other words, the MP represents a political commitment to achieve jointly defined goals, a kind of roadmap for mobility between parties (Limam, 2020). Although the non-binding characteristic of MP, it imposes mutual legal requirements on readmission and visa liberalization. According to the European Commission (2011), MP provides benefits for both parties on the social and economic development of the region for better and more effective migration management in the Mediterranean. However, countries such as Algeria and Egypt did not show much interest in the MP plan presented by the EU. Only Morocco and Tunisia have subsequently finalized MPs with the EU in 2013 and 2014, respectively. Seeberg (2014) claims that these two countries reluctantly accepted the MP under economic and political pressure from the EU. Both countries' acquiescence to the signing of the MP came in a volatile political environment, a critical period filled with uncertainty and fragility in their political history in which the Arab Uprisings intensified (Abderrahim, 2019). The MP dialogues took place when Morocco's ability to negotiate with the EU and jointly consider their collaboration's future was hampered by the country's tumultuous transitioning process. Therefore, the MENA region was very unpredictable, making it unlikely that Morocco would prioritize managing migration at home or in its ties with the EU. This political turbulence was frightening for the EU and an opportunity to achieve a critical and strategic goal. By resorting to EU preventive migration policies, they finalized the Moroccan and MP during the visit of President of European Commission José Manuel Barroso to Morocco (European Commission, 2013).

The objectives of the MP were set out in 2013 as follows:

- To manage temporary migration of people as well as legal and labor migration while taking more efficiently into consideration the labor markets of the signatories in relation to the latter.

- To intensify cooperation on migration and development to make use of migration's potential and beneficial impacts on Morocco's and other European nations' growth.

- To promote an effective return and readmission strategy while upholding basic rights, the appropriate laws, and the dignity of the persons in consideration. To combat illegal immigration and networks engaged in human trafficking and smuggling.

- To comply with officially accepted international agreements on protecting refugees (Council of the European Union, 2013).

In accordance with the MP, Morocco started a major immigration reform that included regularization initiatives that granted migrants legal status. The Moroccan Ministry for Moroccan Residents Abroad and Migration Affairs (MCMREAM) was established as the first national organization addressing migration concerns. The King demanded a new international immigration and asylum policy and acknowledged Morocco as an immigrant country for the first time, stating that the migration and refugee policy needed to be reviewed (Tittel-Mosser, 2018). Thus, "National Strategy for Immigration and Asylum (NSIA)" was launched, which defined 81 actions under 11 different programs and had 27 specific targets. Moreover, UNHCR became the authorized institution to evaluate asylum applications. The most significant part of the NSIA was the regularization of asylum

seekers. At the end of the regulatory period in December 2014, 17,000 migrants were regularized (Abushi and Arroud 2016), and 643 out of 2,937 asylum seekers were issued refugee cards by UNHCR (UNHCR, 2015). A second regulatory campaign was launched in December 2016 and lasted until December 2017. Although Morocco's new policy prioritized the combat with irregular migration under the MP, Morocco saw NSIA as a strategy to open to the EU and Africa. The Moroccan policy change was also a way of gaining a better image internationally and showing sub-Saharan countries that it had improved the treatment of sub-Saharan immigrants (Tittel-Mosser, 2018).

Morocco's new immigration policy was also important in that it did not hinder its regional relations with Sub-Saharan Africa regarding readmission to the EU. For many years, Morocco and Tunisia did not sign a readmission agreement because they did not accept the EU's gendarmerie role. However, with the MP, both Morocco and Tunisia agreed on the return of their citizens residing illegally in Europe. However, the EU could not persuade these countries to accept the third-country nationals. The return of third-country nationals using Morocco as a transit country, which was intended to be included in the MP document, was discussed for a long time and could not be included in the agreement in the end, in line with Morocco's domestic and foreign policy interests.

On the other hand, the plan to return third-country nationals to Morocco has drawn criticism from many academics, NGOs, and rights defenders, as it requires Morocco to be classified as a safe country. The identification of a safe third country, which started with Morocco, was used flexibly by the EU, and it was foreseen to lay the groundwork for later agreements. This definition seems problematic in a Statement signed with Turkey in 2016 and Memorandum of Understanding signed with Libya in 2017.

In conclusion, the negotiating process demonstrates that incentives do not always ensure partner nations' participation and do not result in the adoption of EU plans. Morocco's concerns cannot simply be discounted. The EU and Morocco are in a mutually dependent relationship within the scope of trade relations and migration management. Although Morocco seems more moderate and open to cooperation with the EU in the region, bilateral relations have never been easy for the EU's interests, especially within the scope of migration. Although the bilateral relations between the EU and Morocco depend on the parties' declaration, they are always open to abuse by the parties as they are not legally binding. For example, in May 2021, tens of thousands of migrants crossed from Morocco to the Spanish enclave of Ceuta. The reason Morocco allowed border crossing even though the MP was in force was Spain's permission to hospitalize Brahim Gali, one of Morocco's greatest political enemies, the Septuagen leader of the Polisario Front (Middle East Institute, 2021). Spain is one of the historical actors in the Sahara issue, which is of vital importance for Morocco. Despite being the former colonizer of the region, Spain, which is now more of a secondary actor, showed that, as a result of the diplomatic crisis with Morocco, it was not indifferent to the Sahara issue. Although it was announced that Gali was being treated in Spain for purely humanitarian reasons, these explanations did not satisfy the Moroccan government side. On the other hand, Moroccan government underlined that it always gave diplomatic support to Spain, as it did in the Catalan referendum process, and expressed in a clear and harsh tone that this situation would have consequences. Some Spanish media outlets, which dealt with the issue in the context of immigration, accused Morocco of being an underdeveloped state that blackmails immigrants (Bautista, 2021; Santamaria, 2022). In similar vein, after this incident, officials from the European Commission stated that Morocco was blackmailing

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the entire union through Spain. Although the Moroccan Ministry of Foreign Affairs describes the crossing of thousands of refugees into the Spanish enclave of Ceuta as a security weakness, it shows that Morocco has deliberately played the refugee card. Since Moroccan blackmail to want Brahim Ghali back was successful, and shortly after the events in Ceuta, Spain sued Ghali for kidnapping, rape and other crimes. Thus, Morocco gains bargaining power by playing the immigration card and using Spain, which is an EU member, in line with its diplomatic interests. This event was neither the first nor will it be the last in Morocco and EU relations. Likewise, at least 37 asylum seekers who sought refuge in Europe died on the border fence between Morocco and the Spanish enclave of Melilla in 2022 (Amnesty International, 2022). Interestingly, the fact that this event took place just a few weeks after the agreement to re-establish friendly relations following the policy change of Spain on Western Sahara, which caused the refugee problem between Spain and Morocco in 2021, is an indication that the parties act according to their own interests in migration (Amnesty International, 2022).

When the EU's immigration dialogue with Morocco is evaluated within the scope of the EU's normative values, it can be said that the union has tried to develop good relations with Morocco through different instruments since the 1995 Barcelona Process. In particular, the EU has embarked on normative-framed politics to support democratization in Morocco but tied it to an interest-oriented conditionality that aims not only to achieve reforms but also to compel these states to cooperate with the EU's migration management. According to Üstübici and İçduygu, "the close collaboration between the EU and Morocco has enabled the EU Morocco border to function as a laboratory where the external dimensions of EU migration policies can be tested and studied" (Üstübici and İçduygu,

2018, p.194). While the EU was taking advantage of the political situation created by the Arab uprisings, it indicates the EU's normative-framed response serves to legitimize a highly manipulative policy on the part of the Union (Limam and Del Sarto, 2015). Although the EU had prioritized closing its borders to asylum seekers and externalizing migration through Morocco, it underestimated human rights and common values. In other words, the EU's migration cooperation with Morocco can be associated with an interest-oriented, status quo, and realpolitik power. Limam and Del Sarto (2015) argue that the EU is both normative and realist at the same time. EU uses normative components as a cover to implement its strategic interests. Del Sarto (2016) characterized the EU as a normative empire, describing the MP as regulations under the guise of normative policies that served the EU's security and economic interests.

However, it does not mean that the EU unilaterally transfers its interests to Morocco in the guise of normative policy transfer. According to Tittel-Mosser (2018), Morocco uses the "reversed conditionality" to take advantage of a significant amount of EU and member state funding to implement the NSIA. Morocco is taking advantage of the EU's interest in the adoption of the NSIA by demanding subsidies in return for advancing the implementation of the plan. Morocco's "reversed conditionality" may be more stringent than the conditionality of the EU since incoherence has further weakened the EU's credibility and efficacy. These bilateral channels have allowed Morocco to influence EU policy and receive additional benefits (Kaiser, 2019). In other words, Morocco has gained bargaining power and maneuverability against the EU by using its priority position for the EU. While the EU can control the prevention of the passage of irregular migrants by externalizing migration, it has negatively affected its international normative credibility.

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Pastore and Roman (2020) argues "an excessive focus on migration restrictions and readmission can have destabilizing effects also by undermining popular consensus for related governments that accept to perform a containment role on behalf of European states of destination." Therefore, the effectiveness of these border security measures is also open for discussion. The removal of wire fences forced migrants to swim around Melilla in 2014, causing loss of life. However, the number of people crossing the border is not small at all. Human rights violations by third countries increase as the EU resorts to stricter border measures. This legal and institutional shortcoming risks paving the way for practices that are both contrary to good governance and violating the human rights of migrants and refugees. Thus, the EU moves away from its normative power in its relations with third countries in migration management and falls into a cyclical securitization vortex.

4.2. The Case of EU and Turkey statement of March 2016

The EU-Turkey relationship, which has a history of almost 60 years after Turkey's application for association with the European Economic Community (EEC), can be defined in a unique structure that includes historical turning points. The EU-Turkey relationship has historically been contentious, bumpy, remittent, and volatile (Dursun-Özkanca, 2020, p.3). Turkey-EU relations can be defined as a relationship of interdependence that can be enunciated as "neither with you nor without you." Regarding the immigration issue in Europe, Turkey is a country of critical importance to the EU. The country's geographic position is one explanation for this. With its strategic location at the intersection of Asia, Europe, and Africa, Turkey was acknowledged as a major strategic partner in managing irregular migration flows as early as the 1990s. Particularly after the

Cold War, Turkey became a country of asylum, immigration, and transit for irregular migrants (İçduygu, 1996 cited in Kale, 2018. p.1). Since then, Turkey has had to deal with the difficulties of being both a country of origin and destination as well as a location of transit for unauthorized migration. In other words, "Turkey acts as a corridor between Europe and third countries in Asia and even Africa" (Dimitriadi et al., 2018). At the same time, Turkey's strategic geopolitical importance comes from being the starting point of irregular arrivals from Turkey to Greece, Cyprus, and Bulgaria on the Eastern Mediterranean route. Especially in 2015, a large number of migrants seeking asylum from the Syrian civil war came to the EU through this way. Turkey is a neighboring country to the EU that controls a wide migration corridor from Asia (especially Myanmar, Philippines, Indonesia, Afghanistan, Syria, Iraq, and Iran) to Africa (especially Somalia, Djibouti, Ethiopia, and Sudan). Thus, the irregular border crossings on the Eastern Mediterranean route through Turkey increase the strategic importance of Turkey in the migration and security dialogue with the EU. (FRONTEX, 2021) Due to the fact that this migration route is active and the number of refugees entering EU territory through Turkey peaked during the 2015-2016 period, the EU has agreed with Turkey within the scope of combating irregular migration. In the following part, the content of this statement will be examined, and the Turkey-EU migration relationship will be evaluated within the scope of normative values.

Figure 4.3. Irregular Border Crossing on the Eastern Mediterranean Route (Frontex, 2022)

4.2.a. Turkey-EU Migration and Asylum Policies: Europeanization and Securitization

The ups and downs in EU-Turkey relations have begun to stall and give way to a disparate relationship devoid of a basic feeling of mutual trust and dependability between two important strategic partners (Turhan and Reiners, 2021). According to the European Commission's ENP report, Turkey is an important strategic partner of the EU on migration, security, economy, and the fight against terrorism. However, it is taking a step back in fundamental rights (European Commission, 2022). According to Arısan-Eralp (2019), Turkey is increasingly seen by the EU and its member states as an "unpredictable and untrustworthy partner" and a "hostile neighbor" that is slowly detaching itself from the fundamental values and principles of the Union. However, EU has moved away from the norms and values in migration management, especially after the 2015 refugee crisis.

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The Union, which has adopted a strategic and pragmatic migration and asylum management approach with Turkey, is in a backlash in human rights, refugee law, and fundamental rights.

To assess Turkey's role and the EU's normative position in the securitization of asylum and migration in the EU, it is first necessary to place it in its broader context (Léonard and Kaunert, 2021). The EU-Turkey relationship has not always operated in a collaborative environment for more than 60 years. In different periods, either cooperation or conflict has affected the nature of this relationship. In this context, the important periods affecting the transformation of the EU-Turkey asylum and migration policy are divided into two; the period when Turkey harmonized its migration policies with the EU from 1999 to 2009, when it became a candidate country, and the period when cooperation increased within the scope of mutual interest relations between 2009-2015 (Kale et al.,2018). The post-2015 period marks the transition to a pragmatic process of interdependence, in which the parties agreed to the EU-Turkey migration deal to maximize their gains rather than shared values and interests.

First, "the Ankara Association Agreement in 1963" established a partnership between the EEC and Turkey. This agreement aimed to develop a customs union in three stages: preparatory, transitional, and final. It emphasized in its preamble that "the support given by the ECC to the efforts to improve the living standards of the Turkish people" would facilitate Turkey's accession (Léonard and Kaunert, 2021). In this context, "the Ankara Agreement" constitutes the legal basis of the relations between Turkey and the European Union. Article 28 of "the Ankara Agreement" regulates Turkey's potential membership (Directorate for EU Affairs, 2011). With the Additional Protocol to the Ankara

Agreement, which entered into force in 1973, the preparatory period envisaged in the Ankara Agreement has ended, and steps have been taken toward the common customs union by determining the conditions for the Transition Period. However, from the beginning of the 1970s to the mid-1980s, no progress was made in the negotiations between the parties due to Turkey's political turmoil and economic instability. Turkey applied for membership in 1987 without waiting to complete the periods stipulated in "the Ankara Agreement." The Commission rejected this application, stating that the Community could not accept a new member until Turkey had completed its internal integration. The Customs Union between Turkey and the EU entered into force on 1 January 1996; thus, the last period of Turkey-EU Association Relations came into effect. Moreover, the turning point of Turkey-EU relations came with the official approval of Turkey's candidacy at the EU Heads of State and Government Summit held in Helsinki in 1999.

Turkish asylum policy was substantially unaltered before the EU membership process. The start of the pre-accession procedure and the 1999 Helsinki Summit have radically changed the immigration and asylum arena. Until Turkey's EU membership application, Turkey's immigration policy was the Resettlement Law, enacted in 1934 to determine the basic principles of immigration (also known as Law no.2510). The law closed strategic areas of the country to non-Muslim minority settlements, considering security and political concerns. In addition, groups that are not allowed to immigrate to Turkey according to the Law were defined. This law in 1934 was at a point where it could not meet the needs of a dynamic country like Turkey, which was on a transit route, because it was an old-dated law and did not meet the day's conditions. On the other hand, Turkey's

refugee protection, migration, and asylum policies are based on the implementation of international legislation regulating this area. Turkey is a party to "the 1951 Geneva Convention" and its "1967 Protocol". However, Turkey has made a geographical limitation to this convention, which determines the status of refugees, to cover only refugees from Europe. Currently, per the requirements of this convention, Turkey is obliged to protect third-country nationals who meet the definition of refugee and abides by the non-refoulment principle. Although Turkey manages immigration and refugee policies with international agreements to which it is a party, the inclusiveness, and standards of these policies remained at a limited level until the Helsinki Summit. However, as part of the accession process, the EU has had considerable influence over Turkish policy regarding immigration, asylum, and borders, which encourages cooperation between actors and institutions in the EU and Turkey at various administrative and governance levels. Accordingly, multiple reforms have been enacted to bring Turkish law into compliance with the *acquis communautaire* of the EU.

Since the beginning of the 2000s, there have been four distinct categories of migration mobility in Turkey: irregular migrants, transit migrants, asylum seekers and refugees, and regular migrants. Irregular and transit migrants occupy a prominent place among these categories. After Turkey became a candidate country with the Helsinki Summit, it needed immigration reforms. The EU was an important driving force since the beginning of the 2000s (İçduygu and Aksel, 2013). The EU expects candidate and new member states to make their national legislation in full commitment and compliance with the Copenhagen Criteria. In other words, the harmonization of immigration laws and the Europeanization of immigration management has been the driving force in EU-Turkey immigration and

asylum regulations. As part of the pre-accession criteria, Turkey must harmonize its laws in the areas included in "the Accession Partnership" document of the EU. The most significant amendment proposed by the AP is the request for the removal of Turkey's geographical limitation to the 1951 Geneva Convention. However, due to both the political climate in Turkey and the lack of burden-sharing mechanisms envisaged after the removal of the geographical limitation due to Turkey's location, Turkey did not show political and bureaucratic determination. (Aras, 2019, pp.49-53) The migration and asylum policies have been a technical collaboration area for the EU and Turkey since the negotiations in 2005. In particular, "the Action Plan on Asylum and Migration", which the government passed in March 2005, outlines the steps Turkey plans to take to prepare for the development of a national status determination system, lift the geographical restriction, and adopt EU directives on asylum and migration (İçduygu and Aksel, 2013). The EU's commitment to supporting Turkey to Europeanize this policy area and some changes in border management also led to securitization steps at the EU level. The EU's desire to include Turkey in the Integrated Border Management (IBM) put forward by the 2001 Laekan Summit due to the necessity of better management of external border controls, strengthening external border controls, supporting efforts to control irregular migration while fighting against human smuggling and organized crime motivated the EU (Sert, 2013). Improving border management is a fundamental requirement for all nations, but it is particularly crucial for Turkey's EU membership path. According to Article 8 of the Additional Protocol to the Amsterdam Treaty, "candidate countries are expected to be competent to implement the Schengen Agreement before joining the EU to comply with its terms" (Sert, 2013).

Consequently, Turkey has made arrangements to take the necessary measures for an integrated border management system, including reforms for intra-institutional, inter-agency, and international cooperation, to facilitate trade and traffic related to the protection and security of its borders, in accordance with the provisions of the Schengen Agreement, during the application process (Sert, 2013). The Turkish Ministry of Interior established "the Directorate for Project Implementation on Integrated Border Management" in 2004 to plan, prepare and manage IBM-related EU projects. In 2008, this directorate was replaced by the Agency for Development and Implementation of "Legislation and Administrative Capacity for Border Management," renamed "the Bureau for Border Management" in 2012 (Sert, 2013). The Bureau's main task was to develop an IBM system's legal and corporate structures. Thus, Turkey started to make reforms that would comply with IBM and the Schengen acquis, although it was more difficult for any candidate country to regulate border management due to geographical conditions. However, despite all these reform and improvement efforts, Turkey's border management and Schengen compliance progress were limited in the European Commission's 2012 Progress Report (Sert, 2013).

On the other hand, the EU stressed the need for changes in institutional structure and legislation from Turkey to the EU acquis. The EU expressed the necessity of a civil institution that manages immigration-related issues and a national immigration law compatible with CEAS prepared by this institution. The period until the establishment of the "Directorate General of Migration Management (DGMM)" in 2013, which is responsible for immigration-related policies and regulations, was seen as a preparatory period for the creation of legal immigration legislation (Kassoti and Idriz, 2022). In this

context, the new "Settlement Law" No. 5543 has improved the national immigration policy with regulations including accepting immigrants, resettlement principles, and financial provisions. However, the establishment of the Directorate General of Migration Management, envisaged by 6458 Law on Foreigners and International Protection enacted in 2013 to harmonize migration and asylum regulations with the EU acquis, was the biggest step taken by Turkey towards harmonizing its migration policies with the provisions of the EU. Law no. 6458 includes sections on the prohibition of refoulement, foreigners, international protection, common provisions, and the establishment of the General Directorate of Migration Management (DGMM). It has been stated that the provisions of international agreements and special laws to which Turkey is a party will be valid in implementing this law. It includes procedures related to foreigners, border regulations, international protection principles, visa regulations, work and residence permits, and temporary protection principles provided to foreigners who come to the country *en masse* (LFIP, 2013). It also enhances the freedoms and rights of refugees, asylum seekers, and victims of human trafficking. (Memişoğlu, 2014). Therefore, LFIP has a prominent place in the immigration and asylum procedure as it is Turkey's first comprehensive national immigration law, transferring the immigration administration to a civil institution and being prepared in line with the EU immigration legislation.

4.2.b. Thorny Period in Turkey EU Migration Relations: Syrian Refugee Crisis, Readmission Agreement, and Joint Action Plan

Before the mass Syrian refugee migration, the accession process negotiations slowed down due to reasons related to Turkey and the EU. Due to the fact that the EU was deeply affected by the 2008 global financial crisis, it put the brakes on its enlargement policies,

and some member states vetoed the opening of some chapters of the *acquis* in Turkey's accession negotiations, and limited progress has been made in bilateral relations. During this stagnant accession process, relations with the EU continued with technical issues. Thus, the changing domestic and foreign policy targets reflected Turkey's immigration and asylum policies. As part of the accession process, the EU has influenced Turkish policy regarding asylum, migration, and borders. Despite this, paradoxes have marked this effect. Although the most important dynamic affecting Turkey's immigration and asylum policies is EU harmonization laws, since 2009, one of the important factors affecting cooperation on migration and asylum policy is that Turkish foreign policy adopts a liberal and humanitarian foreign policy, which is divergent from EU policies (Kale, 2018). On the one hand, foreign policy reasons have prompted Turkey to implement or retain measures that deviate from EU regulations, particularly visas (Yıldız, 2016, pp.117-121). Turkey's foreign policy approach aimed to increase cooperation with neighboring countries through various trade and humanitarian aid mechanisms. A liberal approach to trade and economic connections encourages a liberal visa policy with Turkey's neighbors in order to bolster economic, political, and social contacts (Kale, 2018, p.7). As part of Turkey's pragmatic liberal visa policy with its neighbors, Turkey has implemented a mutual visa exemption regime with Albania, Morocco, Lebanon, Jordan, Libya, Morocco, and Syria. However, this liberal visa policy of Turkey, which is a candidate country, conflicted with the EU's strict border controls approach and Schengen. On the other hand, Turkey's rejection to lift the geographical limitation clause of the "1951 Geneva Convention" and the "1967 Protocol" has also been controversial between the EU and Turkey. (Aydın and Kirişçi, 2013, p.383) That means it is not provide refugee status to people who fear persecution because of events outside of Europe, but only conditional

refugee status. Geographical limitation, deemed a requirement to be abolished in the First Regular Progress Report in 1998, remained a subject on which Turkey abstained during the lengthy negotiating process. And finally, it came to the political agenda when the EU presented it as a condition for visa exemption in the Turkey-EU Readmission Agreement negotiations signed in 2013 (EURA, 2013).

Nonetheless, Turkey has taken actions in recent years that have pushed it closer to the EU in several aspects. Specifically, in December 2013, the EU and Turkey signed a readmission agreement, and a visa liberalization procedure was also initiated (Açıkgöz, 2015). After the Arab Uprisings, EU-Turkey relations, which have stagnated since 2009, have re-energized with the introduction of the EU's readmission agreement, which is a most common instrument for securitization and externalization of migration. Although the readmission agreement negotiations between Turkey and the EU started in 2002, Turkey has always been reluctant. Turkey is a country on the periphery of politically unstable Asian and Middle Eastern countries. In addition, Turkey has been a transit country since the 1980s and is a gateway to Europe for asylum seekers and economic migrants. Therefore, the most plausible reason for the irresolute attitude is Turkey's concern of "becoming a buffer zone and dumping ground" for irregular migrants (Memişoğlu, 2014). The 2013 EURA also includes readmission agreements that Turkey has previously signed with Greece and Romania, but with only a few practical successes. The attractive factor for Turkey in this agreement was the issue of visa liberalization. At the culmination of the dialogues, both parties agreed that the readmission agreement would be signed in 2013 (Léonard and Kaunert, 2021). Turkey acknowledged that it would readmit both its own citizens and third-country nationals who had unlawfully resided on European Union

territory. However, the third-country nationals' readmission procedure would become applicable three years later.

Additionally, the EU would contribute financial resources and technical assistance to guarantee Turkey's successful capacity-building efforts. In addition, a visa liberalization road map was presented before the readmission agreement. Nonetheless, ratification and successful execution of the readmission agreement were one of the prerequisites of this pact (European Commission, 2013a). Regarding the EU-Turkey visa facilitation conversation, the EC drafted the "roadmap towards the visa-free regime with Turkey" outlining the conditions that Turkey must meet for Turkish individuals to be exempt from visa requirements for short-term visits to the Schengen region. This roadmap identifies the legal and administrative reforms Turkey should implement to fulfill visa liberalization under four major headings: "document security, migration, and border management, public order and security, and fundamental rights" (European Commission, 2013a). This readmission agreement has been criticized in many respects with its legal, political, and humanitarian dimensions. Leonard and Kaunert (2021) consider the agreement as an asymmetric one prepared by the European Commission, which offers a long list of conditions to be met before reaching the goal of visa-free travel to Turkish citizens, although the process is called dialogue. According to Seçil P. Elitok "the readmission agreement was inequitable and regression rather than positive progress in abolishing Turkey's visa obligations" (2015, p.1). Since she argues that this agreement was prepared in line with unilateral interests without considering equality. In addition, she emphasizes that the EU guarantees visa-free travel rights to other Balkan countries and candidate countries without any conditions, Burcu Toğral (2012) claims that the EU has committed

to supporting Turkey financially and technically in the implementation of this agreement and, like other third countries, this support will contribute to the increase of securitization by ignoring the humanitarian dimension of migration. Thus, she emphasized that financial and technical support would be used to construct detention centers and further militarize border controls and fight against illegal immigration. Last but not least, İçduygu and Demiryontar (2019) stress that readmission agreements' content, negotiating terms, and execution procedures are often disputed for their illiberal policies, such as implementing a non-entry regime to strengthen EU borders.

The EURA, which are EU's tool for externalizing migration management, are asymmetric and security-oriented agreements that are not based on mutual benefit as much as it contradicts EU values and norms. The Turkey-EU Readmission Agreement was also problematic regarding time, content, and implementation. However, this agreement pioneered the Turkey-EU Joint Action Plan in 2015 and Turkey-EU Statement in 2016, which were prepared to respond to the increasing pressure on the Central migration route and later on the Eastern migration route due to Turkey's open-door policy.

The number of irregular border crossings has escalated due to growing turmoil in the Middle East, and the summer of 2015 marked a critical juncture in migration management. During the summer of 2015, Europe was besieged by these massive population flows. In 2015, according to FRONTEX (2015), approximately 900,000 refugees and irregular migrants reached the EU's maritime borders via the Eastern Mediterranean route (Figure 4.3). The outcome in the European Union has been fear, instability, and a disruption of the free movement of individuals inside the Schengen region (Kale, 2016). According to DGMM (2021), by the end of 2015, about 2.5 million Syrian refugees were residing in

Turkey (Figure 4.4). Turkey's open-door policy since the beginning of the Syrian Civil War and its response to the mass migration flow for religious and political reasons, with a liberal and humanitarian approach, caused it to become the country hosting the highest number of refugees. As more refugees began arriving on the Greek islands and the mainland, criticisms increased by the EU and particularly Greece, that Turkey could not effectively manage its borders and tolerated the border crossing of refugees and irregular migrants (Guild et al., 2015).

Immigrants who wanted to cross the Aegean Sea to Greece from Turkey and reach Europe by land were not only Syrians but also Afghans, Iraqis, and Iranians. Greece, which experienced the effects of the economic crisis deeply, faced an intense wave of immigration. By mid-2015, countries such as Serbia, Hungary, and Austria, which were used to transition to wealthy EU countries such as Germany and Sweden using the Balkan route, were exposed to immigration pressure.

Figure 4.4. The Number of Syrians Residing in Turkey by Year (DGMM, 2021)
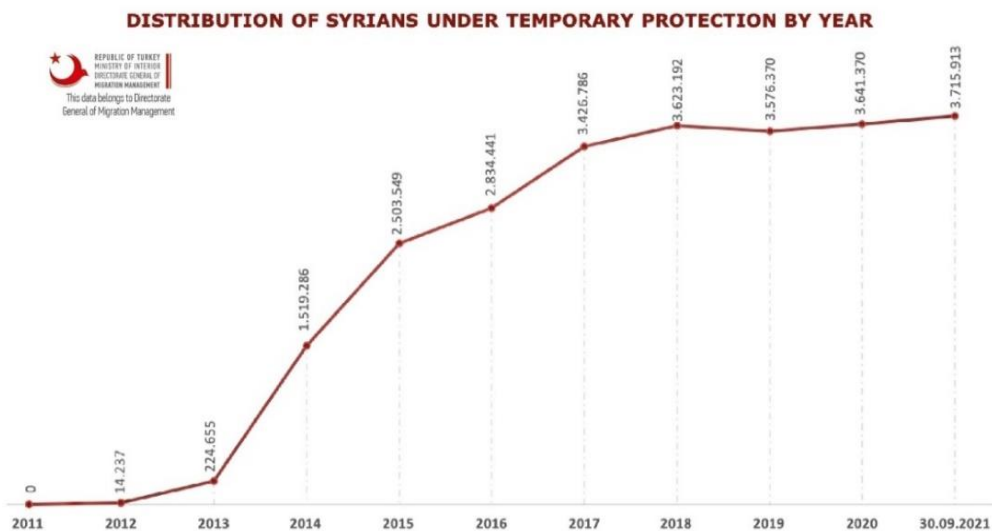
While Greece announced that it would not be able to cope with this wave of migration, it sought support from the EU and Frontex. Also, Hungary, Poland, and Austria re-introduced their national borders. Thus, this refugee crisis has affected the entire EU, not the member states hosting the migrants. The main reason is that Greece could not accept asylum applications under the Dublin Convention and demanded burden sharing and relocation. In addition, the Czech Republic, Hungary, Poland, and Slovakia (Visegrad countries) desired to protect their national borders by violating Schengen. The intensity of the refugee crisis pawed the way for new opportunities for collaboration between Turkey and the European Union. The Joint Action Plan was established on October 29, 2015, to increase collaboration to assist Syrians under temporary protection in Turkey and prevent irregular migratory flows to the EU (European Council, 2015). In other words, this action plan aimed to reduce push factors while preventive measures were predominant. Although this joint action plan was similar in content to the readmission agreement, it differs in terms of financial incentives. In addition, the readmission agreement targeted only Syrians, not all irregular migrants. Among other commitments, the EU provided humanitarian aid, mobilized financial resources to assist Turkey in supporting Syrians under temporary protection. It also helped Turkey build its capacity to combat migrant smuggling. Moreover, it provided technical support for Turkey to fulfill the Visa Liberalization Dialogue requirements (European Commission, 2015). In contrast, Turkey has promised to increase the number of patrols conducted by its Coast Guard, improve accessibility to public facilities for Syrians granted temporary protection, and work toward a more progressive alignment with the EU's visa policy (European Commission, 2015). In

short, the EU aimed to cover the gaps opened in Fortress Europe with this action plan. The ineffectiveness of the 2013 Readmission Agreement in the face of such a migration flux pushed the EU to new securitization policies, and demanding Turkey to play its border guard role better.

4.2.c. EU-Turkey Statement: The Effect of the Deal on the EU's Normative Power

A new agreement between Turkey and the European Union was reached on March 18, 2016, strengthening the Joint Action Plan, known as the "EU-Turkey Statement." The document is defined as the EU-Turkey Memorandum. It is known that there is no agreement, only a consensus. For this reason, the agreement's text was published by the European Union Commission, almost like a press release, and has not gone through other legal processes (European Commission, 2016). According to Ayhan Kaya (2022), in the discussions in the EU literature, it is known that this agreement does not represent the EU; instead, it was designed together with the Netherlands, which was the EU Presidency of the period under the leadership of Germany and was finalized as a result of high-level negotiations with Turkey. This agreement, designed as an emergency remedy for the refugee crisis, was devised immediately after the 2015 Joint Action Plan due to German Chancellor Angela Merkel's intense immigration diplomacy. It was a critical incident for Syrian refugees and Turkey-EU relations when the photograph of Aylan Kurdi washed ashore in Bodrum, a Turkish holiday resort, attracted international media attention in September 2015. In addition to the pressure of international public opinion, the Turkish government's criticisms of the EU as "allowing the Aegean Sea to turn into a mass graveyard" pushed the EU to take temporary measures (BBC, 2015). Although Aylan Kurdi attracted the attention of the international media, the EU's response to refugees' loss

in the Aegean was not humanitarian. On the contrary, in accordance with the Turkey-EU Statement, the EU demanded that the refugee movement towards the Greek islands in the Aegean Sea is prevented and that Turkey should protect the borders more tightly.

In this context, the parties adopted the following measures and put them into practice: "(1) Starting on March 20th, 2016, the Greek government pledged to send back any new irregular migrants who arrived from Turkey to the islands of Greece. (2) For each Syrian returned to Turkey in this manner, EU member states indicated their willingness to accept another Syrian entitled to Turkish protection (1:1 mechanism). (3) Turkey will take all necessary steps to prevent the emergence of new sea or land routes for illegal migration from Turkey to the EU and collaborate with nearby countries and the EU to this end. (4) A Voluntary Humanitarian Admission Scheme will be implemented as soon as irregular border crossings between Turkey and the EU have ceased or been considerably and sustainably reduced. The EU Member States will participate voluntarily in this program. (5) The implementation of the visa liberalization plan will be expedited concerning all participating Member States to remove visa restrictions for Turkish residents by the end of June 2016 if all benchmarks have been completed. (6) In close cooperation with Turkey, the EU will expedite the disbursement of the 3 billion euros initially allocated under the Facility for Refugees in Turkey (FRIT) and ensure the funding of additional projects for persons under temporary protection identified with rapid input from Turkey by the end of March. An extra 3 billion euros were then transferred in 2018. (7) The EU and Turkey have pledged to continue their efforts to strengthen the Customs Union. (8) As stated in their joint statement on November 29, 2015, the EU and Turkey reaffirmed their commitment to revitalizing the accession process. They commended the opening of

Chapter 17 on 14 December 2015 and agreed to launch Chapter 33 under the Netherlands presidency as the next step. (9) The EU and its Member States would collaborate with Turkey in any concerted effort to improve humanitarian circumstances in Syria, particularly in select locations along the Turkish border that would allow locals and refugees to reside in safer areas" (European Commission, 2016).

After the first year of implementation, the deal achieved its primary objective. The flow of refugees and migrants entering the EU has decreased drastically, and the number of deaths and missing in the Aegean Sea has reduced considerably (Adam, 2017). In addition to increasing Turkey's border patrols, effective combatting against human smuggling played an essential role in reducing border crossings. In addition, the Greek Coast Guard units, in cooperation with Frontex, on the opposite coast of the Aegean, did not bring refugees closer to their borders with their push-back activities. Alongside this, Greece built a 40-kilometer (25-mile) fence near the Evros river (Greek Reporter, 2022). In addition, after the 2020 Pazarkule refugee crisis, Greece requested funds from the European Commission to double the wall (Greek Reporter, 2022). In addition, Greece deployed sound wave guns, also known as Long-range acoustic devices, on the Turkey border. This kind of device, known as a sonic weapon, is a less-lethal weapon used for crowd control by releasing loud chirping noises that induce pain and irreversible hearing impairment, raising debate about the device's usage against people (Breyer, 2021). Although all of these indicate the militarization of immigration, Greece purchased M1117 Armored Security vehicles from the US after the deal and started patrolling in the Evros river. They also upgraded existing border surveillance technologies and equipped the islands with stricter safeguards (Overtdefence, 2021). All these restrictive, deterrent, and

even lethal measures have significantly reduced the crossings from Turkey to Greece after the 2016 Deal. However, instead of offering a humanitarian solution, they focused on the militarization of migration and only security-oriented policies of the EU and Greece. This new approach to migration is not limited to the EU-Turkey but is exemplified in the cases of Morocco, Libya, and even Belarus.

Although the agreement is thought to be successful because it reduces the number of immigrants crossing the EU, the human rights dimension is problematic (Üstübici and İçduygu, 2018). One of the controversial aspects of the Statement is the safe-third country concept. The Statement recognizes Turkey as a safe destination for the return of migrants. However, it has been stated in paragraph e of Article 38 of The Asylum Procedures Directive that there must be "the possibility of requesting refugee status and receiving protection in accordance with the Geneva Convention if it is determined to be a refugee" (Directive 2013/32/EU). However, since Turkey is a signatory of the 1951 Convention with "geographical limitations," it cannot accept immigrants from Europe as refugees. In addition, this situation paved the way for chain deportation. Turkey can deploy de facto repatriation by placing Syrians in areas it controls on Syrian territories, such as Afrin. In conclusion, the 2015 Joint Accession Plan and, accordingly, the 2016 Declaration were seen as gains in areas such as the revival of negotiations, the inflow of financial resources from the EU, and visa exemption for Turkey. Although many studies in the current literature contain hope that EU-Turkey relations would be revived within the scope of this agreements, it would be appropriate to be skeptical. Contrary to this consensus, Başak Yavçan stated that "the Union was questionable as it followed a long period in which she had told the Turkish authorities that it had not fulfilled the requirements of membership

in the areas of human rights and rule of law" (2016, p.8). In support of this argument,

bilateral relations in recent years have turned from a fluctuating course to a straight line,

and minimal progress has been made in the relations between the parties. In other words,

Turkey has not made any gains from both agreements within the scope of the revival of

bilateral relations. However, the problematic part of this agreement was that it has legal

problems and was open to human rights violations. Thus, "the closing and externalizing

activities surrounding the EU-Turkey borders in recent years create not only riskier

conditions for people on the move, but also bottlenecks within so-called transit countries,

especially for refugee-receiving countries like Turkey" (Üstübici and İçduygu, 2018,

p.199). While providing the benefit of reducing irregular migration for the EU and its

member, the fact that it has legal problems and is open to human rights violations has

made this agreement problematic. As Cassarino states:

> "The low level of public accountability of these informal arrangements raises serious
> concerns regarding the extent to which the removal procedures implemented by
> participating states can be monitored to ensure full compliance with European and
> international law on the rights of persons subject to a removal order, whether illegal
> migrants or rejected asylumseekers (2018, 193).

4.3. The Case of Italy-Libya MoU in 2017

Libya is peculiar state due to its substantial economic resources, unique political

structure, and key geopolitical position (Paoletti, 2010). In this context, Libya, as a

neighboring country to EU Members of Malta and Italy, which is on the Central

Mediterranean migration route, has great geopolitical importance in terms of irregular

migration. Lampedusa island of Italy, which is 160.08 nautical miles from Libya, is used

by a high number of irregular migrants annually as the first route from Libya to EU

territory. As a critical transit country for irregular migrants and human smugglers, Libya

has historically been critical for the EU and its member states as a country that, together with Morocco, the EU is trying to establish migration control and transfer migration management in North Africa.

The EU has been increasingly externalizing its borders, especially through remote control policies, since the 1990s. However, the Libya-EU relationship differs from the Moroccan and Tunisian examples in terms of bilateral relations and immigration dialogue. The foreign policy behaviors adopted by Muammar Mohammed Abu Minyar al-Gaddafi in Libya, especially after he came to power through a *coup d'état*, and the turbulence relations with the West not only isolated Libya from the international community but also prevented it from developing direct bilateral relations with the EU. The EU's suspension of relations with Libya is related to the ideology adopted by Gaddafi. In his era, the revolution was founded on a global idea rather than a national movement. Qaddafi's support for the global status quo opponents, whom he considered champions of revolutionary causes, extended beyond the borders of Libya and the Arab world. This led Libya's growing isolation and notoriety as a "state sponsor of terrorism" (Paoletti, 2010). In this context, the role of Italy draws attention. Despite controversial issues regarding reparations between the two countries stemming from Italy's colonial past, economic and political cooperation between Italy and Libya progressed rapidly. In addition to its historical ties with Libya, Italy assumed the role of the EU's gatekeepers in migration management, while it meant Libya's gateway to the world. Indeed, Italy's conduct with Libya has been guided by the notion of a policy of good neighborliness. Italy aspired to mediate between Qaddafi and the other Western nations during the embargo years (Del Boca, 1998). In this context, an agreement can be described as the turning point in the

historical tracing of the Italia-Libya migration diplomacy: "The Treaty of Friendship, Partnership, and Cooperation of 2008" and "the Memorandum of Understanding of 2017."

4.3.a. Historical Context

Italy and Libya's relationship extends when Italy defeated the Ottoman Empire in the Italo-Turkish War (*Trablusgarp* War). After the war, Libya became an Italian colony. After the battle, Italy conquered the region, but it wasn't until 1932 that it gained complete control due to a powerful anti-colonial opposition. In 1934, Libya became the official Italian colony, which consisted of three provinces: "Cyrenaica," "Tripolitania," and "Fezzan" (Middleton, 2008). But Italian colonization ended just after WW II, and Libya declared its independence as the United Kingdom of Libya in 1951. Although Italy-Libya has a history of problematic relations, commercial and economic ties between the two countries have continued for years after independence. Following the establishment of the monarchy, oil output increased dramatically. Between 1955 and 1965, Italy had no priority in the extraction and operation of Libyan oil. However, in the decade following Gaddafi's nationalization of oil companies, trade relations continued even during the period of international terrorism and sanctions against Libya, with Italy's oil, gas, and National Hydrocarbon Company (Ente Nazionale Idrocarburi, ENI) entering the Libyan market (Zoubir, 2009, p.404).

Libya's image deteriorated in the 1980s and 1990s due to its ties to terrorist groups and assaults. Libya was charged with international terrorism (Ronzitti, 2009). In 1992, the United Nations Security Council imposed sanctions against Libya. Following this, the US imposed trade restrictions on Libya, while the European Economic Community imposed diplomatic sanctions. Apart from Italy, Libya, which was exposed to the restrictions and

embargoes of global actors, also faced the negative diplomatic attitude of the states in the region. During this period, Libya was isolated from the international arena, Italy, the only state with which it maintained diplomatic, commercial, and economic relations, assumed the role of mediator (Vari, 2020). The EU started the Barcelona Process in 1995 and introduced new policies toward non-EU Mediterranean countries. Libya was described by the EU as an "archetypal pariah state" and became the only Mediterranean country not included in the Barcelona Process (Paoletti, 2010). But the international rehabilitation process of Libya began with the third Barcelona Process in 1999 as a spectator. Although the EU applied various instruments to reduce the root causes and take preventive measures with the Mediterranean countries regarding irregular migration, Libya's skeptical attitude prevented the development of its relations with the Union. Gaddafi rejected the political acquis in the Barcelona Process and characterized the process as the "peaceful reconquest of Arab lands" (Stavridis, 2014). Thus, Libya and EU relations have been the scene of turmoil in the migration dialogues. In this context, Italy, which is a country affected by irregular migration and maintains an uninterrupted relationship with Libya, has assumed a critical role in the relations between the EU and Libya. For this reason, in the migration dialogue with Libya, Italy has considered the expected benefits with the EU and defended its national interests.

4.3.b. Backgrounds of Italy-Libya Migration Agreements

In the case of Italy and Libya, the migration-related official interaction began in 1998 with the Joint Communication (Paoletti, 2010). The so-called "Verbal Process" occurred concurrently with the signing of the Joint Communication. Although this document's legal standing is unclear, it covered specific joint actions, including industrial cooperation, trade

exchange, energy sector, agriculture, telecommunications, and tourism. (Paoletti, 2010). This joint communication between the two parties is important to address the coordinated management of undocumented migration. More importantly, it is the first time the issue of migration has been raised in a written bilateral agreement between Italy and Libya. Article 3 specifies that "both parties confirm their intention to cooperate in the fight against organized crime and drug trafficking… and illegal use of travel documents and the prevention of and fight against illegal immigration" (Verbal Process, 1998). Following this agreement, the parties signed the Memorandum of Intent in 2000, which envisages cooperation on organized crime, drug trafficking, terrorism, and illegal immigration (Ronzitti, 2009). The parties did not publish this agreement. However, Paoletti (2010) stated that in this agreement, the parties accepted the measures to be taken regarding the issue of migration as follows:

- Exchange information on the modus operandi, the itineraries of illegal migrant flows, and the criminal organizations that favor them.
- Exchange of information on organizations specializing in the falsification of documents and passports.
- Reciprocal assistance and cooperation in the fight against illegal immigration.

Beyond the transparency and legality problems caused by not sharing the agreement with the public, it is valuable for the parties to state that this bilateral cooperation within the scope of the joint action plan in the management of migration will start a new phase between the countries and even set an example in the Mediterranean. However, both the Joint Statement and the subsequent cooperation under the Memorandum of Intent could not be successfully implemented due to the colonial reparations issue between the parties.

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Although no formal agreement was ratified between Italy and Libya on migration between 2000 and 2007, many official visits were made to Libya, especially during the Berlusconi government (2001-2006), and the need for a joint action plan on migration was emphasized (Giuffre, 2012). Moreover, various informal agreements have been reached between the parties on measures to prevent undocumented migration. For instance, the two countries agreed on joint efforts to control undocumented migration and human trafficking. These measures covered the provision to Libya of specific equipment for controlling sea and land borders (Paoletti, 2010, p.58). In addition, Italy has declared that it will bear these measures' technical and financial burden. The financial resource the Berlusconi government promised to transfer to Libya was 10 million euros. According to Paoletti (2010), Italian newspapers wrote that Libya instrumentalized irregular migrants and that the migrants were used as blackmail by Libya. They also cited sending border surveillance vehicles to internationally embargoed Libya as an inadequate response to Libya's use of migrants as bargaining chips.

The agreement, which changed the history of relations between Italy and Libya, especially on immigration, was signed on August 31, 2008 and entered into force in 2009. The Treaty on Friendship, Partnership, and Cooperation ended the long dispute over the mistreatments of colonial times. A new chapter was opened in the relations between the two countries, with Italy apologizing for its colonial activities and agreeing to pay $5 billion in reparations (Gazzini, 2009). In addition, the treaty covered migration issues. Article 19 of the treaty on partnership and immigration requires the parties to work together "to prevent illegal immigration in the countries of origin of migratory flows through bilateral and regional initiatives". These initiatives include "the patrolling of the

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Libyan coast by mixed crews on boats supplied by Italy and the implementation of a satellite detection system to control Libya's land borders, funded by Italy and the EU". (Ronzitti, 2009, p.5). Migration cooperation also deepened after the agreement. Under the 2009 Executive Protocol annexed to the Treaty, Italy supplied six monitoring vessels. According to UNHCR's report (2010), there was a 90 percent decrease in irregular arrivals from Libya to Italy. Italy's pushbacks of the refugees from Libya to international waters and the interception of hundreds of the refugees by the Libyan border guards were effective in this trend (Vari, 2020).

In January 2008, the Libyan government announced that it would immediately expel all undocumented foreigners residing in Libya and that all irregular migrants would be deported once the procedures were completed. Although the number of irregular migrants reaching Italy's borders decreased after this agreement, none of these conventions and agreements distinguished between asylum-seekers and other irregular migrants in a significant manner. As reported by UNHCR (2010), unaccompanied adolescents and asylum seekers have been forcibly removed from the country without proper identification or the opportunity to apply for asylum. Many Eritreans and Somalis have made charges against Italy with the European Court of Human Rights since their expulsion to Libya in May 2009 (Cuttitta, 2010). One of these cases is known as "Hirsi Jamaa and Others vs Italy" (ECtHR, 27765/09). The court assessed the claims of migrants returned to Libya with reference to previous agreements between the two countries and the 2008 Treaty. The decision of the European Court of Human Rights as a result of this case has set a precedent for international refugee law. Consequently, Court accepted the immigrants' arguments and concluded that Italy violated Article 3 of the ECtHR by sending these

immigrants to Libya. According to Article 3, Italy violated the principle of non-refoulment by pushing back the asylum seekers who wanted to leave their country and apply for asylum for valid reasons. Although the ECtHR's decision set an example to protect asylum seekers according to the principles of international law, it did not prevent the push-back and deportation activities of EU member states, citing security concerns. In many cases, member states acted in line with their national policies, while these policies revealed a trade-off between protecting immigrants and protecting Europe. The approach of the EU did not differ from these member states. Their restrictive measures and unofficial agreements to protect Europe ultimately resulted in human rights violations of immigrants.

Besides the efforts of the Italian government in 2008, the European Commission also sought a mandate to initiate discussions with Libya on the EU's behalf toward the conclusion of a framework agreement. In July 2007, an agreement was made to enhance relations with Libya. This agreement includes efforts to expand educational and economic exchanges, as well as measures to tighten Libya's border controls with the assistance of the Commission. Then, on 15 October 2007, the European Union's Foreign Relations Council instructed the Commission to prepare for negotiations on a Framework Agreement between the Union and Libya. This Framework Agreement consisted of measures to contribute to the dialogue on international security, development and human rights, economic and social reforms, and to help develop trade and economic relations, including the free trade area (Joffé, 2011). It also envisaged cooperation in many areas of common interest, including migration, energy and education, environment, and culture (European Commission, 2009b). The Council ratified the Framework Agreement in July 2008, and negotiations between the parties began in November 2008. However, seven

rounds of negotiation did not yield any results. Social discrimination and concerns about unauthorized migrants to the EU were the primary sources of tension. The major problem revealed during the seventh round of negotiations was the readmission of undocumented migrants from Libya to Europe. The Gaddafi regime requested financial support worth 5 billion euros each year so that Libya could effectively control its borders and thus prevent undocumented migrants sent to Europe from entering its territory (Joffé, 2011). Representatives of the European Commission rejected this request. Consequently, this agreement draft was suspended after the 2011 Arab Uprising, when the Gaddafi regime was overthrown.

4.3.c. Arab Uprising and Italy-Libya MoU in 2017

The Arab upheavals led to an influx of migrants to the nearby islands in the Mediterranean. The deteriorating situation in the Middle East and North Africa (MENA) region has led to increased irregular border crossings, and people have begun to land on the Italian islands, primarily Lampedusa. Anti-Gaddafi demonstrations in Libya started on February 15, 2011 and continued with the fall of Sirte and the murder of Muammar Gaddafi. The country is divided into the National Transitional Council and the Libyan Socialist People's Arab Jamahiriya. Although NATO-supported operations were carried out to restore order in Libya, Italy initially refused to participate in these operations. Italy's main concern has been that thousands of asylum seekers have reached Italian territory by sea because of the turmoil in Libya (UNCHR, 2019). Likewise, many boats crossed the border from Libyan territorial waters and reached the Italian islands in the following process. This situation affected Greece, a border member state, and put Italy under great pressure. In addition, the intense wave of immigration to Italy worried other member

states, and France closed its border with Italy to crossings. Although France's re-introducing of national borders violated the Schengen agreement, it was also considered that the burden sharing and solidarity between member states were not implemented effectively.

Figure 4.5. Sea Arrivals from Libya to Italy 2000-2018 (UNHCR,2019)
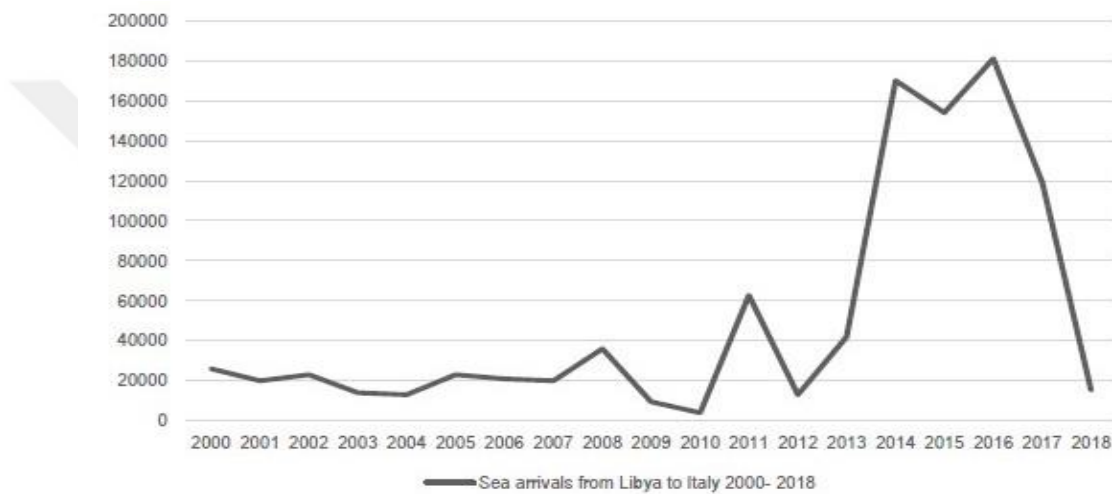
In 2011, the first civil war broke out in Libya, and as a result, an estimated 1,300,000 to 1,800,000 refugees and migrants fled the country, mainly to neighboring nations or returning to their countries of origin (UNHCR, 2019). In comparison, a tiny number of refugees and migrants departed Libya by water in 2011: 37,800 refugees and migrants illegally entered Europe from Libya by boat, representing 4% of the total population displaced by the civil conflict in Libya that year. Nonetheless, this means an enormous rise compared to previous years. With the second civil war outbreak in 2014, the arrival of 170,000 refugees and migrants from Libya to Italy has caused great pressure on Italy's borders. Since 2014, the number of refugees and migrants arriving in Italy by boat has reached around 181,000, an unprecedented increase in 2016 (UNHCR, 2019). Increasing

pressure on the EU, especially on Italy, has led to the search for new immigration measures. In April 2012, it signed a new cooperation agreement with the UN-backed Libyan government, which includes cooperation in various areas, such as establishing reception centers and border monitoring to combat illegal immigration. This agreement stipulates that coast guard and police officers would be trained, borders would be monitored, and options for voluntary return would be encouraged. In addition to the normative and legal problems caused by the conclusion of the agreement with the semi-official government of a country (TNC) still in civil war, the rapid implementation of the agreement has brought some question marks. This agreement was simply one of several instances illustrating unlawful tactics of regulating irregular migration without respect for human rights.

On the other hand, the EU and Libyan migration cooperation began in 2013 "with the establishment of the EU Border Assistance Mission to Libya (EUBAM), designed to develop a border management framework" (European Parliament, 2021). Since the migrant crisis, most EU initiatives have focused on enhancing border controls and externalizing migration management outside European territory, mainly in Turkey, Libya, and Morocco (Gattinara, 2017). Frontex has also supported cooperation programs with Libya to patrol Libyan waters and send irregular migrants back to Libya. Also, in support of Frontex's activities, Italy planned to reduce casualties at sea by organizing Operation Mare Nostrum in 2013. Following this operation, Frontex carried out a large-scale Operation Triton and organized surveillance and rescue operations near Libyan waters. Although these rescue operations suggest that the EU and member states point to a humanitarian shift in its migration policies, the fact that they were carried out at a time

when the sea arrivals from Libya to Italy were at their peak, as can be seen in figure 4.5, also shows the desire of the Union to protect the borders of the union more tightly. Likewise, at the Valletta Summit in 2015, where EU and African countries evaluated migration as "the joint responsibility of countries of origin, transit, and destination," the EU's approach was to further externalize border and migration control by increasing incentives in response to the humanitarian crisis (Oner and Cirino,2021).

As discussed earlier, the EU's externalization of border management often requires outsourcing or subcontracting of responsibilities to neighboring countries. Such actions are performed by many different actors on a unilateral, bilateral, or multilateral level. (Palm, 2012). The agreement between the EU and Libya under the Malta Declaration is an example of informal and flexible externalization practice. In January 2017, the European Commission released a Communication outlining a comprehensive set of initiatives aimed at the Central Mediterranean route (European Commission, 2017).

During the following period, Italy and the UN-backed Libyan government (TNC) signed a bilateral Memorandum of Understanding (MoU) on cooperation in the field of development and migration. The European Council adopted the Commission Communication and Italian Memorandum in February 2017 via its Malta Declaration. The former Prime Minister of Malta, Joseph Muscat, made the following remarks at the meeting on the preferences of the new Malta Presidency for six months at the European Parliament in Strasbourg, France, on 18 January 2017: "There is no doubt that unless the essence of the Turkey deal is replicated in the central Mediterranean, Europe will face a major migration crisis" (Reuters, 2017). Although the Italy-Libya MoU was different from the EU-Turkey Statement in terms of conditions, legal dimension, and scope, the source

of inspiration was the 2016 Deal. This memorandum was stated as the continuation of "the Treaty of Friendship, Partnership, and Cooperation" and the EU-Libya Declaration. According to the MoU, Italy would provide training and equipment to Libyan authorities, as well as invest in helping Libya enhance border security, combat human smuggling, and involve the Libyan government in smuggling hotspots (Vari, 2020). In this memorandum, Article 1 states that Italy guarantees to invest in businesses such as renewable energy and infrastructure in areas impacted by illegal migration to create new employment and replace smuggling as a source of income. The parties agree in Article 2 to complete the border control satellite detection system, finance existing migrant shelters and provide them with medical equipment. Both sides have declared that they agree to support voluntary repatriation programs that return migrants in Libya to their countries of origin. Article 3 provides for the establishment of a monitoring committee, while Article 4 covers information on funding all these operational processes. The remarkable part of this article is that " besides making use of available funds from the European Union ", it is stated that financial resources will be provided from the foreseen budget of the Italian Government (MoU, 2017).

The Memorandum of Understanding in 2017 has attracted many criticisms and reactions by NGOs, human rights organizations, politicians, and scholars. Firstly, as Vari (2020) states, the MoU language is broad and sometimes legally imprecise. Within the scope of the agreement, the projects that Italy will support and the number of funds to be provided remain uncertain. In addition, it is noticed that in the MoU, as in other agreements and declarations between Libya and Italy, asylum seekers and other irregular migrants are not distinguished. However, Article 2 clearly defines forced return as one of

its main objectives. In this case, the 1951 Geneva convention is clearly violated by Italy and the EU. Secondly, one of the parties to this agreement did not have the status of a sovereign state. The agreement was informal since the TNC was a political unit that called itself the sovereign power of Libya. In other words, Libya was able to sign such an agreement with Italy as a place that does not have a unitary state structure and that TNC only holds control in Benghazi and Tripoli.

Another problem is at least as critical as the second. Within the scope of this agreement, the Libyan Coast Guard, trained and equipped by Italy, will take the immigrants they caught to the detention centers built during the Gaddafi period. These detention centers are sometimes known for inhumane conditions such as torture, sexual harassment, and the slave trade. Thus, Italy and the EU connived to a severe human rights violation by describing Libya as a "safe third country." According to Amnesty International's report (2018), detention centers are partly financed by the EU, as stated in the agreement, so the EU shares "responsibility for the unlawful detention of refugees and migrants in centers where inconceivable violations occur". Médecins Sans Frontières (MSF) stated that "the Libyan government lacked the necessary control over parts of its territory and the capacity to combat organized human trafficking, and it was unable to process asylum claims fairly and administer detention in accordance with international and regional refugee law" (2018). Finally, the Supreme Court of Libya ruled that TNC did not have the right to sign this Memorandum and rejected its implementation. In a similar vein, the National Tebu Assembly rejected the result of the MoU between Libyan tribes on the grounds that the MoU signatories were not authentically representative of the community and that Italy was intervening in Libyan domestic issues. In addition, Fayiz Al-Serraj, a former prime

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minister, has retraced his actions regarding the memoranda (Palm, 2017). In other words, the legality of the Memorandum is ambiguous, as the Libyan Supreme Court and the National Tebu Assembly considered it invalid despite the approval of the European Council.

On 2 February 2020, the 2017 MoU between Italy and Libya was tacitly extended without modifications, despite substantial criticism over its validity and implications. The 97.2 percent decline in arrivals from Libya and deaths at sea from 2017 to 2019 was regarded as tangible evidence of the MOU's success. Italian Interior Minister Lamorgese notes that all the activities undertaken by the MOU comply with international obligations and human rights agreements and that the EU and Italy's support for Libya is within the framework of normative values (Maccanico, 2020). One of the basic structural elements of EU and member state migration strategies has recently been based on cost-efficiency calculation. If migration mobility worsens, institutional efforts, resources, and methods must be increased and intensified. On the contrary, if a 'successful' externalization materializes, it confirms everything that has been done, but it does not mean that the tools and resources should be reduced. For instance, in 2019, Italy passed a law to restrict the activities of NGO Search and Rescue vessels in the Mediterranean. Considering Search and Rescue activities (SAR) in the Mediterranean as a factor that attracts migrants, this law emphasized that NGO-supported SAR teams could not operate in Italian territorial waters (Cusumano and Villa, 2020). Italy has criminalized NGOs that carry out SAR activities by stigmatizing them as "sea taxi" drivers and "vice smugglers." Carola Rackete, a German ship captain who volunteered with the German marine rescue organization Sea-Watch, rescued 53 immigrants at sea in June 2019 and took them to the Italian island of

Lampedusa (OBS, 2021). Italy arrested the captain on the grounds that he had smuggled immigrants into its territory without permission and started the judicial process with a prison sentence of 3 to 10 years. Although many human rights activists and NGOs protested this situation, EU institutions remained silent.

Moreover, violations of rights, state crimes, death in detention centers, and systematic torture are not included in the normative narrative of the EU and its member states. The developments in Libya reveal the terrible extent of human rights violations. Human Rights Watch, MSF, and Statewatch's reports stated that the Libyan security forces carried out acts such as kidnapping, militia attacks, and extortion.

In conclusion, since the 1990s, Italy has violated the right to claim asylum or international protection by prohibiting refugees from arriving on its territory and engaging in scandalous agreements. As an important partner of Italy, especially in the energy sector, Libya has never deemed a transit country and was considered a safe third country to which immigrants could be sent back. Especially during the Gaddafi period, Italy, in most cases, aimed to gain some benefits from Libya in terms of migration partnership as a country that served as Libya's gateway to the world and made great efforts to lift sanctions and embargoes. Although the Italy-Libya migration relationship is inseparable from the EU's efforts to externalize and securitize migration, the two countries have established partnerships on migration management by making win-win deals. While Libya's authoritarian regime gained leverage over the EU and Italia, this migration relationship conflicted with the EU's normative value system. While the member states are expected to fulfill the requirements of the Copenhagen criteria, in which norms and values are formalized within the framework of Normative Power Europe, Italy has made an informal

agreement with a third country where an ongoing civil war is taking place, despite the directives and international agreements. While this situation contradicts the criteria defined in the treaties of the EU which is contrary to International Conventions (1951 Geneva Convention and 1987 Torture Convention). The EU migration dialogue with third countries shows that the EU's approach can be considered status quo and realpolitik rather than normative. As the EU securitizes migration, it gives leverage and bargaining power to third countries. These bargains also sacrifice EU normative values to encompass the interests of both parties. In this context, the 2016 EU-Turkey Statement sets an example for the 'informal' agreements that the EU and member states will sign with third countries in the upcoming period.

4.4. Action and Reaction: The Evaluation of the "NPE" in the Context of the EU's Migration Policy toward Third Countries

In his article titled *"Normative power Europe reconsidered: beyond the crossroads"* in 2006, Ian Manners argued that the EU's security measures after September 11 did not contradict its normative power (2006b). Ian Manners emphasized that the EU was at a sensitive juncture and that the growth of the military-industrial complex could threaten the EU's normative power. From this point of view, I claim that the EU has already passed a crossroads within the scope of migration policies and has moved away from its normative power. The EU's migration policies are security oriented. Thus, the emergence of a 'military-industrial-migration complex' is seen in the border regions in line with the practices implemented by the EU. Examples of this military-industrial-immigration complex can be seen in the walls and fences that Greece has built on its borders, its investments in border surveillance technologies, and sonic sound weapons. It is also

exemplified in the maritime patrol activities of Frontex, in the increased number of armed guards at the borders. As Leonard underlined (2010), Frontex's deployment of traditional military procedures and equipment as well as exceptional or extreme measures to fight irregular migration flows, is also inconsistent with its normative claim. Military or quasi-military units of member states, such as the *Guardia di Finanza* of Italy and the *Guardia Civil* of Spain, provide training activities to the security units of neighboring countries as well as participate in border operations (Gjoncaj, 2018). For instance, the technological and military vehicles, boats, and patrol ships transferred by Italy to Libya within the scope of the MoU prove the growing desire to prevent migration. In addition, the fact that the Spanish Moroccan border is heavily guarded by soldiers and billions of euros are spent on the protection of the borders also supports the existence of this complex. These are the tangible assets of the EU and its member states for the securitization of migration. In addition, although the EU emphasizes concepts such as human rights, shared values, and solidarity in its agreements and pacts at the level of discourse, migration dynamics with third countries are realized in line with the motivation of externalization. Several academics and human rights organizations have stated that the EU's policies threaten its ideals and norms (Gjoncaj, 2013; Amnesty International, 2014). The EU collaborated with North African countries and Turkey with authoritarian governments to control irregular migrants. In stark contrast to encouraging human rights, EU has supporting them to implement stricter measures, like detention centers, to deter illegal migration to Europe and manage returning migrants. For example, the detention centers of *Al Mabani* and *The Triq al-Sika* in Libya and *Tétouan and Berkane* in Morocco are known for intense human rights abuses and poor living conditions. The EU institutions do not have direct control over the detention centers in these countries, and international organizations such as IOM

and UNCHR have limited access. In other words, by restricting the entry of a substantial number of migrants and asylum-seekers into Europe at the expense of human rights, the EU has compromised its role as a champion of fundamental rights. (Ceccorulli, 2014, p.203). Therefore, the EU not only desire to make these countries a refugee warehouse but also takes measures to turn them into a dungeon for immigrants.

According to Ian Manners' NPE theory (2002), the EU should have normative goals, impacts, and means. Nevertheless, the securitization and externalization of the EU's immigration policy is an obstacle to normative power. There are no normative objectives, tools, or effects in place for either the border management policy or the readmission policy. The EU is a discursive power that introduces itself as normative but is a realpolitik or status quo power. In addition, European Union migration missions can be expressed in organized hypocrisy (Cusumano, 2018).

For the EU to be defined as normative in the NPE literature, norms and principles in European law such as "peace, freedom, democracy, the rule of law and human rights, social solidarity, anti-discrimination, sustainable development, and good governance" should be used as positive leverage in relations with third countries without being self-interested (Manners, 2002, p.242). However, in recent years, the EU's migration dialogue with third countries has not been shaped around normative values. In addition to the internal difficulties caused by the cooperation crisis between the member states in recent years, the EU is faced with an external challenge that tests its agency and its effectiveness in foreign policy due to the increasing immigration pressure since the Arab Uprising. Although the international community calls for the EU to respond to the migration crisis with normative values in terms of the role the union has set for itself and the principles on

which its claim to be a global actor is based, the EU seeks solutions by prioritizing its strategic interests. The EU's protectionist and inward-looking policies weaken Europe's international image. Although immigration policies were transformed from national interests to community values after the Lisbon Treaty, ideological conflicts increased in places where immigration policies intersect with EU foreign relations. A paradigm shift is observed in terms of the EU's approach shaping migration management. At the expense of thousands of people who lost their lives while trying to reach the EU borders, the inconsistency and control-oriented approaches of the EU and its member states in providing humanitarian protection to refugees cause an approach far from cooperation and solidarity. Despite this controlling logic, it is another reality that the irregular migration figures show variability as a result of not seeing an extraordinary decrease in the numbers of irregular migration or the tactic of opening and closing the borders of third countries. In other words, this inconsistency between EU institutions is also reflected in immigration dialogue with external actors, and the EU's programs such as ENP, GAM/GAMM and migration mobility cooperation and collaborative and collective solution proposals leave their place to protectionist policies. While the global governance policies adopted by the EU after Lisbon should form the main management basis of the EU, the EU deals with migration at the regional level and presents old prescriptions for current issues on a conditional basis based on the ability of its partners in cooperation with third countries.

The relationship between Turkey, Libya, and Morocco in this thesis shows that the EU acts strategically in migration management and maximizes its own interests. However, I oppose the argument that EU-third country relations are asymmetrical and one-sided, which is often emphasized by the migration and normative power literature (Bicci, 2006;

Bialasiewicz, 2012; Içduygu and Demiryontar, 2019; Yılmaz-Elmas, 2020). Although the EU might be hegemonic regional power, third countries are not passive recipients but active agents in migration diplomacy with the EU (Haukkala, 2008). The EU's immigration policy is far from normative values and not shaped unilaterally. The critical question should be how third countries take a position against EU policies.

Greenhill's prominent study is notable for showing how migration, refugee crises, and forced displacements may be utilized as a tool of persuasion in foreign policy. According to Greenhill (2010), states intentionally or by manipulating them use immigrant groups to provide "political, military, and economic concessions from a target state or states" by instrumentalizing migration. In this context, she argues, advanced liberal democracies are susceptible to the instrumentalization of migration for two interrelated and self-reinforcing reasons, each reflecting a different understanding of what has traditionally been seen as liberal values and virtues. As a result of what is often referred to as "normative or embedded liberalism," liberal democracies are more open to compromises in immigration bargaining because they adhere to international treaties that impose certain legal obligations on states to fulfill their responsibilities. These international guarantees limit states' ability to control their borders and thus give other actors a bargaining advantage over signatory states through the use of norms that enable political and legal trapping (2010). She has observed that weak actors often use migration manipulation as a power projection. At this point, as defined by Greenhill, third countries use immigration as a bargaining power as a foreign policy tool. Similarly, the externalization of immigration and asylum policies by the EU has led some states on the transit migration route to make the issue of refugees a foreign policy tool. Kaya claims that external factors such as

Turkey, Belarus and Morocco use the threat of mass immigration as leverage against the EU (Kaya, 2022). As stated in the cases, autocratic third countries instrumentalize migration and use it as bargaining chips. As weak actors, Turkey, Morocco, and Libya are trying to gain various economic and political privileges by using the EU's fragility due to the EU's normative and liberal values.

Furthermore, various examples of migration diplomacy have emerged because of European efforts to externalize their migrant control. These examples often entail a tit-for-tat exchange of cash for migratory control (Adamson and Tsourapas, 2019). The 3+3 million Euros presented to Turkey within the scope of the 2016 Statement, the funds that Italy and the EU promised to give to Libya in the Libya-Italy MoU, and the funds transferred by the EU to Morocco through ENPI are the best examples of this. When negotiating with the European Union, Qaddafi also used tactics of forceful migration diplomacy. When he demanded money from Europe and threatened to flood the continent with people from Africa (Adamson and Tsourapas, 2019), in fact, in 2010 Gaddafi stated that "if Europe wants to stop migration toward Europe to pay 10 billion euros per year, otherwise Europe will turn black" (Squires, 2010). In a similar vein, Demmelhuber (2011) claims that collaboration with authoritarian elites on cooperative border controls has improved the negotiating leverage of autocratic governments such as Libya and Morocco in their efforts to preserve their political power. Especially in post-civil war Libya, the TNC, the EU's interlocutor, is gaining political power, maneuverability, and representation through migration agreements as a de-facto political structure that governs only a particular part of the country.

Turkey's relationship with the EU became more aggressive as it sought to leverage Europe's interests in preventing migration to generate significant economic benefits. In addition, Turkey politically uses immigration as a foreign policy tool. While Turkey, which is a candidate country under ideal conditions, is expected to act in accordance with the EU acquis, on the contrary, instrumentalizing migration does not only indicate a desire to gain some benefits. Since the EU deviates from its normative values, Turkey's political atmosphere does not approach the EU membership with confidence. According to Yavcan, "EU's tactical move toward Turkey's membership either destroys its capacity as a rules-based, normative power in foreign policy or, alternatively, casts doubt on its actual commitment to Turkish accession" (2016, p.8). Likewise, this situation allowed Turkey to instrumentalize migration in various ways. Following the EU-Turkey agreement, the Turkish government adopted a more threatening stance toward the EU. The former Prime Minister Ahmet Davutoğlu states that "Turkey has taken all measures to hold refugees, and if the EU does not fulfill its obligations (visa liberalization), we will withdraw from all agreements, including the 2016 agreement" (Nielsen, 2016). In March 2017, Foreign Minister Mevlüt Çavuşoğlu announced that Turkey could "cancel the agreements it signed with the EU in the field of migration" (Saeed, 2017). Moreover, Interior Minister Süleyman Soylu threatened to send 15,000 refugees to Europe monthly (Euroactiv, 2017). Moreover, after the Russian bombings in Idlib, which resulted in the deaths of at least 33 Turkish troops, it was announced on 28 February 2020 that "Turkey would no longer be able to host migrants." Hundreds of migrants arrived at the Turkish border with Greece within a few hours. According to many sources, the Turkish government encouraged and assisted the migration of migrants and asylum-seekers to the Greek border rather than passively tolerating it (Kassoti and Idriz, 2022). This move of Turkey was defined as an

attempt at instrumentalization. It has been interpreted as using migration flows to put the EU and NATO under pressure to support Turkey's military activities in Syria, particularly the Spring Shield operation (Léonard and Kaunert, 2021). Also, referring to Turkey's sudden decision, Commission Vice President Margaritis Schinas said, "no one can blackmail or intimidate the European Union" (Schinas, 2020). In the following period, the Commission offered Turkey to comply with the 2016 Agreement and work on a new draft agreement.

Similar to the cases of Libya and Turkey, Morocco is trying to gain bargaining power against the EU by using immigration as a foreign policy tool. At the very beginning of 2021, the government turned a blind eye to the crossing of tens of thousands of refugees from Morocco to the island of Melilla. This was because Spain allowed one of Morocco's greatest political enemies, the Polisario Front, to hospitalize Septuagen leader Brahim Gali in Logroño, northern Spain, for treatment for Covid-19. As a result of Morocco's use of the immigration trump card, Spain declared that it would continue to support the Kingdom of Morocco by evaluating the Polisario Front in Western Sahara as a separatist group. Thus, Morocco instrumentalized migration and gained political maneuverability.

As a result, the migration relationship between the EU and third countries does not develop unilaterally and only around EU interests. As the EU moves away from its normative values and securitizes and externalizes migration, third countries use immigrants as blackmail and bargaining chips to gain political power. As Cassarino (2018) emphasizes, it is not uncommon for third countries to exert pressure on their European counterparts to use the migration variable. On the contrary, what is unique is their clear intention to instrumentalize migration. Therefore, I eventually argue that the

EU's securitization and externalization policies give third countries bargaining power and political maneuverability, and as a result, the EU takes more protective border measures in migration management with third countries and underestimates the human rights dimension of migration. Thus, a cyclical securitization spiral is formed. In other words, as the EU's securitization and externalization practices increase, the bargaining power of third countries will also increase. As a result, although the EU tries to protect its borders more tightly, it will be exposed to the threat of third countries because it does not focus on finding solutions to the root causes of migration. Likewise, in this thesis, although the EU, which has made agreements with Morocco, Turkey, and Libya, believes these migration routes are under control, the 2021 Belarus-EU border crisis has emerged. The EU described this as an 'engineering crisis' and blamed the Lukashenka government for attacking the EU's soft belly. Whether the allegations are true or not, the fragility of the EU regarding migration management became evident again with Lukashenka's blackmail (Chatham House, 2021). As a result, closing the borders and taking stricter security measures lead to new migration routes and more dangerous journeys while not preventing the migration flow. Thus, the EU, which enters a cyclical securitization spiral or vortex in the immigration-security equation, moves away from its values and loses its leverage against third countries.

CHAPTER V

CONCLUSION

This thesis's research objective is to evaluate the EU's normative power within the framework of its migration policy. In this context, the theory of normative power Europe and the phenomenon of immigration in the founding treaties and agreements, which is the source of the EU's normative power claim; The effect of securitized and externalized migration policies on the normative power of the EU and the impacts of the positions and benefits of the third countries in the migration dialogue on the migration policies of the EU have been examined in detail.

This research has examined the European Union's securitization and externalization approach in the sphere of migration to construct an argument contrary to the EU's normative stance. At the beginning of the thesis, my main argument was that although the migration discourses of EU institutions focus on normative values such as human rights, responsibility sharing, international cooperation, effective solidarity and rights-oriented crisis management at the discursive level, migration practices such as securitization and externalization are based on interest and control. I intended to reveal the shift in the EU's migration policies through the practices and application, even if they cannot be clearly followed at the policy level. In addition to the main argument in the thesis, it also aimed to investigate the impact of the practical applications of the EU with third countries in migration management, both on the NPE and the position and reaction of the third countries against the EU. It concluded that the EU is a non-normative but an interest-

oriented, opportunist and status quo power within the scope of organized hypocrisy. On the other hand, it was concluded that the relationship of interest of the EU with third countries is not based on solid foundations, that third countries use immigration as a means of persuasion, thus strengthening their own positions and gaining bargaining power and political maneuverability. While the EU loses international and regional credibility in migration management, it remains vulnerable to the instrumentalization of migration by third countries. More pressure in migration management does not mean more effective solutions. As the EU concentrates on its security-oriented policies, other actors are trying to leverage migration to their advantage. By compromising their values in the EU, it gives these actors more economic incentives and political privileges. However, it tightens the belt even more in immigration policies. Thus, although Union believes that it is better solution for defending European lands, case by case, Europe may face an influx of immigration from an unexpected route. Therefore, this whole process is shaped by the spiral of -securitization-the loss of normative power-the strengthening of third countries-more securitization, confirming my argument in the thesis.

In the thesis, firstly, within the scope of Ian Manners' theoretical framework, how the EU is a normative power and its means of disseminating normative values are discussed. Manners (2002) stated that the EU's founding treaties, declarations, agreements, and accepted principles, criteria, and conditions constitute the normative basis. For this reason, based on Manners' conceptualization, the normative difference of the EU has been examined in the EU's founding treaties, with five 'basic' norms and four minor norms that complement *acquis communautaire* and *acquis politique*, by delving further into the normative foundations of the EU. This section demonstrated how and why European

governments converged on a common migration and asylum system from their previously disparate national immigration policies. In this process analysis, the normativity of the EU's migration policies as conceptualized by Manners was questioned. It is observed that starting from the Tampere Summit in 1999 when the decisions taken in the Amsterdam agreement in the field of migration and asylum were put into practice, the EU evaluated migration and asylum within the scope of the security dimension. As of the end of the 1990s, with the increase of irregular migration, immigration control was externalized to restrict access to European territory. Since Manners assume the EU to be the 'norm-setter' in international affairs, the EU's shifting stances on migration seem to conflict. It is seen that the EU underestimates "human rights" and "fundamental freedoms," one of the five basic principles defined by Manners, in migration management. The EU's migration dialogues with origin and transit countries (third countries) were examined to understand this discrepancy better. Thus, the EU's policy for externalization concentrates on its efforts to enlist other countries in its restricted and securitized asylum and migration policy. In order to do this, the EU employs a variety of tools including, but not limited to, "readmission agreements," "visa facilitation," and "liberalization commitments," "bilateral and regional dialogue." The EU's primary tool for attracting third countries to participate in such cooperation has been conditionality and incentives. By transferring responsibility for controlling migratory flows to various parties, the externalization plan has not taken into account the dispersion of any norms conceptualized by Manners. Thus, the relocation of migration and refugee policies to third nations does not illustrate a normative power's intended norm and principal dispersion to the outside world.

In contrast, this transfer contradicts the EU's foundational ideas and practices, including human rights, solidarity, good governance, and the rule of law. While the EU securitizes migration against third countries by strengthening its borders, it implements an open-door policy towards others within the scope of identity politics. This situation also causes the EU to move away from its image as a reliable and consistent actor in the international arena (Olmedo and del Miño, 2019). For example, the fact that EU organized and resettled millions of Ukrainians to various EU countries very quickly during the Ukraine-Russia war, but a year ago, they labeled the refugees on the Belarus-Poland border as the product of Lukashenka's migration engineering, which is an indication of their hypocritical attitude (Kaya, 2022). Likewise, the EU bends international law in line with its own interests (ECFR, 2021). For example, in the Turkey-EU Readmission Agreement and 2016 Statement, there is a gap between the number of Syrian refugees that the EU envisages relocating and the target reached. There are inconsistencies between Europe's claim to normative power and its migratory strategy abroad. This thesis has made every effort to emphasize these discrepancies. It is crucial to note that the EU's externalization of immigration policies is not normative. On the contrary, the diffusion of norms is probably more advantageous for actors when used reflexively and consciously in accordance with normative obligations. However, in the EU's practices of externalizing migration, the establishment of an external migration policy has been motivated by the securitization of migration. Therefore, these examples prove that the EU's liberal and normative in its own discourse, however illiberal and hypocritical in practice sabotages the EU's international reputation.

As proven by the cases examined in this thesis, security considerations precede normative concerns. However, the EU's securitization and externalization of immigration not only weakens its normative power but also causes the EU's interest-oriented approach to losing its leverage in its relations with third countries (Jäntti and Klasche, 2021). While the EU acts with the desire to strictly protect its borders by transferring migration management to third countries, third countries also develop counter practices. The argument in the literature that the EU can maximize only its own interests in migration management through bilateral or multiple agreements by considering it as an absolute power contradicts the findings of this thesis (Bicci, 2006; Bialasiewicz, 2012; Icduygu and Demiryontar, 2019; Yilmaz-Elmas, 2020). In contrast to this common approach, third countries are not passive receivers but rather active game changers. This thesis exemplifies Greenhill's (2010) argument that liberal democracies are more open to compromise in immigration bargaining because weak actors who lack capacity in other areas may occasionally try to take advantage of the immigration issue to improve their bargaining positions vis-a-vis stronger states. Contrary to the studies in the literature, third countries change the "rules of the game" by instrumentalizing migration against their powerful partners.

In order to analyze the externalization practices of the EU in the migration and asylum regime and to measure the reaction of the third countries, I examined the cases of Libya, Morocco, and Turkey. The historical relations of each case with the EU, their positions in the international arena, and immigration policies are different. However, the common point of all three is that they were countries on important transit routes in the transition to the EU. For this reason, the EU has externalized migration management by signing

readmission agreements with all three countries, whether legally binding or not. However, in the thesis, I did not limit the scope of the study only to readmission agreements. I also discussed the EU's migration relationality with these countries from a broad perspective. My purpose in doing this was to test the claims that the EU uses asymmetrical power in its migration dialogue with third countries. As a result, although the EU has made agreements with its own interests in mind, Morocco, Libya and Turkey are actors that have gained bargaining power and political maneuverability against the EU to varying degrees. While this maneuverability is the political and financial gains Libya has achieved by using migration as a tool against the EU since the Gaddafi era, Turkey and Morocco took advantage of the political crises to bring the EU to the negotiation table with the utilization the migration as a weapon. The most timely example of Morocco was Spain, which had to withdraw its support against separatist groups in Western Sahara, which the country considers hostile to its political sovereignty. On the other hand, the most recent example regarding Turkey is that after 33 soldiers were killed in Idlib, Turkey suspended the 2016 agreement and opened its border gates. Turkey has demanded the EU and NATO, which it sees as a reliable strategic partner, to act together against terrorism. All examples show that the EU depends on Turkey, Libya, and Morocco for migration management. Although the EU aspires to close its borders tightly to defend the interests of the Union by ignoring its normative identity, this price is not limited to incentives and conditionality but is determined by these countries. These examples will be neither the first nor the last unless the EU adopts migration and border policies committed to normative values, rights-oriented, and aimed at reducing the root causes. The recent examples also prove that "Pandora's box is wide open, and no one knows how to close it" (Cassarino, 2018).

This thesis contributed to the EU's normative power discussions in the literature by analyzing three different cases within the scope of migration management. The EU's normative identity and global actorness have been analyzed in the migration relationship with third countries, offering a new perspective to the debate in the literature. In addition, the scope of the thesis was not limited to the deviation of the EU from the normative values; it was expanded, and the reactions of the third countries against the Union were also discussed. Migration policies in recent years show that the EU, which is a supranational actor, pursues reactive, short-term, target-oriented, and Eurocentric policies rather than its normative structure based on balanced partnership and dialogue. Beyond EU rhetoric, it cannot be considered as a normative actor in the immigration dialogue with third countries at the implementation stage. As a result, against Manners' (2002) argument that the EU is best conceptualized as a normative power, this thesis argues that the EU is a realpolitik, inconsistent, (in)credible, and interest-oriented political actor.

The fragile situation in the Middle East still raises troubling questions about a new wave of forced migration and whether Europe is ready for a new crisis. The findings of this thesis are important for further research that addresses possible pathways for the imminence of perceptions, expectations, and abilities. In addition, the cases in this study can be expanded to analyze the positions of the EU and third countries in the externalization of migration. For example, the recent announcement of the United Kingdom and Denmark that they will receive asylum applications in Rwanda can be studied beyond this study by considering offshore migration practices. Moreover, the EU's abstentiton to the crisis in Afghanistan and its acceptance of millions of immigrants in the shadow of the Ukraine-Russia war can also be evaluated in subsequent studies.

Thus, studying the EU and other European countries' operationalization of migration

management with normative or non-normative values will be important to understanding

the evolution of the regional and global migration and asylum regimes.

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