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Securing Human Rights or Humanising Securitisation?

Assessing the Normative Coherence for Human Rights in the EU
migration actions

Author: Maria Agustina Petrone
Supervisor: Harlan Koff

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List of abbreviations

CFSP	Common Foreign and Security Policy
CS	Copenhagen School
CSOs	Civil Society Organisations
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
EUCFR	Charter of Fundamental Rights of the European Union
EUTF	EU Trust Fund for Africa
FRA	European Union Agency for Fundamental Rights
GAM	Global Approach to Migration
GAMM	Global Approach to Migration and Mobility
IDPs	Internally displaced people
MDGs	Millennium Development Goals
NCD	Normative Coherence for Development
NDICI	Neighbourhood, Development and International Cooperation Instrument
NGO	Non-governmental organisation
OHCHR	UN Human Rights Office of the High Commissioner
PCD	Policy Coherence for Development
PoC	Protection of Persons of Concern
SAR	Search and Rescue Operations
SDGs	Sustainable Development Goals
TEU	Treaty of the European Union
TFUE	Treaty on the Functioning of the European Union
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees

Abstract

Ensuring a Normative Coherence for Human Rights in migration governance is crucial for the European Union's credibility. The EU has a strong commitment to respect and promote human rights in its internal and external actions due to its role as a 'normative power' (Manners, 2002, p. 238). In that regard, the Union has witnessed a shift from state-centric control to the regionalisation of migration management, with a focus on a holistic approach aligned with human rights standards to safeguard migrants' well-being. Yet, balancing human rights implementation and migration strategies becomes challenging as a consequence of the securitisation of migration.

This dissertation aimed to analyse how normatively coherent are the EU migration governance strategies with the organisation's core values which include a commitment to human rights. An innovative framework on Normative Coherence for Human Rights was adopted for research purposes. The thesis found that actions involving border control and returns resulted in a decrease in the consideration of migrants' rights, leading to three significant consequences. First, the emergence of partial coherence for human rights in migration strategies, resulting in normative incoherence for human rights. The second consequence involves a significant challenge to the EU's status as a normative power. And lastly, the potential risk of the regionalisation of migration governance failing to succeed.

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Introduction

In 2000, the European Union (EU) adopted the Charter of Fundamental Rights of the European Union (EUCFR), committing to the promotion and respect of human rights within its territory but also in the implementation of its actions abroad. This stemmed from the belief that ensuring human rights remains a crucial focal point for all actors within the international community when formulating their policies. The recognition of human rights, its promotion and respect have been acknowledged by the international community since the adoption of the Universal Declaration of Human Rights (UDHR) in 1948. The following expansion of this area positioned these rights as inherent to every human being, regardless of their sex, nationality, place of residence, ethnic colour, religion, or status. In that sense, the international community committed to the human rights framework, adopting it in their own legislation. When confronted with specific hurdles, it is imperative to consistently prioritise and uphold the principles of human rights, avoiding any form of neglect or diminishment. In this context, the incorporation of human rights considerations is integral to the contemporary management of migration. There are several reasons behind this statement, beginning with the safeguarding of individuals, ensuring their dignity, and promoting their well-being. However, assuring a consistent coherence between these rights and the strategies implemented to manage migration continues to pose a challenge.

Migration governance has witnessed a gradual shift from being defined solely with the purview of individual States to a scenario where international entities are assuming a prominent role in its management. The role both the International Organisation for Migration (OIM) and the UN Office of the High Commissioner for Refugees (UNHCR) have in assisting States in the implementation of measures that accommodate for the protection and respect of rights of migrants, regardless their legal status are clear illustrations of this shift. States faced challenges in effectively responding to migration flows, resulting in a proliferation of migration policies that jeopardised the rights of migrants. This transition, coupled with the inadequate responses taken, has resulted in an increased involvement of supranational entities in shaping modern migration policies. The EU plays a key role in this regard. Presenting itself as a normative power (Manners,

2002, p. 238), the Union is founded on the principles of fundamental rights, democracy, and the rule of law. These values, which include respect for human dignity, freedom, democracy, equality, and human rights, shape the EU's action both internally and externally. When it comes to addressing migration, the Union's aim is to manage migration flows effectively, while also upholding human rights and international obligations, as the New Pact on Migration and Asylum states (European Commission, 2020, p. 1). Migration is not expected to disappear and, in a world where conflicts continue to arise, it is safe to say that an increase in human mobility will become the norm¹. In that light, the migration phenomenon has become increasingly relevant to the EU's external action (Delkáder-Palacios, 2019, p. 3). On top of that, there has been a growing demand for a holistic approach and an increase in international cooperation to address this challenge.

In that regard, the EU presented the Global Approach to Migration and Mobility (GAMM) in 2005, followed by the Global Approach to Migration and Mobility in 2011, in which a comprehensive strategy where various aspects of migration were addressed. Combating irregular migration and smuggling occupies a focal point in these strategies. As a matter of fact, tackling irregular migration continues to be one of the priorities as the set of measures contained in the New Pact on Migration and Asylum (2020) shows. In addition, a nexus between migration and development has been established in the GAMM. With the adoption of the 2030 Agenda and the Sustainable Development Goals (SDGs), the international community reached a consensus to address the contemporary challenges of a globalised world through a comprehensive lens. With the premise that the 2030 Agenda must be implemented as a whole, the Union and its Members 'will address a range of cross-cutting elements to achieve sustainable development and accelerate transformation' (European Commission, 2018, p. 11). Although a common knowledge exists on the idea that a well-managed and regular migration can bring several benefits both for the countries of origin and destination (Ibid., p. 18), the role migration management occupies in the Agenda is rather small, with only one explicit mention in Target 10.7, within SDG

¹ According to the European Union (EU) data, around 330.000 irregular border crossings were detected in 2022. This constitutes an 64% increase in the trend over the previous year, being the highest number since 2016. (FRONTEX, 2023, para 1.).

10 (Koff, 2017b, p. 12)². This implies that, although States are committed to an all-encompassing agenda, migration governance cannot be said to be properly addressed in this framework. In addition, scholars have argued that the Union maintains its commitment to a conditional approach, linking offers for legal migration to the cooperation of third countries in various domains. Alternatively, it directs mobility initiatives towards regions with significant irregular migration (Scheinder, 2021, p. 310).

The responses to the migration management challenge thus far have not effectively addressed the underlying issues at hand. Various studies have shown that the approach chosen by the EU to address these topics is mostly securitised, compromising the values that support the organisation (Chou et. al., 2016, p. 1; Bello, 2020, p. 5; Delkáder-Palacios, 2019, p. 3; Koff, 2017a, p. 2; Huysmans, 2000, p. 751). The way in which migration is portrayed by the EU in its documents and actions can create an interference with the values and rights they promote both within the organisation and in their relations with the rest of the countries. In addition, this has an impact on the credibility and strength of the EU as a normative actor. In that sense, the way in which the EU approaches this challenge clashes with the values that sustain the organisation. By the establishment of securitised policies where the goal is to prioritise the control of borders and the effective management of migration is key, negative repercussions on the EU's Normative Coherence for Human Rights can arise if not properly justified. Coherence for Human Rights is therefore one of the most important problems faced by the EU in terms of its external policy according not only to scholars (Alston & Weiler, 1998, p. 668) but also to the EU institutions that in several opportunities acknowledged the necessity of applying a more cohesive and consistent approach in terms of human rights. As a matter of fact, coherence was identified 'as one of three major cross-cutting challenges for the fulfilment of the EU's strong commitment to compliance with, and promotion of human rights standards.' (Taufar, 2017, p. 1), showing that the importance of this topic is not only for academic research, but also in the political realm.

² Other references to migration are related to women migrants in relation to labour rights (SDG 8, Target 8.8), remittances (SDG 10, Target 10.C), and the enhancement of disaggregation of data by migratory status in developing countries (SDG 17, Target 17.18).

In the following section, a stronger argument on the pertinence of the current research will be expounded upon. The Statement Relevant part will undertake the task of not only presenting the research question that will guide the whole dissertation in a comprehensive manner, but it will also articulate the rationales and justifications that substantiate the significance of this research endeavour. Moreover, attention will be given to elucidate the limitations that are inherent in this study due to its subjective elements, thereby fostering a more nuanced understanding of its scope and parameters.

Statement Relevance

Within this part, the reader will be presented with a comprehensive rationale for the relevance of the chosen topic. In addition to that, a glimpse into the methodological approach employed in conducting this dissertation will be provided.

The EU constitutes an intriguing subject for analysis, owing to its unique and distinctive characteristics. In that regard, the EU represents much more than the sum of its members, being a supranational organisation with exclusive (Art. 3 TFEU), shared (Art. 4 TFEU) and supporting competences (Art. 6 TFEU). The complexity and idiosyncrasy of this peculiar organisation and how all these powers interact make it a compelling focus of academic examination *per se*. In light of these particularities the EU has, a captivating line of investigation lies on the scrutiny of its approach towards the addressing of highly contentious issues, such as migration management. Given the intricate connections between political, legal, socio-economic, and humanitarian considerations surrounding this topic, the EU's action and policies in this domain constitute a focal point for academic research, offering an opportunity to comprehend the organisation's decision-making processes and the implications they have both on regional and international levels. Undertaking research of this nature not only sheds light on the EU's migration management strategies but also reveals on the paramount challenges confronting the organisation, specifically in terms of the values that sustain it.

One of the foremost obstacles that the EU presents pertains to its coherence and cohesion, as mentioned in the preceding segment. Conducting research on the normative coherence

between the norms and actions of the EU holds significant importance, given its prominent position in the international arena and it endeavours to project a specific image within it. Ensuring coherence between policies and the foundational values that underpin the organisation is imperative for upholding the credibility of the Union. In this regard, it is essential to prioritise actions that consistently uphold human rights as the central focus, despite the subject matter, rather than disregarding them. This is particularly significant when it comes to migration, and more notably, in relation to the actions advocated in this domain with third countries. The reason behind this significance is that although migration can be beneficial and empowering for many individuals, a lack of a migration governance rooted in human rights principles can have several important consequences. One prominent issue is the frequency by which migrants' rights are violated during the entire migration process: during their journey, at international borders and within the countries they are relocated to. This creates a situation of vulnerability where there should not be one, as migrants are not inherently vulnerable. In that regard, they end up becoming more susceptible to human rights abuses, facing a higher risk of discrimination, exploitation, and marginalisation. This reality is acknowledged by the latest FRA's Report that human rights violations at borders have worsened (FRA, 2023, p. 150), putting the regionalisation of migration governance at stake.

By analysing the EU migration policy documents, this dissertation will examine EU migration policies in order to evaluate their coherence with the EU human rights commitments. Its aim is to assess the capacity of the EU's normative power in relation with the external policies taken in this particular area. A pivotal question arises from this research: *How normatively coherent are EU migration governance strategies with the organisations' core principles/norms?* Putting the focus on the ways in which the organisation put in practice the values that are supposed to guide their external actions, this dissertation aims to analyse the Normative Coherence for Human Rights in relation with third countries. The linkage between security-development in the area of managing migration in third countries will be addressed, as the way in which the EU has dealt with this challenge in recent years raises certain questions. This has an effect on the credibility and strength of the EU as a normative actor. Simultaneously, there is a growing inclination towards implementing securitised policies aimed at emphasising border control and

migration management. However, if these policies are not adequately justified, they could potentially undermine the EU's adherence to its established norms and principles. This dissertation believes that, because of the securitised lens used by the EU, migration is framed as an existential threat to Member States. By applying a Normative Coherence for Human Rights (NCHR) framework, this dissertation will focus on the coherence in terms of human rights values between the EU Charter of Fundamental Rights (EUCFR) and its actions in third countries, particularly in the area of migration.

The research is organised in the following order. Chapter 1 will start with a literature review where the main concepts, theories and specific ideas will be introduced as a way to frame the dissertation. This part is fundamental as it contextualises the research and brings up the main gaps that will be discussed in further detail throughout the dissertation. In that regard, the notion of the EU as a normative power, the presentation of the theory of securitisation of migration as well as the introduction of the concept of Policy and Normative Coherence for Development constitute pillars that allow the reader to follow this thesis.

Consequently, the methodology will be included in Chapter 2 to present the research design and data collection, where questions regarding why choosing the EU as the actor to be analysed are answered. At the same time, the documents that will be examined and the methodological approach followed are also introduced in this part, including the operationalisation of the rights presented in the methodology part. After setting the research design, the presentation of the framework of Normative Coherence *for* Human Rights (NCHR) is briefly introduced and explained in Chapter 3 as an adaptation of the Normative Coherence for Sustainable Development framework developed by Koff et. al. (2022).

Chapter 4 is dedicated to the analysis of the documents. By analysing the new Agenda for the Mediterranean and its complementary Economic Plan, the research aims to establish a correlation between migration and security. This first part of the analysis seeks to elucidate how this relationship is depicted and articulated within the documents. Upon accomplishing this objective, it will provide the basis for an examination of the specific

Actions associated with these general documents to determine whether this perspective is effectively implemented in practical terms. In this second part of the analysis, the original framework adapted for this research will be used. After presenting each Action and the findings of applying this framework, a comparative analysis of the results will be provided in Chapter 5. Here, the main criticisms regarding the EU's coherence will be found. Finally, the research will culminate with the conclusions, highlighting the key pertinent aspects, recollecting the main findings and the implications of the study.

Chapter 1: Literature Review

This literature review will focus on the overview of the main concepts, theories and frameworks that are fundamental to frame the research conducted in this dissertation. By providing a synthesis of the securitised approach in the EU migration policies and an explanation of the securitisation framework, a contextualisation of where migration management within the EU stands is provided. In order to evaluate the coherence of the EU migration strategies with its core values and principles, an introduction of the EU as a normative power (Manners, 2002, p. 238) and its implications for the ways in which the organisation acts in the international arena is mandatory. Furthermore, and linked with the concept previously mentioned, an explanation of the Normative Coherence for Development and the Policy Coherence for Development and its ties with the Union is presented. This will also establish a connection between this approach and Normative Coherence for Human Rights, serving as a conceptual framework that will be introduced later.

1.1 A Securitised Approach in the EU Migration Policies

The securitisation of migration has been widely discussed in the last years by several academics. As the relationship between migration and security is examined, it is possible to understand the variety of situations under which foreigners may be perceived as potential threats and justify the security tendency of stranger management (Ferreira Rodrigues & de Sousa Ferreira, 2017, p. 6). In the past decades, an enlargement of the ‘security’ concept has been produced and several adopted this securitarian paradigm in different areas, including the EU. New categories of what it is considered to be ‘a threat’ have been developed with the decline of military concerns (Saleh, 2010, p. 229), expanding at the same time the actors dealing with them. In that context, the security discourse broadens up to other domains such as the economic, societal, environmental and the political with both triggers and consequences of security (Ibid.). By going beyond realist conceptions of security, the actorship involved was extended to peoples, nongovernmental sectors, and the international community. In this context, migration was acknowledged as a potential harm. In the particular case of the ‘migration-security nexus’,

several authors have stated that the conceptual literature has been evolving significantly since the 1990s (Chou et. al., p. 3). The direct consequence of this was the emergence of new security paradigms, raising questions such as what is understood for security and for whom something can be considered a threat.

The concept of securitisation was developed by the Copenhagen School (CS). The CS's way to articulate securitisation is one of the prominent 'new' approaches to security studies, differentiating itself from other non-traditional approaches (Watson, 2012, p. 281). Securitisation can be defined as the process from which an ordinary, public matter acquires threat status and becomes a security issue (Buzan et. al., 1998, p. 24). The logic behind this approach is the 'survival in the face of an existential threat' (Ibid., p. 27). Consequently, its political effect is the removal of issues from the political sphere of debate to the realm of exception (Ibid., p. 33). The emergency measures component allows the securitising actor to carry out faster and decisive actions against a challenge. Four main elements constitute this theory. A securitising actor, in charge of making the securitising move; an existential threat, which can be both and object or ideal that is identified has potentially dangerous; a referent object, which is that object or ideal that needs to be protected; and finally, the audience, who is targeted with the securitisation act and is persuaded by it. Once a topic is securitised, is no longer dealt with on the basis of the usual instruments of public policy but by resorting to tools that found their origin in security and defence policies of the securitising actor (Ibid., pp. 23-25). Consequently, security has a negative connotation giving the idea that an issue cannot be solved with the normal instruments of the public policy (Demurtas, 2019, p. 169). At the same time, the audience plays an important role, since a topic is securitised when the public opinion accepts that discourse and legitimises the measures taken by the security actor (Delkáder-Palacios, 2019, pp. 4-5; Buzan et. al., 1998, p. 25). Despite the advantage the emergency characteristic has in terms of acting in a faster and more decisive way against a problem, it also carries some drawbacks. As Wæver (2011, p. 470) explains, the loss of democratic debate and risk of escalation constitutes big disadvantages of this interpretation. Revisions of this theory also highlighted some limitations such as the acquiescence of the audience, the role of the external context or the process of desecuritisation (Watson, 2012, p. 248; Stritzel, 2007, p. 362; Balzacq, 2005, p. 173).

Already in their 1998 work, Buzan *et al.* identified migration as a main source of threat in the field of identity or societal security (p. 121). When defining the security sectors in which social groups are affected, societal security ‘concerns the sustainability, within acceptable conditions for evolution, of traditional patterns of language, culture and religious and national identity and custom.’ (Buzan, 1991, pp. 19-20, as quoted in Buzan *et al.*, 1998, p. 8). In this regard, when a perception of its identity being threatened appears, societal insecurity arises. Therefore, identity serves as a fundamental principle in the societal sector and insecurity in this field emerges when communities, regardless of their nature, perceive a particular development or potentiality as endangering for their existence as a cohesive group (Buzan *et al.*, 1998, p. 120). Even though the impact of this findings cannot be omitted, the emergence of the securitarian discourse in the migration area cannot be pinpointed precisely. For some authors security discourses dominated the migration debates since the 90s (Panebianco, 2020, p. 22) with relevant authors in this field such as Buzan (1991), Wæver (1995) or Huysmans (2000). Other researchers have highlighted the impact that 9/11 had not only in the EU migration policy but also in different state migration policies around the world, that since the beginning of 2002 have joined forces in the protection of external borders, the fight against illegal migration and smuggling and human trafficking (Solanes Corella, 2005, p. 7). In 2006, Adamson claimed that migration was understood as a threat to national security as it shifted state capacity and autonomy, balance of power and the nature of violent conflict (as quoted in Chou *et al.*, p. 3). The impact of global terrorism and organised crime, the demographic trends, and the ageing of developed states, are some factors that led to a convergence in the migration policies in the international system (*Ibid.*, p. 4). The enlargement of what ‘security’ constitutes and what are the threats that are faced in the modern world implies in a way a less relevant role for States when it comes to providing efficient answers. This does not deny the importance they continue to have in this matter but gives space for the emergence of other actors. It is in this sense that different organisations, such as the European Union, gained strength. The dynamism and rapidity with which information and challenges appear, in addition to the short time available to respond efficiently constitute reasons by which States are no longer consider, at least not fully, the only bearers of answers. Globalisation has ended up to de-territorialised international security

politics and migration has found its place in these debates as a non-State security threat, just like terrorism or transnational organised crime (Koff, 2017a, p. 10). The shift away from understanding security in realist terms had an impact on the approach adopted by various actors.

In the particular case of the Union, a reinforce of controlling its external borders can be found following the 2002 Seville Council meeting. This event is considered crucial for the securitisation process in migration within the organisation. Some strategies included the harmonisation of measures to combat illegal migration; integrating and coordinated external border administration into EU relations with third countries; and the integration of immigration policy into EU relations with third countries (Ibid., p. 14). The externalisation of migration controls became the norm (Delkáder-Palacios, 2019, p. 181; Carrera et al., 2012, p. 2; Lavenex, 2006, p. 346). But also, the increasing role of border control agencies, such as Frontex in the evolution of the migration agenda as well as the implementation of several funds and programmes aimed to provide technical assistance in third countries while introducing migration control conditions in them.

At the same time, the focus on the Mediterranean has increased in the last years due to the many challenges the region presents, particularly the rise in migration flows. The migratory pressure in the exclaves of Ceuta and Melilla and the reports of severe human rights violations by the Spanish and Moroccan authorities done by media and NGOs provoked the re-evaluation of the repressive orientation of existing external migration policies (Lavenex, 2021, p. 85). The adoption of the “Global Approach to Migration” (GAM) emerged with three major elements: the fight against irregular migration, promotion of legal migration and the enhancement of cooperation as part of a more holistic external migration policy tactic. Reforms were done lately with the launch of the Global Approach to Migration and Mobility (GAMM) in 2011 that further expanded the instrument of Mobility Partnerships (Ibid., p. 86). Cooperation with third countries both at regional and multilateral level was established as the strategy to tackle migration management. This was further prioritised in the European Agenda on Migration in 2015 but also reinforced in the New Pact on Migration and Asylum of 2020, where the introduction of the concept ‘tailored’ strategies appeared. To that regard, specific plans

were developed for this particular region. The Cotonou Partnership Agreement, which successor is currently being discussed, or the Joint Valleta Action Plan are some examples. Nevertheless, the impact the last one had is remarkable. Adopted in 2015, the Action Plan is based on the recommendations of both the Rabat and Khartoum Processes and marks the start of a more intensified partnership between Africa and the EU in terms of migration. A financial instrument, the EU Trust Fund for Africa (EUTF) was developed to support programmes aimed to contribute to the development of the region. Nevertheless, the success of development projects under this fund was found to be measured in terms of the reduction of migration flows rather than paying attention to the development component (Oxfam, 2020, pp. 3-4). The instrumentalisation of development as a way of preventing migration constitutes a strategy of the EU widely analysed by different scholars, such as Siitonen (2016, p. 4) or Nyberg-Sørensen (2012, p. 71). Yet the implications a securitised approach has on the *raison d'être* of the organisation are more profound and reside in the understanding of the EU as a normative power (Manners, 2002, p. 241).

1.2 EU as a Normative Power

Starting from the 1990s, the EU has experienced significant growth and progress in its internal constitution as well as its external advocacy for human rights (Lerch & Schweltnus, 2006, p. 304). In 2002, Manners introduced the idea of the European Union as a 'normative power', distinguishing the particular role played by the organisation in the international arena. According to the author, the whole essence of the EU being different to pre-existing political forms is what allows them to act normatively and in a distinctive way than other actors that rely on other types of power (Manners, 2002, p. 241). The events of the past century contributed to 'rethink both notions of military power and civilian power in order to consider the EU's normative power in word politics' (Ibid., p. 236). A new way in which an actor can influence in the international politics exists and the EU constitutes an example of it. The normative character of the organisation relies on its own constitution as an 'elite-driven, treaty based, legal order' entity which make its constitutional norms an important part of its international identity (Ibid., p. 241).

The EU is embedded in five ‘core’ norms within the wide body of Union laws and policies that represent the *acquis communautaire* and *acquis politique* (Ibid., p. 242). These are the centrality of peace, the idea of liberty, followed by democracy, rule of law and respect for human rights and fundamental freedoms (Ibid.). Another four ‘minor’ norms were suggested, emerging from the constitution and practices of the EU: the idea of social solidarity, anti-discrimination, sustainable development, and the principle of good governance (Ibid., pp. 242-243). Through these norms and values the EU legitimates itself in the political arena, as there is an expectation to be seen in the field as the promoter and defender of those universal rules. As evidence of this mindset, the EUCFR was adopted in 2000, which demonstrates the organisation's ambition to broaden its applicability. At the same time, three types of quality exist to be considered a normative power: ontological, by which the EU is conceptualised as a changer of norms in the international system; positivist, where the EU actually acts and changes the norms; and a normative, where the EU should act to expand its norms to the international arena (Ibid., p. 252). By considering themselves in that sense, the EU has an impact in rules changing around the world. In his work, the author presents the particular case of the abolition of death penalty and the role of the EU as an example of how normative power was used by the organisation to accomplish other States to follow its doctrine (Manners, 2002, p. 245).

In Article 3 of the Treaty of the European Union (TEU), the principles by which the organisation is founded is underlined. The promotion of peace, its values, and the well-being of its peoples, preventing them from any social exclusion or discrimination as well as gender equality and protection of the rights of the child, constituted fundamental lines that should be followed. But also, ‘[i]n its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens’ (Art. 3, TEU). Here the focus is put on peace, security, sustainable development, respect for human rights and for the Charter of the United Nations.

Article 3 TEU

The Union's aim is to promote peace, its values and the well-being of its peoples.

[...]

It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.

[...]

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.

These guidelines are also stressed in Article 21 of the TEU, section dedicated to the external actions and the Common Foreign and Security Policy (CFSP). When interacting in the international arena, the EU actions should be guided by the same principles that ‘inspired its own creation’, being those: democracy, rule of law, universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, principles of equality and solidarity and respect for the principles of the UN Charter and international law. These set of principles and values are constantly referred to in most of the EU documents, regardless the topic treated. Their respect and promotion are crucial to the very existence of the organisation and constitute its pillars, therefore harmony is sought when acting in the international arena.

Article 21 TEU

The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law. [...]

Although the concept of normative power works effectively in capturing a prominent identity discourse within the Union, it is its analytical concept that lacks clarity (Lerch & Schweltnus, 2006, p. 305). The same characteristic, the EU being an ‘hybrid polity’ (Manners, 2002, p. 240) that is praised in other circumstances, is what ends up undermining its normative power, particularly when it comes to the coexistence of other supranational external relations, the intergovernmental Common Foreign and Security Policy (CFSP) and the particular foreign policies of its Member States (Lerch & Schweltnus, 2006, p. 305). Utilising this concept as a theoretical concept will enable to contribute to the lack of clarity gap previously mentioned.

On the other hand, and linked with a more practical hurdle, harmony between the values and its impression on actions constitutes a difficult concept to grasp in practice. Taufar (2017, p. 17) insists that the EU ‘acts inconsistently with its own principles in various occasions, when other considerations, like economic or security concerns, outweigh the importance of human rights, or when it is strategically decided to act formally inconsistently but inherently in line with the ultimate strategic intention to fulfil its human rights commitment.’. This responds to political and strategic logics that play an important role in decision-making, especially because the many competences the EU has, in addition of the different interests of the Member States, need to be coordinated. Coherence has been determined as one of the main dilemmas of the EU though ‘the challenge of consistency is not overlooked by mistake, but because it essentially represents a real ‘hard case’, especially politically.’ (Ibid.). Etymologically speaking, ‘coherence’ comes from the Latin *coharere* which stands for ‘sticking together’. When it comes to policymaking, a fundamental challenge exists when sticking together different policy areas that have an impact in each other. As Siitonen (2016, pp. 2-3) listed, there are some reasons why this happens. The pluralistic characteristic of nowadays society where different actors with diverse political interests, the various levels within a government and the difficulty of predicting possible effects of the policies in the future are some of them. Coherence is not always sought but that is also the case of incoherence. In that sense, ‘lack of knowledge concerning the wider effects of policy decisions easily leads to unintended incoherence’ (Ibid., p. 3) but also the different interests that came into play can collide resulting in incoherency.

Coherence for human rights between the Member States and the EU institutions is vital since it has a direct impact in the very endurance of the organisation and applies to all the different areas in which the EU contributes to be a normative actor. On the EU Action Plan on Human Rights and Democracy 2020-2024, coherence and consistency both internally and externally on the actions developed are considered crucial, not only because it has an effect on the EU's credibility but also because of the universality of human rights and the role democracy has in protecting those rights (EEAS, 2020, p. 6). The promotion of a global system for human rights is at the core of the EU's commitment to strengthening multilateralism according to the Plan and therefore the application of human rights standards and principles in both bilateral and regional cooperation is imperative (Ibid., p. 24). Coherence is also mentioned as an important element in the European Consensus on Development since “[e]nsuring policy coherence for sustainable development as embedded in the 2030 Agenda requires taking into account the impact of all policies on sustainable development at all levels – nationally, within the EU, in other countries and at global level.’ (European Commission, 2018, p. 52). Furthermore, enhancing coherence for development in third countries through dialogue is also mentioned. The EU and its member countries have committed to Policy Coherence for Development as a key pillar of the institution ‘to enhance the positive impact and increase effectiveness of development cooperation’ (European Commission, 2019, p. 2). The introduction of this concept has bolstered the discourse on coherence for development, amplifying its significance within the European Union.

1.3 Normative Coherence For Development

A brief literature review is provided on the Normative and Policy Coherence for Development as it is of major necessity in order to understand the formulation of the Normative Coherence for Human Rights framework. Both these concepts are necessary to unveiled in order to frame the ultimate concept of Normative Coherence for Human Rights that will follow in the next chapter.

The concept of Normative Coherence for Development (NCD) emerged as a new stage of Policy Coherence for Development (PCD), although some had critiqued its secondary

place (Koff & Häbel, 2022, p. 3). The latter can be defined as an approach that argues that the development component of the strategies should not be undermined by actions carried in non-development arenas (Koff, 2017a, p. 6). This tool has been adopted in the international arena as a way to foster the implementation of the SDGs. In line with its principles and values, the EU first adoption of PCD was in 1992 with the Maastricht Treaty and, some years after that, in the Cotonou Partnership Agreement in 2000 (Ibid., p. 8). In the European Consensus on Development adopted in 2018, it is specified that its aims are to be the ‘cornerstone of the EU’s development policy’ (European Commission, 2018, p. 6) and expects to apply the principle of PCD. The implementation of this concept is understood of paramount importance for the EU’s contribution to accomplish the SDGs. The implications of the PCD being adopted by the EU are enormous for different reasons, and one crucial one is the role of the EU as a normative power. At the same time, framing policies under the ideal of coherence has some implications. The importance of policy frames relies on the factual information and normative devices they contain. Establishing them contributes to shape the perceptions of the actors as well as the way they interpretate the information, influencing the course of the political action (Lavenex & Kunz, 2008, p. 443). With the 2030 Agenda and the adoption of the SDGs, policy coherence was brought to the forefront representing one of the most significant advancements of the Goals. With the aim of erasing the old notions of North-South dichotomy perpetrated in the Millennium Development Goals (MDGs), a wider way of understanding policies came into play.

Yet PCD is not the only possible framework, and it certainly does not have a heavy weight in certain fields. The impact the terrorist attacks in the United States had and how a connection between development and insecurity was established (Siitonen, 2016, p. 4), made the level of development became a characteristic to assess the exposure of a country to danger (Duffield, 2001, p. 2). This mentality contributed to framing development as one of the main elements in the foreign policy programmes of different actors (Ibid.). Some authors take it further and manifest that a securitisation of development has been produced, even under the flag of PCD (Fischer & Anderson, 2015, p. 134). At the same time, there has been an increased promotion of the linkage between development cooperation and migration policies since the beginning of the 2000s (Lavenex & Kunz,

2008, p. 440). The mainstream academic and policy discussions consider the relationship between these two elements as natural and believe that through re-approaching migration policies an impact in development can be met (Geiger & Pécout, 2013, p. 369). Other scholars have gone further establishing links between security, PCD and migration. In 2012, Nyberg-Sørensen identified policy incoherence resulting from the intersection of three different elements (p. 71). Firstly, the rising poverty and insecurity in the South. Secondly, the continuous demand for cheap labour in the North. Lastly, the border enforcement initiatives that increase risk and vulnerability in migration regimes. But ‘coordination between development and another policy field can take very different shapes, generating different implications for political action.’ (Lavenex & Kunz, 2008, p. 453) and as Nyberg-Sørensen (2012, p. 71) manifested the increasing focus on the migration-security nexus limited the space for migration to be considered in development discussions.

The way in which PCD has been portrayed therefore highlights the focus on its technical aspects, forgetting the importance values have in this framework. For this reason, Koff & Häbel (2022, p. 3) explored the normative considerations of PCD starting from the claim that albeit present in development discussions, they remain in the background. Hence, NCD stems as a new phase of PCD and focus on the integration of sustainability norms in development but also non-development policies (Koff, 2017a, p. 6). PCD contains a normative value, prioritising human development over politics (Ibid., p. 4). The influence norms have, even though not legally binding in some cases, is strong and can have a deeper impact. This dissertation understands norms as those ‘codified systems of ethics or values that emerge within policy communities in order to help define acceptable behaviours and promote a collective vision for the community’ (Koff & Häbel, 2022, p. 3). Undoubtedly, human rights occupy a keen role in here, as they been portrayed and universally understood as such by the whole international community. But as abstract as these norms can be, the different interpretations given by the actors constitute a problem in their application. As Vivekanandan (2021, pp. 15-16) shows, this happens because of the vague definition of these norms, in addition to the lack of integration of them by binding mechanisms into policy frameworks. This implies a window of opportunity for actors to reshape norms according to their incentive structures. NCD is not only a

paradigm that aims to promote the fulfilment of the SDGs, but it is also ‘a relevant perspective for regional integration’ (Koff & Häbel, 2022, p. 8). The crisis of regionalism has an effect on these frameworks as it can be argued that the way in which regional organisations such as the EU respond to certain challenges is not always effective nor has regionalism being able to meet the needs of their citizens (Ibid., p. 6).

Chapter 2: Methodology

The main aim of this chapter is to present the methodological aspects of this dissertation as well as the justification of the selections done, introducing the research design. First, an explanation on why the EU constitutes the actor selected for this Normative Coherence for Human Rights research is given. Consequently, the data collection section presents the rationale for the selection of documents that will be analysed. Finally, the way in which these documents will be examined is introduced in the Data Analysis section, where the selection of the rights that will function as the standard is presented in Table 1 and properly explained.

2.1 Why the EU?

Human rights constitute undeniable values that should be respected and pursued by the whole international community. First, they are based on the belief that all human beings hold inherent dignity and worth, despite of their nationality, race, religion, gender, or any other characteristic. A fundamental equality between all individuals is therefore recognised. Furthermore, they are universal, meaning they apply to all individuals regardless of where they come from or where they live. They are not dependent on national or cultural differences nor limited to certain groups. They are applicable to every human being by virtue of their humanity, and they must be respected by both national and supranational entities. Human rights are enshrined in the international legal framework, including international human rights treaties, conventions and declarations adopted by most of the countries in the world. In that sense, States have voluntarily committed to these legal obligations, and they are bound to respect, protect, and fulfil those rights for their citizens and residents. At the same time, international organisations have adopted these rights, being this the case of the EU. As it was previously stated, the Union presents itself as a firm promoter and defender of these universal rules (EEAS, 2021 [Strategic Communication], para. 1). In its ambition of being considered like that, they developed and expanded the human rights legal framework constituting the EUCFR adopted in 2000. Therefore, an explicit and constitutional commitment to human rights placed the organisation in an ideal situation to exercise their competences in manners that align with

the principles of normative coherence, reflecting the universal, indivisible, and interdependent nature of human rights (Ginsborg & Finlay, 2020, p. 13). The universality and indivisibility characteristic of the international human rights standards, but also the commitment made by the Union and its Member States to promote and include them in their actions is what offer a normative coherence as well as brings cohesion among the entities within the EU (Ibid., p. 15).

Due to its features, the EU is a distinctive organisation. According to Manners (2002, p. 252) understanding the EU as a normative power implies not only its construction on a normative basis but, most importantly, its predisposition to act in a normative way in the world affairs. The impact the EU has in the political arena was already demonstrated, as well as its role in promoting core values that are constitutive of itself, being human rights if not the most important of them. The reference to the protection and enhancement of human rights is present in almost all of its documents. Nevertheless, several authors have stated the fact that the EU can be incoherent with them (Taufar, 2017, p. 8), recurring to the practice of ‘rights-washing’ their documents. This can be particularly noticeable in the case of its way to handling migration in third countries. In that sense, maintaining normative coherence in EU human rights policymaking is crucial to uphold the commitment and prevent human rights violations by EU actors and ‘hard interests, including security, managing migration or economic policy, must never be used as an excuse to violate human rights, especially by the EU.’ (Ginsborg & Finlay, 2020, p. 18).

2.2 Data collection

This dissertation is set to analyse the Normative Coherence for Human Rights (NCHR) in the particular area of migration policies. Migration constitutes a challenging topic for the EU, especially in the Mediterranean which is the particular region that brings the most attention. This is due to different reasons. Migration flows from this zone have dramatically increased in the last years, up to the point that the Central Mediterranean has been catalogued as the deadliest route to access the EU, registering an enormous increase of migrant loss of life since 2014 (IOM, 2023, para. 3). Furthermore, in the latest FRA’s report on Fundamental Rights the Agency has found that persistent and grave violations

of fundamental rights against migrants and refugees continued to occur at the EU's borders, both on land and at sea (FRA, 2023, p. 150).

Being one of the areas that receives more migratory pressure, the approach to migration has been highly securitised. FRA's report also makes reference to the increase of border fences constructions, according to a Report from the European Parliament that identified 19 barriers spanning over 2,000 kilometres along the external borders of the EU or the Schengen area (Ibid., p. 148). Yet, and as it was previously stated, the EU aims to provide a holistic approach to migration in line with human rights standards and its own values (European Commission, 2020, p. 1). The proposal of a new strategy for the Southern Neighbourhood aims to go in line with that ambition set out in the New Pact on Migration and Asylum. Nevertheless, maintaining a Normative Coherence for Human Rights between the values that sustain the EU and the general objectives for Migration and Mobility in the New Agenda for the Mediterranean with its specific Actions collected in the 'Commission Implementing Decision on the financing of the individual measure for the multi-country programme in favour of the Southern Neighbourhood for 2021' can be challenging. The selection of these documents will provide an optimal source to examine how in line these documents are with the human rights values that the EU seeks to promote and implement in their own migration strategies in the Southern Neighbourhood.

For the clarity of the reader, a listing of the documents to be analysed has been elaborated:

1. Renewed partnership with the Southern Neighbourhood: A new Agenda for the Mediterranean – Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (2021).
2. Renewed Partnership with the Southern Neighbourhood Economic and Investment Plan for the Southern Neighbours (2021).
3. Commission Implementing Decision on the financing of the individual measure for the multi-country migration programme in favour of the Southern Neighbourhood for 2021.

The specific ‘individual measure’ included in the last document mentioned will also be analysed, with the aim of finding what is the role human rights play in there and what is the logic behind the actions carried by the EU. According to the ‘Commission Implementing Decision on the financing of the individual measure for the multi-country migration programme in favour of the Southern Neighbourhood for 2021’, these following Actions have a necessity component for the continuity of progress made in the field (European Commission, 2021c, p. 2). By examining these Actions, insights into the EU’s perception of priority areas in term of migration governance can be gained. Furthermore, an evaluation of the actual implementation of human rights values in the policies can be done by choosing these Actions. These four Actions are directed towards distinct domains: resilience and protection of migrants, border control, return, and labour migration. The selection of these Actions allows for a broader range of analysis in the research, and it would enable the dissertation to point out what are the elements that lack effective Normative Coherence for Human Rights and what could be the reasons behind it.

In that sense, the following documents address a variety of topics that relate to migration, which would give the dissertation a broader perspective rather than focusing on one specific domain. The selection of these Actions will allow the dissertation to analyse how human rights are introduced in the policies from the general commitment normally done in the EU’s guidelines on migration, such as the New Pact on Migration and Asylum or the New Agenda for the Mediterranean. The particular documents that contain the Actions are the following and can be found in the Annex of the last document presented:

- Action Document for EU Support to Border Management Institutions in Libya and Tunisia.
- Action Document for increasing the protection and resilience of migrants, forcibly displaced persons, and host communities in Libya.
- Action Document for Supporting sustainable Protection, Return and Reintegration in North Africa.
- Action Document for Towards a Holistic Approach to Labour Migration Governance and Labour Mobility in North Africa (THAMM III).

In addition, this research will also use as reference and core document the Charter of Fundamental Rights of the European Union (2002) as well as other reports and official documents both from the European Union but also other entities such as the United Nations and non-governmental organisations that are relevant for the conduction of this thesis.

2.3 Data analysis: based on Koff et al. (2022) Normative Coherence for Sustainable Development

Going through these documents, the dissertation will analyse how normatively coherent EU migration policies are with key human rights norms. The respect of human rights is one of the most important values of the organisation and therefore they have committed to promote them both in their internal and external relations. Analysing what is the role they have in the documents selected will allow the dissertation to discover to what extent this is achieved by the EU in this particular domain. A struggle in balancing security and human rights has been portrayed by many authors and the aim of this dissertation is to see how this is shown in the documents selected. In this way, this dissertation will adapt the Normative Coherence for Sustainable Development framework based on Koff et al. (2022) as a Normative Coherence *For Human Rights* (NCHR) and consequently follow the same methodology. This research employs scaling as a method to enhance the analysis of human rights by introducing three levels of normative coherence, explained in Table 2. In this particular research, the NCHR will be examined through the relationship between the values that sustain the EU, focusing on human rights as a core element that should be upheld in all their actions, and the migration strategies in the particular region of the Southern Neighbourhood. In that sense, the analysis of each of the Actions that will question if there is an absence of NCHR, a partial coherence or if human rights are being prioritised in each Action. The significance of applying and operationalising this framework rests on the idea that, although obvious political obstacles produce an incoherence due to the diverging interests both EU institutions but also Member States have, the ‘debates should be carried out within the discourse of human rights as

fundamental values that unite the Member States of EU.’ (Ginsborg & Finlay, 2020, p. 13).

The main research question emerges from the questioning of the coherence of the EU migration governance strategies with the organisations’ core principles and norms. Using the selection of the documents previously mentioned, the aim of the dissertation is to analyse the NCHR in the particular area of migration, specifically the alignment of human rights that are constitutive of the EU with the strategies developed for the migration field portrayed in the New Agenda for the Mediterranean and the Actions proposed in the specific document previously mentioned. By holding human rights as a framework, the dissertation aims to identify its portrayal and analyse how they are presented and protected in key policy documents in the area of migration affairs in third countries. The focus will be on the NCHR framework, and the particular considerations of the rights selected in the migration governance field for the conduction of this dissertation.

The first phase of analysis will involve the evaluation of the new Agenda for the Mediterranean and its complementary Economic and Investment Plan for the Southern Neighbours through the security lens. In this section, the application of the theoretical framework of the securitisation of migration is used in order to demonstrate how these two documents present a securitised perception of migration. Although it is expected that the EU will enshrine the rights presented as the standards of this research in the documents, a possible misalignment between the promotion on the general texts and the implementation of those rights into actions could be found. In relation to this, utility-based arguments might be expected to be predominant in the EU’s discourse, mostly because the security-focused approach prevails in migration policies which can end up undermining the role Normative Coherence for Human Rights has in the actions put forward by the organisation. This can also explain the differential treatment of third countries, since security-related arguments can give reasons for a pragmatic tailored treatment (Lerch & Schweltnus, 2006, p. 314). On the second part of the analysis, the dissertation focuses on the transcription of human rights from the general guidelines to the specific Actions. For the purpose of this research, a development of a selection of human rights is done to be applied in the four specific Actions that are linked to the

forementioned documents. These rights included in Table 1 will work as the basic standard that will be looked for in the different Actions. At the same time, the rights are translated into specific language and expressions for each Action, serving as a means to depict the necessary incorporation of these rights within the documents. After a short description of what each right constitutes based on the guides provided by the European Court of Human Rights (ECtHR) and other relevant reports, Table 1 will present the words and phrases selected for each Action, followed by an explanation on the scaling system also developed for the research in Table 2.

Common misperceptions about migration start with the language and categories that politicians, media, and researchers use to describe different types of migration and migrants. This shows the importance language has in framing an issue, since categories and terms shape the way the world is perceived (de Haas, Castles & Miller, 2019, p. 21). In that sense, '[n]either language nor categories are neutral, and therefore deserve to be assessed critically with regard to their usefulness to describe migrants and migration processes.' (Ibid., p. 22). At the same time, an uncritical use of the terms can lead to forge an '*othering*' discourse, contributing to the formation of ethnic minorities and discrimination (Ibid., p. 25). On the other hand, there is a widespread belief that migration has significantly increased, while policies dealing with it have become more restrictive (Ibid., p. 248). Migration policies are defined as 'laws, regulations and measures that states enact and implement with the explicit objective of affecting the volume, origin, direction and internal composition (or selection) of migration' (de Haas & Vezzoli, 2011, as quoted in de Haas et. al., 2019, p. 248). At the same time, many 'non-migration' policies have an indirect effect in migration areas and this impact can be equally important and powerful.

According to de Haas, Castles & Miller (2019, p. 250), '[a] key feature of modern migration policies is that they generally aim at affecting the "selection" of migration in terms of the types of people who are allowed to enter, stay, work and gain access to diverse sets of rights'. Many of the tools used by States to control migration includes border control policies, entry and stay policies, integration policies and exit policies. The securitisation and high politicisation of migration led to the adoption of strong discourses

which fundamental aim is to ‘crack down illegal migration’ (Ibid., 252). But there is also ‘a considerable gap between what politicians say and the actual implementation of policies on the ground’ (Ibid., p. 252). According to the authors, this gap can be explained by either the limited willingness of politicians to implement policies or the practical, financial, and moral challenges in implementing such policies, or a combination of both (Ibid., p. 252). In that sense, migration policies can be analysed from different perspectives: focusing on the official policy discourses, the actual migration policies on paper, the implementation of those policies and, finally the outcomes. As a result, three ‘policy gaps’ can be found: a discursive gap between what is said and what is done; an implementation gap, regarding the actual steps taken to apply that policy; and an efficacy gap, regarding the results of the implementation.

Focusing on a discursive gap operationalisation, an analysis of the portrayal of three specific human rights gathered in the EUCFR in relation of migration will be conducted. The utilisation of these rights is depicted from the perspective of them being norms in a governance system, consequently a Political Science approach will be adopted rather than a legal viewpoint. This dissertation presents a framework that is based on the consideration that human rights should be part of the global migration system. For this particular reason, the selection of these particular rights will allow the analysis of the documents, serving as a standard by which the assessment of the EU’s coherence with them will be done. Starting from the statement that there is a need for a migration governance that respects human rights, the selection of these specific rights is justified on a methodological reasoning. Human rights are present in the documents of the EU in a general perspective. However, delving into a detailed analysis of how they are effectively translated makes the research more intriguing. For that specific purpose, it becomes essential to carefully select a subset of rights that would enable a feasible evaluation.

Migrants, as human beings, are not excluded from these rights regardless their legal status. As with all rights-bearers, States and international organisations have the obligation to respect, protect and fulfil migrants’ rights. According to the UN Human Rights Office of the High Commissioner (OHCHR), respecting human rights imply refraining from human rights violations and, in the context of migration this includes

arbitrary detention, torture or collective expulsion of migrants, for example. Protecting requires the prevention of such violations by proper regulation and sanctions. Finally, fulfilling is linked with the positive measures taken by the actor to ensure those rights are effectively enjoyed and are not discriminated for their migrant status. For the purpose of this research, a selection of rights has been done in order to analyse the coherence between the promotion of them and how they are actually portrayed in the actions implemented by the EU. The following rights constitute the standards for the approach taken in the dissertation and its selection will be adequately justified. The three of them can be found in the EUCFR adopted in 2000 by the institution, but also in several United Nations and Council of Europe documents, such as the UDHR from 1948 and the European Convention on Human Rights (ECHR) adopted in 1950. Because the position of securitising actor in this dissertation is given to the EU, the EUCFR will be considered the core document to justify the selection of these standards. Nevertheless, the role of the ECtHR will be also highlighted as an important actor that contributes to the conceptualisation these rights. On top of that, the EU has accepted and adopted these interpretations in several opportunities which allows the dissertation to take into account these considerations for the explanation of the particular rights. It is important to note that the presentation of these rights do not seek to be exhaustive rather than giving context for the purpose of the understanding of the meaning behind each of them. As it was previously stated, the explanation of each right rests on the specific guides developed by the ECtHR on each of them as well as the interpretation done by the European Union Agency for Fundamental Rights (FRA).

Right to liberty and security

Article 6, Title II, *Freedom*, of the EUCFR refers to the Right to liberty and security. In its explanation, it is highlighted that '[t]he rights in Article 6 are the rights guaranteed by Article 5 of the ECHR, and in accordance with Article 52(3) of the Charter, they have the same meaning and scope.' (FRA, n.d., para. 1). The EUCFR refers to the limitations imposed by the ECHR and understands that them might not exceed those permitted in the wording of its Article 5. According to this Article, 'Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and

in accordance with a procedure prescribed by law' (Article 5, ECHR). In that sense, there must be a lawful reason and in accordingly procedure prescribed to be detained. The cases listed in the ECHR refer to the lawful detention of:

- (a) the lawful detention of a person after conviction by a competent court;*
- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;*
- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;*
- (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;*
- (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;*
- (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition. (Article 5, ECHR).*

Consequently, everyone that is arrested is entitled to proper information of the procedure and the reasons behind the arrest and charges against them, in a language understood by the person affected. Furthermore, a lawful due process must be guaranteed for the detainee by the authority in charge.

This Article mostly relates to migration when it comes to the role of border patrols and its compliance with human rights standards when detaining those that cross the border irregularly. The ECtHR explains that Article 5 § 1(f) permit States to detain aliens in an immigration context in two different situations: detention of an asylum-seeker or other immigrant prior to the State's grant of authorisation to enter and for the purpose of the individual deportation or extradition (ECtHR, 2022c, pp. 16 & 41). In both cases, the

Guide on the case-law states that, '[s]uch detention must be compatible with the overall purpose and requirements of Article 5, notably its lawfulness, including the obligation to conform to the substantive and procedural rules of national law.' (Ibid., p. 16). The arbitrariness of domestic law is also acknowledged by the Guide, understanding that the lawfulness of this Article could be considered satisfied by the domestic regime if it provides for example 'for no more than the name of the authority competent to order deprivation of liberty in a transit zone, the form of the order, its possible grounds and limits, the maximum duration of the confinement and, as required by Article 5 § 4, the applicable avenue of judicial appeal (Z.A. and Others v. Russia [GC], § 162).' (Ibid., p. 17). Utilising detention facilities for individuals who cross the border unlawfully is a customary procedure. In this context, the rationale behind selecting this right stems from the initial response employed by authorities when an undocumented migrant or asylum-seeker arrives in the European Union.

Prohibition of torture and inhuman or degrading treatment or punishment

Article 4, Title I, *Dignity*, of the EUCFR references to the Prohibition of torture and inhuman or degrading treatment or punishment. This right as the FRA explains, 'is the right guaranteed by Article 3 of the ECHR, which has the same wording: "*No one shall be subjected to torture or to inhuman or degrading treatment or punishment*".' (FRA, 2023, para. 1). According to Article 52(3) of the Charter, this Article has the same meaning and scope as the ECHR Article. In that regard, it constitutes one of the most fundamental values of democratic societies (ECtHR, 2022b, p. 6). At the same time, a minimum level of severity must be attained in order for the conduct to fall within the scope of this Article. According to the ECtHR, '[t]he assessment of that level is relative and depends on all the circumstances of the case, such as duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim (Muršić v. Croatia [GC], 2016, § 97).' (Ibid., p. 6). Nevertheless, it is important to highlight that not every unpleasant situation falls within the scope of this Article. Furthermore, '[t]he distinction between torture, inhuman treatment or punishment and degrading treatment or punishment derives principally from a difference in the intensity of the suffering inflicted (Ireland v. the United Kingdom, 1978, § 167).' (Ibid., p. 8).

In this case, the inclusion of Article 4 EUCFR primarily pertains to the fundamental standards that are anticipated from the European Union when addressing migrants within its borders, and this rationale substantiates its incorporation. The Court has examined ‘cases in which border guards prevented persons from entering the respondent State’s territory by not allowing them to disembark at a port (*Kebe and Others v. Ukraine*) or at a land border checkpoint (*M.A. and Others v. Lithuania*; *M.K. and Others v. Poland*), and either prevented the applicants from lodging an asylum application or, where they had submitted such applications, refused to accept them and to initiate asylum proceedings’ as well as “push-backs” cases where migrants entered the territory in an unauthorised manner or tried to, under Article 3 (ECtHR, 2022b, p. 12). Furthermore, ‘[i]f the place and conditions of detention are not appropriate, this may also breach Article 3 of the Convention (see, for example, *M.S.S. v. Belgium and Greece [GC]*, §§ 205-234; *S.Z. v. Greece*, and *HA.A. v. Greece*).’ (Ibid., p. 17). In this regard, the circumstances surrounding the detention, including its conditions, duration, and the specific vulnerabilities of the individual, along with the effects it has on them, can draw attention within the scope of this Article. The ECtHR found a violation of Article 3 under this scope in several opportunities (*R.R. and Others v. Hungary* §§ 58-65; *Sh.D. and Others v. Greece, Austria, Croatia, Hungary, North Macedonia, Serbia and Slovenia*). As the Guide specifies, ‘[i]ll-treatment contrary to Article 3 in the requesting State may take various forms, including poor conditions of and ill-treatment inflicted in detention (see *Allanazarova v. Russia*) or conditions of detention that are inadequate for the specific vulnerabilities of the individual concerned (*Aswat v. the United Kingdom*, concerning the extradition of a mentally-ill individual).’ (ECtHR, 2022b, p. 32). Similarly, it is associated with the previously mentioned Article, as the conditions of the detention facilities utilised must adhere to specific standards to prevent them from constituting inhumane and degrading treatment (OHCHR, 2017, p. 27).

Non-discrimination

The principle of non-discrimination and equality in the enjoyment of human rights has a significant importance due to its intersectionality. Article 21, Non-discrimination, Title

III, Equality, EUCFR references to the fact that ‘[a]ny discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.’ (Article 21, §1, EUCFR). An emphasis on the prohibition of any type of discrimination on grounds of nationality is also provided in paragraph 2 of the Article. The inclusion of this right in the Charter comes from Article 14 ECHR and it is phrased in a similar way. At the same time, Article 19 of the Treaty on the Functioning of the European Union (TFUE) refers to take action against any type of discrimination on six grounds: sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation). Nevertheless, the issue of nationality, addressed in Article 21 EUCFR, is not mentioned in the TFUE.

There is a significant relation between the non-discrimination right and migrants’ rights. Article 14 ECHR, which constitutes the base of Article 21 EUCFR, ensures that migrants are protected from any kind of discrimination in the enjoyment of their rights. Often, this Article is invoked in conjunction with other rights, such as Article 3 ECHR, which mirrors Article 4 EUCFR, and Article 5 ECHR, which mirrors Article 6 EUCFR, to address those situations in which migrants face discrimination based on their status. Migrants can be subjected to discriminatory treatment in the integration process, for instance access to healthcare, education, or social services, due to their migrant status, but not only. This Article may also be invoked in those cases where they are subject to discrimination in the context of immigration detention, deportation, or expulsion. Furthermore, discrimination can be faced by migrants, including refugees and asylum-seekers, based on other protected grounds such as race, religion, or gender. These illustrations demonstrate the interconnected nature of this right and the various ways in which it can be applicable within the context of migration.

The selection of this Article can be justified due to its correlation within the two aforementioned Articles. Moreover, this right also pertains to the attitudes and perceptions surrounding migrations and its securitisation. By framing the discourse on migration, especially irregular migration, with the notion of a ‘threat’, all migrants are perceived as inherently perilous. This securitisation of migration leads to discrimination and

xenophobia as several scholars have studied (Huysmans, 2006, p. 73; Mountz, 2010, p. 161; De Genova, 2010, p. 409). The EU has taken steps to address the discrimination against migrants. In that sense, from legal protections to anti-discrimination plans, as well as monitoring and reporting mechanisms have been implemented. The enshrining of this Article can be found in most of the EU documents when it comes to migration. Nevertheless, the criminalisation of migrants has been studied particularly from the effect migration policies and practices has on the enjoyment of migrants' rights (Sanchez, 2017, p. 20). This contributes to the general conceptualisation of all migrants as criminals, having a direct impact on the public opinion (Moldes-Anaya, 2023, p. 24).

2.4 Operationalisation of the Rights selected into the NCHR

Following the presentation of the rights that will be used for analysing the four specific Actions, Table 1 provides an operationalisation of these rights into precise terminology and expressions. This represents an endeavour to effectively translate each right with the objective of identifying its manifestation within the Actions. At the same time, it is important to highlight that while the human rights language employed in the action plans and objectives is generally consistent with normative standards, an examination of the specific Actions associated with them can reveal instances of normative incoherence concerning human rights.

This research strives for inclusivity and avoids exclusivity. In that sense, subjectivity arises in terms of selecting and interpreting both the aspects to be examined and how their application is interpreted within each of the actions. To introduce greater objectivity into the analysis process, the selection of these words and phrases was done based on United Nations agencies reports on migration. First, a report on the human rights of migrants at Europe's borders, elaborated by the United Nations Human Rights Office of the High Commissioner (OHCHR) in 2017, and a report of the United Nations High Commissioner for Refugees (UNHCR) from 2011, which also contributes to the intersectional characteristic of the rights in its translation. In that sense, the specific selection of the terminologies utilised for the operationalisation of each right responds to what each Action involve. For example, when it comes to Action 2 or 3 that are related to border

management and control as well as the ensure of returns, specifications related to those Actions are presented. Therefore, when it comes to Decent Treatment, detention alternatives or access to basic services and protection of migrants' dignity are keen elements to look out for in the documents. Furthermore, the incorporation of the gender element is encompassed within the four Actions to evaluate whether there are variations in treatment based on the specific areas where the measures are implemented. It is also necessary to highlight in this regard the cumulative characteristic of the rights. As previously mentioned, each of them relates to the other one in this particular research. As a result, certain words and phrases will be reiterated in the table, such as 'protection', 'safe' or 'dignity'.

Table 1. Operationalisation of the Rights selected into the NCHR framework.

	SECURITY AND LIBERTY	DECENT TREATMENT	NON-DISCRIMINATION
ACTION 1	<ul style="list-style-type: none"> • Ensure migrants' safety. • Fair treatment of migrants. • Protection. 	<ul style="list-style-type: none"> • Respect for migrants' dignity. • Access to social services and basic standards of living. • Migrants' empowerment 	<ul style="list-style-type: none"> • Livelihood opportunities. • Community engagement. • Gender equality in the measures.
ACTION 2	<ul style="list-style-type: none"> • Migrants' protection. • Lawfulness of the processes. • Respect of the principle of non-refoulment. 	<ul style="list-style-type: none"> • Access to social resources. • Proportionality in the responses. • Detention alternatives. 	<ul style="list-style-type: none"> • Violence prevention programmes and safe reporting channels. • Unaccompanied minors' protection. • Gender equality in the measures.

ACTION 3	<ul style="list-style-type: none"> • Adequate procedural safeguards. • Provisions against pushbacks. • Detention and forced returns alternatives. 	<ul style="list-style-type: none"> • Respect of migrants' dignity. • Protection of migrants' personal safety (use of force). • Access to information and basic services 	<ul style="list-style-type: none"> • Minors' inclusion and protection • Conduction of individual assessment. • Gender equality in the measures
ACTION 4	<ul style="list-style-type: none"> • Fair treatment and adequate procedural safeguards. • Legal frameworks aiding migrant regularisation. • Freedom of movement. 	<ul style="list-style-type: none"> • Safe working conditions. • Social protection • Protection from work exploitation. 	<ul style="list-style-type: none"> • Comprehensive inclusion of migrants. • Equal opportunities for all migrants. • Gender equality perspective in the measures.

Source: Table established by the author.

Table 1 presented above constitutes the operationalisation of the rights selected. This will facilitate the conduction of the research by introducing the elements by which each Action will be examined. For each right selected, there are a set of words/short phrases that will be looked out for in the specific Action to which they are linked to. The interpretation of how coherently that particular operationalisation is presented will be graded by a system of points or scale measurement which is explained in Table 2. As it was mentioned before, this methodological approach is based on the one followed in Koff et. al (2022), where a scaling system is established 'to refine the examination of alignment' (p. 4). This will allow the research to exhibit the findings in a representative way. The scaling measure for this research is as follows: when there is no mention of the word/phrase, or its mention is not meaningful in terms of the research the point will be "0" representing the absence of

coherence of that specific operationalisation in the Action. When the word/phrase can be found in terms of the research, but its mention is considered not to be stressed enough, the mark will be “0.5” representing a partial coherence in the Action. Finally, when it is demonstrated that there is a prioritisation of those words/phrases in the Action the score will be “1” representing a total coherence of the particular right with the Action.

Table 2. Scale of measurement of Normative Coherence for Human Rights.

Score	Name	Explanation
0	Absence of NCHR	There is no mention of the words or phrases selected for the right in the particular Action, or its mention is not meaningful in terms of the research.
0.5	Partial NCHR	A mention of the term or phrase is present in the Action, but it is not stressed enough throughout the document.
1	Total NCHR	Not only the terms or phrases are mentioned but there is a prioritisation in the inclusion of them in the Action.

Source: Adapted from Koff et al. (2022).

For each right there are a total of three major phrases/words groups. Therefore, the maximum points each right can have per Action is “3”. Consequently, the highest grade each Action can have, adding that all the rights are “totally coherent” within the document, is “9”. Therefore, the final result of each Action will be divided by the maximum grade to provide the final mark of each of them. The same process will be used for the grading of each right in general. In that case, the maximum grade that a right can

get is “12” since there are four Action in which the highest mark is “3” per right. The findings will lately be translated into how normatively coherent each of these Actions with the human rights selected are. An ‘in-depth’ explanation of the elements included in Table 1 is provided in Chapter 4, Analysis of the Actions section, where justifications on the words chosen and the development of Table 1 can be found. In order to present the findings and the efficacy of each Action in terms of its normative coherency for human rights, a minimum threshold will be established. If the maximum each Action can get is “9”, taking into account that it would mean a 3 out of 3 in each Right, this dissertation considers an Action to be normatively coherent when it reaches at least a 4.5 in total. In that regard, an Action is considered normatively coherent for human rights in this research when two out of the three rights selected achieved this mark. This, translated in percentage would imply a 66% of efficacy, approximately. It is important to highlight that the aim of this scaling system is to refine the examination of these rights and help presenting the findings. This will also allow the dissertation to explain what the findings imply in a more practical way.

Chapter 3: Normative Coherence *FOR Human Rights* (NCHR)

The value systems of ethics and norms have in policymaking was demonstrated by many authors, as it was shown previously. Those set of rules and ways of acting configure the way in which the world is understood, and so the challenges in it. At the same time, the relevance of the normative component of the EU is undeniable. The EU constitutes a crucial actor in the international arena, being the actions taken by the organisation on the spot. Nevertheless, creating a perfect balance between the theory and the practice is most of the time a challenge for the EU. A high tension exists between the norms and principles that the EU promotes and the policies that eventually are developed.

The securitisation of the migration exasperates even more the inconsistency with the values of the Union when it comes to its migration policies. Following the elements that constitute the theory of securitisation, this dissertation understands that the EU's role in it is the securitising actor. Consequently, migration takes the place of the existential threat, while the referent object to be protected is the security and well-being of the European citizens. The increasing flows of different types of migration set off the alarm, providing this could have an effect on the demographical balance within the EU and aggravate pre-existing social problems (Fanoulis & Kirchner, 2016, p. 205). This led to the development of several strategies in the last years where security and strengthening of the borders remained crucial. But in order to legitimate those actions, the securitising actor must persuade the audience. In this particular case, this dissertation considers the European citizens as the audience following the securitisation theory.

As it was pointed out, harmonising the values and the actions is most of the times a challenge. To analyse to what extent the EU is coherent with those human rights they promote both internally and externally, one must go to the actual documents and actions implemented. An emerging literature on normative coherence can be found as well as an expanding body of research on the EU's coherence as a normative actor. Starting from the approach on PCD by Koff and Häbel (2022), this dissertation adapts the concept by focusing not on development but on human rights, operationalising the term for this specific research. Although a few actors have linked PCD to human rights, one originality

of this dissertation is the operationalisation of the Normative Coherence *for Human Rights*. Both the *Normative Coherence for Human Rights* in relation with the Securitisation Framework are accurate frameworks to analyse the tension between securitisation-human rights in the particular area of management of migration in the EU.

Normative coherence makes reference to the ‘mutually reinforcing relationships between laws and values’ (Koff et. al., 2022, p. 4). For the purpose of this research, human rights are defined as those inherent values that the EU recognises in its funding treaties should guide their actions (Art. 21, TEU) but also be respected and promoted at all times (Art. 3, TEU). The dissertation will particularly focus on the three rights previously selected and justified in Chapter 2. On the other side of the research, the documents to be analysed can be found. In this case, the strategies and guidelines the EU presents in the migration area with the Southern Neighbourhood, as well as the specific Actions that are linked to them will be the target of this analysis. A conflict between promoting human rights and actually implemented them in the policies has been established previously. In order to examine the Normative Coherence for Human Rights, this dissertation first selected 3 fundamental rights collected in the EUCFR and operationalised them, as Chapter 2 shows. This will allow the conduction of the dissertation. Consequently, in the following chapter, this research focuses on the analysis of the documents. Applying the NCHR framework presented in this chapter, the aim of the research is to understand how these Rights selected are presented in the chosen documents.

Chapter 4: Analysis of the documents

The previous chapter set the research, presenting the methods and the documents that would be used. The aim of this dissertation is to analyse the normative coherence of the EU's migration strategies in comparison with the values that sustain the organisation, particularly the case of human rights. Following the strong belief that every action should consider the respect and promotion of human rights as fundamental values that unite the Members States of the EU, this dissertation aims to examine how these rights are presented in the different documents on migration in the particular case of the Southern Neighbourhood. To narrow down the research, a selection of documents and rights have been done and properly justified in Chapter 2, where the data collection and analysis design was introduced.

The following chapter constitutes the analysis part of the research, where first the New Agenda on the Mediterranean and its complementary Economic Plan will be examined under the security lens. This will allow the research to implement the theoretical framework of securitisation of migration into the practical examples of these documents. In that sense, it will be highlighted the securitised viewpoint of the EU in the particular area of Migration and Mobility. At the same time, some criticism will be raised regarding the way in which the organisation portrays migration challenges, starting from how the EU perceives irregular migration and the way in which the regularisation channels are developed.

While these two overarching documents can provide insights into the European Union's perspective on migration, the most accurate assessment of their action can be obtained by examining the specific measures implemented within this framework. For that reason, after the analysis of these general documents, the research will focus on the four Actions that are presented in the "Communication from the Commission implementing a final decision on the financing of the individual measure for the multi-country migration programme in favour of the Southern Neighbourhood for 2021". The four Actions, that will be introduced prior to the analysis, will be under evaluation using Table 1 as the standard specifically created for this research.

4.1 Analysis of the New Agenda for the Mediterranean

On the 9th of February of 2021 the adoption of a Joint Communication ‘proposing an ambitious and innovative new Agenda for the Mediterranean’ (European Commission, 2021a, p. 1) took place, introducing a way to strengthen and relaunch the strategic partnership between the EU and the Southern Neighbourhood partners. Within the context of the 25th anniversary of the Barcelona Process, the document emphasised on the significance of a strategic Mediterranean alliance highlighting the essence of collaboration and cooperation and fostering a spirit of partnership (Ibid.). As the HR/VC manifested, the focus of the Agenda is on the people, with a special attention to women and youth (Ibid., p. 3). The proposal was accompanied with an Economic and Investment Plan to help with the ‘long-term socio-economic recovery of the region’ (Ibid., p. 2) that proposes action points for each one of the four directions presented in the Agenda. This dissertation believes that the way in which this Agenda is presented diminishes the values of human rights in migration affairs, putting forward a securitarian approach that is lately translated in the particular Actions. To demonstrate this, this first analysis will focus on the fourth part of the Agenda, which specifically addresses the field of Mobility and Migration and the specific flagship on the same topic that can be found in the Economic and Investment Plan that accompanies the former. Specific elements will be looking for in the Agenda, such as the references to migrants’ rights and the guidelines that guide the Migration and Mobility part. Once the Agenda is contextualised, the following analysis will examine the four Actions and the implementation of the three rights selected previously in them.

The new Agenda for the Mediterranean is divided in five key policy areas: Human Development, Good Governance and the Rule of Law; Strengthen Resilience, Build Prosperity and Seize the Digital Transition; Peace and Security; Migration and Mobility; and Green Transition (Ibid., p. 4). Despite the different elements that compounded this document, this dissertation decided to focus specifically in one of the areas that is considered a priority for the EU. In this regard, the issue of migration gradually gained recognition as a matter of great importance for the European community, resulting in the formulation of a shared approach to tackle this challenge. While the notion of requiring

close cooperation with neighbouring and source countries for effective migration control preceded the so-called ‘migration crisis’ of 2015, this event accelerated the process (Missiroli, 2016a, p. 83). From that perspective, this Agenda starts acknowledging migration as a common challenge, putting particular emphasis on fighting irregular migration and smugglers together, as Commissioner for Neighbourhood and Enlargement Olivér Várhelyi manifested (European Commission, 2021 February 9, para. 4). The Mediterranean region holds significant importance in this specific realm. As High Representative for Foreign Affairs and Security Policy/Vice-President of the European Commission (HR/VP) Josep Borrell recognised, a strategic necessity associated with forging a strong partnership in this area exists in this particular region (Ibid., para. 3). From this point of view, there is a belief that migration flows between Europe and the Southern Mediterranean have to be addressed from a holistic perspective as they are ‘affecting both hosting societies and transit countries’ (European Commission, 2021a, p. 3) in many different domains. Because of the challenges this area has and the impact the last years changes have on it, a new approach is presented to manage migration with this region.

This new way of approaching the relations with the Southern Neighbourhood gives a great amount of importance to the enhancement of border security, following the trend of securitising migration. For that purpose, supporting partners’ capacity constitutes the first action point presented in the Agenda (European Commission, 2021a, p. 18). As some scholars have argued, a translation of this approach may lead to the militarisation of borders, potentially impacting the rights of migrants (Omizzolo & Sodano, 2018, p. 168). Hence, if the EU fails to guarantee the necessary conditions to uphold migrants’ rights, it could undermine its own values. This is because the EU not only strives to promote rights internally but also in its external actions. Nevertheless, no specific consideration regarding the rights of migrants is presented in this particular action. While it is possible to argue that a language emphasising protection is used, especially when referring to ‘protect those in need’ or ‘providing international protection to those who need it’ (European Commission, 2021a, pp. 16-17), the argument appears shallow as it lacks concrete elements that support this claim neither in the course of Action presented in the Agenda, nor in the particular Actions related to border control as it will be shown later.

Simultaneously, the security-over-rights perspective is presented in the Agenda by associating irregular migration with criminalisation. In that sense, irregular migration is presented as a paramount issue of concern, as it poses challenges for both the region and the EU, ‘by further increasing the economic power and destabilising influence of criminal networks’ (Ibid., p. 17), establishing a direct link between irregular migration and criminalisation. Presenting this type of migration in this way is problematic as treating it mainly as a criminal act, such as detaining individuals upon crossing the border for instance, only serves to confirm and strengthen the expected security concerns, self-fulfilling the security over rights approach (Bello, 2020, p. 11). Drawing from that belief, the only viable approach to address irregular migration is by employing deportation mechanisms in the short-term while tackling the ‘root causes’ in the long-term.

In line with that argumentation, ‘stepping-up cooperation on effective return and readmission’ (European Commission, 2021a, p. 18) is put forth as another course of action. This is most of the times translated as prioritising and strengthening deportation measures, highlighted in the new Pact on Migration and Asylum as an area requiring increased effectiveness. This remains crucial for the EU as there is a firm conviction that ‘migration rules can be credible only if those who do not have the right to stay in the EU are effectively returned’ (European Commission, 2020, p. 7). Therefore, the EU understands that the tougher their policies became, the more trustworthy the Union would be perceived by its citizens. This statement holds particularly true when it comes to the realm of border management. Enhancing control does not necessarily imply inhuman treatment nor implies having a negative connotation, provided that it ensures the protection of migrants’ rights throughout all stages of the processes. However, this insufficient guarantee of migrants’ rights, and its violation in some cases, has been one of the major criticisms directed at the EU in recent years, particularly to its agency in charge of border control, Frontex. Many reports have been published on the actions carried out by this agency by different NGOs and other intergovernmental institutions. One of the last reports that have caused great repercussion on the image of Frontex was the one leaked by Olaf, the EU anti-fraud agency last October. In this report, evidence of significant accusations regarding the cover ups of human rights abuses within EU Member States by the agency and its personnel was discovered (The Guardian, 2022,

para. 1). This caused the resignation of Fabrice Leggeri, former executive director of Frontex, after the document described the witnessing and/or concealing knowledge of pushbacks of asylum seekers from Greek territory during his tenure.

Returning those who do not have the right to stay (European Commission, 2020, p. 5) constitutes a fundamental element of the proposal for a new Pact on Migration and Asylum. A more human-rights-oriented manner of expressing returns is by the inclusion of the term ‘voluntary returns’. The development of this terminology is a significant element in the EU migration approach in the last years. For instance, the new Pact proposed the appointment of a Return Coordinator to strengthen governance structures and provide a more coherent and effective approach (Ibid., p. 8). Both the appointment of the Return Coordinator and the High-Level Network for returns, conceived as a forum to discuss the main challenges and developments in this particular area, took place under the supervision of Frontex. In this regard, the Agenda foresees the adoption of the Voluntary Return and Reintegration Strategy, endorsed in April of the same year, with the aim of setting out the design, promotion, and implementation of this mechanism (European Commission, 2021a, p. 17). Regardless of the questions raised by scholars towards the genuine upholding of voluntariness of return (Blitz, Sales, & Marzano, 2005, p. 196; Webber, 2011, p. 104), this mechanism is considered an integral part of the EU migration governance, contributing to the rationalisation of security-oriented methods (Cassarino, 2014, p. 155). These responses aim to justify the implementation of security measures and practices by prioritising efficiency and effectiveness as crucial objectives. The primary focus behind these strategies is ensuring its optimisation and achieving the best possible outcomes while utilising available resources wisely. This implies applying a utility-based argument in detriment of a rights-based approach, strengthening at the same time the security argumentation. The enhancement of Frontex through the provision of new competences and increase of its budget is a prime illustration of this perspective. In that sense, and regarding the criticisms, the EU has adopted this approach towards returns. This is also evidenced by a recent Recommendation issued in March that emphasises the need for robust cooperation among Member States to ensure the efficient utilisation of the return mechanism (European Commission, 2023, pp. 4-5).

An effective function of the return mechanism is not the only action specified in this Agenda. Searching for legal pathways to reduce the flows of irregular migration is presented in the document as another way to address this challenge. The EU has been actively investing in the implementation of such programmes over the last years, being the primary actions regarding resettlement, complementary pathways for people in need of protection linked to study or work and by community sponsorship (European Commission, n.d., “Actions” section). A clear link between the adoption of legal channels and the subsequent reduction of irregular migration has been asserted within the EU. In that sense, EU Commissioner for Home Affairs, Yvla Johansson, stated that replacing irregular migration with legal one should be their strategic objective as ‘Europe’s working age is shrinking and many key sectors face skills shortages’ (European Commission, 2021 June 11, para. 3). The implementation of Talent Partnerships seems to provide a framework that can facilitate the regularisation of individuals from third countries who come to the EU for employment, education, or skill development purposes contributing to the EU’s ambition. Nevertheless, the portrayal of these agreements appears to favour a limited number of migrants, particularly those categorised as ‘high-skilled’. Although it offers a channel to access the European labour market, it is only directed for a specific category of migrants based on a utility-based argument. In that sense, the way in which this instrument is phrased shows that the main goal is ‘attracting the talent we need’ as the official page of the EU regarding legal pathways to the European Union expresses ((European Commission, n.d., para. 1). Other concerns arise in this regard, such as the challenges in recognising qualifications due to varying standards (Ager & Strang, 2008, p. 170). This situation can lead to unequal treatment of certain migrants, potentially infringing upon the right to non-discrimination if a comprehensive inclusion of different migrants’ status is not included.

As stated previously, another way by which the EU searches for legal pathways to its territory is by the ‘continued efforts on resettlements’ (European Commission, 2021a, p. 18). Nevertheless, the ‘solidarity’ component in this matter have been underlined several times by the EU as each Member State decides to what extend apply this, and whereas there are countries such as Germany that provided several spots, others either do not

contribute at all or offer way little places (European Commission, 2022)³. In this particular area, the competences of the Member States constitute the ultimate element to fully respect, while humanitarian references are directly dependent on it. On top of that, several criticisms have been directed towards the underlying objective of resettlement and talent seeking agreements. Most of the times, they can include conditional components within them as a mean to enhance cooperation on border control, return and readmission (Schneider, 2021, p. 308). This conditionality where certain changes are required in third countries to access the help is also applied in the realm of rule of law and governance. Consequently, the EU set out an incentive-based approach within the NDICI for this particular region by which they would provide ‘additional financial support’ to the countries that ‘show a strong ambition in implementing, inter alia, governance and rule of law reforms’ (European Commission, 2021a, p. 6). Furthermore, the level of support would depend on how committed the partner is in implementing these changes in the area of ‘shared values and reform progress’ (Ibid.). Although this approach may seem logical in theory, its practical impacts tend to have a predominantly negative effect and can conflict with fundamental principles of engaging with third countries (Delkáder-Palacios, 2019, p. 190). Pursuing certain interests is not inherently problematic, as long as a balance between those of the other part involved are also taken into account.

Establishing such linear correlations between these elements can be intricate as scholars found these perspectives overly optimistic. In truth there is limited amount of strong empirical evidence supporting the notion that, for instance, the implementation of legal pathways has resulted in a significant reduction in irregular migration (Beirens et al., 2019, pp. 14-15, as quoted in Schneider, 2021, p. 309). The same type of argument can be found behind the Action point that focusses on creating socio-economic opportunities for migrants (European Commission, 2021a, p. 18). The EU has adopted the ‘root causes’ approach, hoping that by providing financial assistance that is also subject to conditionality elements, migration flows would be reduced. Nevertheless, even if development processes are normally associated with increasing levels of migratory and non-migratory mobility, this relation is complex and fundamentally non-linear (De Haas

³ For more information, check the Table included in the document Resettlement pledges submitted by Member States for 2023 cited in the Bibliography section of this dissertation.

et al., 2019, p. 56). Furthermore, research until now has failed to provide substantial support for the notion that these actions produced the desired outcomes and there is little empirical evidence that show the effectiveness of these types of measures. A positive impact on the development and enjoyment of migrants' rights and well-being can only be achieved if the actions implemented have this perspective as an ultimate goal. Other authors also highlighted that presenting legal pathways is contributing to a desecuritisation of this particular area (Chou et al., 2016, p. 10). Nevertheless, it can be argued that the implementation of these measures is grounded in utility arguments rather than human rights ones if the focus is put on what is the particular outcome the EU expects to achieve. From that perspective, it would be erroneous to perceive this as a step towards desecuritisation. In terms of the management of migration, having a strong and credible external border has been pointed out as a crucial element for the integration project of the EU, putting forward policies that keep migrants out, a defining feature that is particularly visible in its cooperation with neighbouring countries (Ibid., p. 1). This is especially justifiable given the prevalent securitarian argument discussed throughout the dissertation.

The Agenda recognises the unique characteristics and difficulties found in the Southern Neighbourhood. This dissertation contended that the Agenda adopts a security-focused approach to migration, with a notable absence of emphasis on the humanitarian perspective. In that regard, the wording 'migrants rights' appears only when presenting the key directions for this new partnership and introducing the migration topic (European Commission, 2021a, p. 3) and it is not mentioned again in the particular paragraph of Migration and Mobility. However, a consistent emphasis on specific aspects of a security-oriented perspective regarding migration can be found throughout the entire Agenda as it was demonstrated. For instance, the Agenda seeks to tackle the challenges of forced displacement and irregular migration, while also emphasising the importance of 'seizing the benefits of legal migration efficiently and effectively, through comprehensive tailor-made and mutually beneficial partnerships' (Ibid.). This direction presented in the Agenda sets the path for the Migration and Mobility part with a focus on reducing the underlying factors that contribute to irregular migration. While this may not be inherently problematic, the manner in which it is articulated can potentially suggest an undermining

of migrants' rights, particularly when it comes to strengthen border controls as it was previously shown. Overall, it can be concluded that actions aimed at safeguarding and enhancing the rights of migrants are mostly absent in the general Agenda, creating a possible normative incoherence for the promotion and respect of the EU's values and, in particular, the fundamental rights. At the same time, when human rights language is employed, it can be said that it is only done with the purpose of 'humanising' securitisation.

Yet, to further analyse how the EU works in reality in third countries, it is necessary to look into the actions funded in the particular area of Migration and Mobility presented in the "Commission implementing decision of December 17th of 2021, on the financing individual measure for the multi-country migration programme in favour of the Southern Neighbourhood for 2021". Since this section provided an overall examination of the Agenda from a security-oriented perspective, the subsequent section will focus on scrutinising the four specific Actions as practical manifestations of this Agenda.

4.2 Analysis of the Actions

On December 17th of 2021, the European Commission adopted an annual financing Decision, that constitute ‘the annual work programme for the implementation of the individual measure for the multi-country migration.’ (European Commission, 2021c, p. 1). The justification of this document was based on its necessity to ensure the implementation of the actions. By this particular time, the Commission was still in the process of adopting the Multiannual Multi-Country Migration Programme for the Southern Neighbourhood for the period 2021-2027. This last document, adopted in the beginning of 2022, would present a general course of action in this particular area. Since by that time this Programme was still ongoing, the justification of the adoption of this specific measure laid on the ensuring of the ‘continuity of funding certain activities which are live-saving and that cannot wait until the adoption of the relevant Programme’ (Ibid., p. 2). The implementation of the subsequent Actions was justified based on the necessity argument, asserting that it was crucial to adopt these specific measures in order to ensure the ongoing progress of the actions undertaken up to that point. In accordance with the overall goals pursued by this Programme, subsequent Actions were presented to align with its broader goals. Therefore, this particular measure was comprised by the following Actions.

- Increasing protection and resilience of migrants, forcibly displaced persons, and host communities in Libya
- EU support to border management institutions in Libya and Tunisia
- Supporting sustainable protection, return and reintegration in North Africa
- Towards a holistic approach to labour migration governance and labour mobility in North Africa (THAMM III).

This section will provide a comprehensive overview of each Action, including the outcomes obtained when applying the designated human rights criteria to evaluate their effectiveness in Table 1. Following the presentation of the findings, an analysis will be conducted to highlight the noteworthy aspects and implications revealed by the results. In this regard, the section is structured as follows. First, an introduction will be provided

for each Action, outlining the primary aims and objectives. The presentation of the Actions will follow the same order as presented in the main documents. Additionally, within each subsection, the findings pertaining to the application of Table 1 to each Action will be presented. On top of that, the reasoning behind the allocated scores will be provided. In order to limit the impacts of subjective considerations based on individual interpretations and assessment, the selection of the words and phrases guiding the analysis was done using an OHCHR report on migrants' rights in the border, where the main implications of each right in the different areas were presented (OHCHR, 2017, pp. 6-7).

Action 1: Increasing protection and resilience of migrants, forcibly displaced persons, and host communities in Libya

Increasing protection and resilience of migrants, forcibly displaced persons, and host communities in Libya constitutes the first Action presented in the Communication of the EU where an individual measure for the multi-country migration programme was presented. The aim of this Action rests on providing protection to those persons in need, including migrants in vulnerable situations but also taking the protection of host communities, notably in North Africa, into account.

Libya is presented as a country in which the level of vulnerability of migrants is high as its national laws criminalise all irregular entry, stay or exit if the documentation is not the appropriate one (European Commission, 2021c, Annex I, p. 5). For that reason, the main priority in this Action is the protection of those peoples in need, migrants, refugees, internally displaced persons (IDPs), and persons of concern (PoC). Nevertheless this Action also relates to the support of local host communities in improving its cohesion and target its vulnerability, in order to help them to cope with the challenges that arise from population flows. This particular initiative is directly linked to one of the key priorities of the New Pact on Migration and Asylum (European Commission, 2020, p. 19).

In that regard, the specific objectives are related to the provision of access to qualify lifesaving multi-sectorial services, such as services aiming at preventing and responding to violence, humanitarian evacuations, livelihood opportunities, and protection

monitoring of vulnerable populations (European Commission, 2021c, Annex I, p. 14). It also aims to support community-based protection initiatives, with access to national services for migrants, operational alternatives to detention, urban support to migrants and forcibly displaced persons, enhancing social cohesion (Ibid.). The last objective is increasing protection and strengthening the resilience of minors at risk, providing education, training and livelihood opportunities and services, case management and durable solutions (Ibid.).

The EU has recognised the importance of the SDGs as a guiding framework for its policies and actions. For that reason, this Action also makes reference to the SDGs that are involved. In that regard, the main SDG that is considered here is Goal 10, aiming at addressing and reducing inequality (Ibid., p. 2). Nevertheless, there are mentions to other significant SDGs that play an important role here, too. To that extent, SDG 3 focuses on ensuring healthy lives and promoting the well-being of peoples at all ages, contributing to the access to quality healthcare. This is particularly important in marginalised and vulnerable populations as the ones presented in this Action. SDG 5 on the other hand, aims to achieve gender equality and empower women and girls. Actions attempting to concrete this goal have a positive ripple effect on reducing inequalities in other areas, such as poverty, education, and employment. Finally, SDG 16 focuses on promoting peaceful and inclusive societies, with access to justice for all as well as building effective, accountable, and inclusive institutions. This contributes at the same time not only to the reduction of inequalities but also to the promotion of social cohesion.

Upon initial observation, it is evident that this Action prioritises the well-being and rights of migrants. Yet, to further examine this aspect in detail, the implementation of the chosen rights was carried out as follows.

Table 3. Operationalisation of the Rights selected for Action 1 into the NCHR framework.

	SECURITY AND LIBERTY	DECENT TREATMENT	NON- DISCRIMINATION
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ACTION 1	<ul style="list-style-type: none"> • Ensure migrants' safety. • Fair treatment of migrants. • Protection 	<ul style="list-style-type: none"> • Respect for migrants' dignity. • Access to social services and basic standards of living. • Migrants' empowerment 	<ul style="list-style-type: none"> • Livelihood opportunities. • Community engagement. • Gender equality in the measures.
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Source: Table established by the author.

Although some phrases or words are similar, the aim of Table 3 was to carefully select wordings that would imply each of these three rights in this particular Action. With respect to that aspect, for the Right of Security and Liberty, the focus was put on finding references to ensure migrant's safety, fair treatment of migrants, and migrants' protection. In the case of Decent Treatment, the emphasis was put on the respect of migrants' dignity, in relation to access to social services and basic standards of living and migrants' empowerment. For Non-Discrimination, the search was narrowed to explicit or implicit mentions to livelihood opportunities, community engagement in migration governance and gender equality in the measures. It is necessary to highlight that other synonyms to the words and phrases presented there were also taken into account as it will be shown later in the presentation of the findings.

In that regard, when applying the scaling system previously presented in Table 2, results found were the following. As for the total of each Right the findings showed that for Security and Liberty, the total was 2 out of 3. In the case of Decent Treatment, the score was 1.5 out of 3. Finally, for Non-Discrimination the results found were 3 out of 3, reaching the highest score. When adding all these results, the total of Action 1 was 6.5 out of 9, which constitutes a percentage of 72,2% of Normative Coherence for Human Rights. In the following paragraph this dissertation presents the rationale behind the assignation of these scores to each individual right.

Table 4. Normative Coherence for Human Rights results in Action 1.

ACTION 1	SECURITY AND LIBERTY		DECENT TREATMENT		NON-DISCRIMINATION		TOTAL ACTION
	SAFETY – SAFE – SAFEGUARDED	1	RESPECT – DIGNITY	0.5	LIVELIHOOD OPPORTUNITIES	1	
	FAIR TREATMENT	0	SOCIAL SERVICES – STANDARDS OF LIVING	1	COMMUNITY ENGAGEMENT	1	
	PROTECTION	1	EMPOWERMENT MIGRANTS	0	GENDER EQUALITY	1	
TOTAL RIGHTS	2		1.5		3		6.5

Source: Table established by the author.

The justifications of the marks given in Table 4 are as follows. The Right of Security and Liberty obtained 2 points out of 3. In that regard, it was found that mentions to “safe” are constantly highlighted, particularly in the Tentative Activities in relation to the Outputs. At the same time, one of the Specific Objectives mentions the access to quality lifesaving multi-sectorial services, and this is further stressed in the Outputs and Indicative Activities. Although related words such as safety and safeguard are mentioned in the document but not in regards of the promotion of the personal safety of migrants, the inclusion of safe considerations in several parts of the documents allows the research to give ‘1’ as a mark. The same occurs with the word protection as it is widely mentioned in the document, both as a priority area of the Action and included in the three Specific Objectives (Ibid., p. 14). There are references to this also in the Outputs (Ibid., p. 15) and in the Tentative Activities regarding them (Ibid., pp. 16 and 17). However, ‘fair treatment’ got ‘0’ as it doesn’t appear in the document and other synonyms, such as adequate or just, are not stressed enough either. Treatment is mentioned only once in the general context

of the Action (Ibid., p. 6) in relation to the participants on the Second Berlin Conference on Libya in 2021 where they reiterated the importance of preventing torture and cruel and inhuman treatment in the particular case of detainees. Therefore, it can be considered that albeit a mention can be found, it is not meaningful for the purpose of the research.

In the case of Decent Treatment, the Action got a final mark of 1.5 out of 3. A full point was given to the references to social services and standards of living as mentions to them can be found as one of the activities related to Output 2.4. On top of that, references to this exist throughout the whole document in different ways, such as access to national services as one of the Outputs (Ibid., p. 15). The same occurs regarding the standards of living. In the case of the references to the dignity of migrants, it was found that dignity does not appear, though mentioning the wording ‘dignifying’ does relate to standards of living (Ibid., p. 16). In the case of the emphasis on respect, the word appears four times and out of those, only two can be linked to the purpose of the research. In relation to this matter, it can be argued that this Action could have placed a greater emphasis on this word since the first mention is on a footnote in relation to the principle of non-refoulement (Ibid., p. 15), while the second reference is made in a more general manner regarding the ‘full respect of international conventions and agreements’ in the Human Rights section (Ibid., p. 19). Hence, a score of ‘0.5’ was assigned to better reflect the potential for an improved representation of this right in this particular Action.

Lastly, Non-Discrimination attained the highest score in this Action, receiving a perfect rating of 3 out of 3. The main sections of the Action explicitly addressed and highlighted aspects such as livelihood opportunities, community engagement, and gender equality. With regards to this matter, it is important to note that these elements were thoroughly considered and integrated into the Outputs, Outcomes, and Activities associated with the Action. Their genuine implementation within these areas of the document was given significant attention and consideration. As an example, community engagement is explicitly stated as one of the primary objectives of the Actions, underscoring the significance of involving and empowering the community (Ibid., p. 17). Similarly, gender equality is given prominence in the monitoring and reporting section, where gendered indicators are utilised to assess progress and ensure gender-responsive approach (Ibid., p.

35). These deliberate measures demonstrate a clear commitment to promoting community engagement and gender equality throughout the implementation of the Action.

Action 2: EU Support to Border Management Institutions in Libya and Tunisia

The second Action presented in the document focuses on the strengthening of migration and asylum governance management through the increase of border control capacities. To that extent, the overall objective this Action proposes is contributing to the improvement of the respective state services by helping in the development of institutions of the Maritime Rescue Coordination Centres and the Coast Guard Training Academies in Libya and Tunisia. These two particular countries are promoted in this second Action. In that sense, the document recognises that a regional approach to a Maritime Rescue Coordination Centre in this regard would improve the coordination in the Central Mediterranean when fighting against migrant smuggling and trafficking in human beings' networks between these countries (European Commission, 2021c, Annex II, p. 3). The main reason behind this is that Tunisian Maritime authorities often find themselves in the position of having to intervene as numerous vessels departing from Libya traverse Tunisian waters (Ibid.).

While there are shared elements between these two countries, the strategies employed exhibit certain variations. In that context, each country had distinct and specific objectives tailored to their individual circumstances and priorities. For the case of Libya, the aim focused on establishing a Border Guard Training Academy as well as enhancing the capabilities of the Maritime Rescue Coordination Centre (Ibid., p. 12). In the case of Tunisia, the primary emphasis was on providing assistance to the Tunisian Garde Nationale Maritime in enhancing its training infrastructure and facilitating the establishment of a Maritime Rescue Coordination Centre (Ibid., p. 13). On top of that, these endeavours would contribute to the third objective aimed at facilitating the development of an integrated coastal surveillance system within the country (Ibid.).

As it was the case in the previous Action, in this document the EU also incorporates the SDGs that are connected to these measures. Yet, the only SDG mentioned in this Action

is SDG 10, focusing on reducing inequalities within and among countries. Nevertheless, the particular focus of this SDG is put on Target 7 which aims to the facilitation of orderly, safe, regular, and responsible migration and mobility of people, by implementing planned and well-managed migration policies (Ibid., p. 2). The document does not contain any other explicit references or direct mentions to the SDGs, which means that the measures included on it are only affecting this Target. Whether a criticism can be raised here on the potential missing opportunities to align this strategy with a more comprehensive framework, some other observations can be made based on this brief presentation of the Action.

The document reveals a distinctive emphasis on enhancing border management measures within a broader context of engaging in migration dialogues with partner countries. This approach prioritises cross-border cooperation and aims to support the sustainable development of state institutions responsible for managing border in fragile border areas. The involvement of various stakeholders such as the private sector, civil society organisations (CSOs), and border communities is highlighted (Ibid., p. 1). Additionally, it can be seen that the document underscores the significance of strengthening institutional capacity to effectively carry out search and rescue (SAR) operation both at sea and in desert regions (Ibid., p. 4). This systematic approach demonstrates a deliberate focus on addressing border-related challenges while promoting collaboration and fostering the development of border management structures.

At first glance, it appears that the primary emphasis lies in strengthening capacities related to border control. In light of this, and to evaluate the role of the rights selected within this Action, the chosen approach for operationalisation is as follows.

Table 5. Operationalisation of the Rights selected for Action 2 into the NCHR framework.

	SECURITY AND LIBERTY	DECENT TREATMENT	NON-DISCRIMINATION
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<p>ACTION 2</p>	<ul style="list-style-type: none"> • Migrants’ protection. • Lawfulness of the processes. • Respect of the principle of non-refoulment. 	<ul style="list-style-type: none"> • Access to social resources. • Proportionality in the responses. • Detention alternatives. 	<ul style="list-style-type: none"> • Violence prevention programmes and safe reporting channels. • Unaccompanied minors’ protection. • Gender equality in the measures.
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Source: Table established by the author.

Table 5 provides the operationalisation of the rights selected to facilitate the research. In the case of Security and Liberty, the selection of words and phrases relies on the protection of the migrants, as well as the lawfulness of the process in relation to the acts carry by the forces, both understood as priority in this Action. In addition to that, respect on the principle of non-refoulment is also considered important to be implemented in this Action. For Decent Treatment, the focus was mostly put on access to social resources for migrants but also on proportionality in the responses. Also, detention alternatives are an element that this dissertation understands should be included in this initiative. Finally, for Non-Discrimination, the aim was to find in this document references to violence prevention programmes as well as safe reporting channels for migrants. The protection of unaccompanied minors in this regard is particularly important as it also is the implementation of gender equality in the measures. As it was the case before, other synonyms and phrases were also considered in the search of these standards.

When applying the scaling system previously presented in Table 2, results found were the following: For Security and Liberty, the total of this Action was 2 out of 3. For Decent Treatment it was 1 out of 3. Finally, for Non-Discrimination, the final mark was 0.5 out of 3. Overall the total of Action 2 was 3.5 out of 9, constituting a percentage of 38.8%. Following the same structure as the previous Action, the following paragraph deals with the justifications on the scores of each individual right.

Table 6. Normative Coherence for Human Rights results in Action 2.

ACTION 2	SECURITY AND LIBERTY		DECENT TREATMENT		NON-DISCRIMINATION		TOTAL ACTION
	PROTECTION – SAFE – SAFETY	0	BASIC – ESSENTIAL – SOCIAL – SERVICES / RESOURCES	0	VIOLENCE PREVENTION PROGRAMMES – REPORTING	0	
	LAWFULNESS – LAW – DUE DILLIGENCE – FAIR – TREATMENT	1	DO NO HARM PRINCIPLE	1	UNNACOMPANIED MINORS	0	
	RESPECT PRINCIPLE OF NON-REFOULMENT	1	DETENTION ALTERNATIVES	0	GENDER EQUALITY	0.5	
TOTAL RIGHTS	2		1		0.5		3.5

Source: Table established by the author.

The justifications of each number are presented as follows. In the case of Security and Liberty, it was found that albeit there is a mention to ‘protect those in need’ throughout the document, it is not emphasised enough in the measures taken. Moreover, in the particular case of the measures implemented in Libya, it explicitly says that migrants and those in need of protection are indirect beneficiaries in this Action (Ibid., p. 11). Therefore they can be understood as actors that are not prioritised in the formulation of this Action. It is for that reason that in this case, the mark given was 0. On the other hand, both lawfulness and the principle of non-refoulment got 1 point each. In the case of the former, it is explicitly mentioned that human rights due diligence and to guarantee a treatment of

migrants fully in compliant with international obligations and standards is important in the Action (Ibid., p. 19). In that sense, the staff will be trained on this. It can be inferred that a deliberate effort is made to ensure the implementation of measures that facilitate this objective. Regarding the principle of non-refoulment, the concept is mentioned a total of nine times throughout the document, both in the Outputs (Ibid., p. 13), the Indicative Activities (Ibid., pp. 14-15) and in the expected results for each objective (Ibid., pp. 23-25). Therefore, there is a clear consideration and incorporation of this concept in the different parts of the Action. For that reason, the overall of this right for this particular Action is 2 out of 3.

Moving to Decent Treatment, both access to essential services and detention alternatives had a been given a 0. In the first case, a mention to access to basic services during the SAR interventions can be found in the document (Ibid., p. 18). In that sense, a necessity of providing this during and after the interventions is mentioned in the Mitigating Measures in the same page. Nevertheless, it cannot be found another specific mention to this in the Outputs, Inputs, or Indicative Activities. This may be perceived as a potential weakening or compromising of this measure. As for detention alternatives, there is no explicit nor implicit mention to it that can be found in any part of the document. Hence, it cannot be concluded that this measure incorporates alternatives to detention. For that reason, the principle of 'do no harm' is the only one that gets 1 point, as it is explicitly mentioned throughout the document and, in addition to this, there is a specific mention to it in the staff training in the institutions. Overall, this Right gets a 1 out of 3 in this particular Action.

Finally, when it comes to Non-Discrimination, the final mark is 0.5 out of 3. The reason is that in the case of unaccompanied minors and violence prevention programmes and reporting, there was nothing to be found in the document. This score is justified by the lack of any mention or consideration of these two elements within the context of the measure. Gender equality on the other hand got a 0.5. In this particular case, albeit mentions to gender are present, it is not an objective targeted according to the document (Ibid., p. 2). Yet, the document explicitly manifests that gender-specific challenges, mostly included to migrant smuggling and trafficking of human beings will be taken into

account during the implementation phase (Ibid., p. 11). Nevertheless, an explicit reference to this cannot be found in the main areas of the document, such as the activities or objectives. As a result, it was deemed that the Action could have placed a greater emphasis on this aspect.

Action 3: Supporting sustainable Protection, Return and Reintegration in North Africa

Return and reintegration are the main focus of this Action. In that regard, it responds to one of the key priority areas of the New Pact on Migration and Asylum's external dimension. From that point of view, 'fostering cooperation on readmission and reintegration' (European Commission, 2020, p. 21) remains an important course of action for the EU as well as adopting a comprehensive strategy on voluntary return and reintegration in order to both increase the returns from the EU and improve the effectiveness and long-term viability of reintegrating individuals who have returned to non-EU countries.

Here the Specific Objectives are mainly focused on the returning of vulnerable and stranded migrants in North Africa in a 'safely, voluntarily and in dignity' manner (European Commission, 2021c, Annex III, p. 14). In addition to that, the aim of the Action is to also increase the exercise of responsibility of partner countries and relevant stakeholders in make this possible (Ibid.). For that reason, the management of migrant return, readmission, and sustainable reintegration is the ultimate goal of this initiative. In that regard, the priority area here is the support of voluntary return and reintegration, included in two of the Specific Objectives (Ibid.). The first one responds to the supporting of partner countries' legal and institutional capacity to implement these mechanisms from Europe and third countries and giving assistance to them, while the later focus more on the assisted voluntary return of vulnerable and stranded migrants from North Africa to countries of origin. Related to these, the returning of migrants to their countries of origin and their reintegration, as well as the increase of partner countries and relevant stakeholders' responsibility in this regard are the main focus.

Similarly to the previous Action, the main SDG mentioned here is 10, with a particular emphasis on the subgoal 10.7 on the facilitation of orderly, safe, regular, and responsible migration mobility (Ibid., p. 2). Following Action 2, this document does not explicitly refer to other SDGs, indicating again that the measures outlined within it solely pertain to this specific target without a broader incorporation of the rest of the SDGs.

As the main elements here are regarding return and reintegration as it was demonstrated, the operationalisation of the rights aimed to highlight the elements that this dissertation considered relevant for ensuring their effective realisation. In that sense, the translation of the rights into words or phrases in this particular case is presented in Table 7.

Table 7. Operationalisation of the Rights selected for Action 3 into the NCHR framework.

	SECURITY AND LIBERTY	DECENT TREATMENT	NON- DISCRIMINATION
ACTION 3	<ul style="list-style-type: none"> • Adequate procedural safeguards. • Provisions against pushbacks. • Detention and forced returns alternatives. 	<ul style="list-style-type: none"> • Respect of migrants' dignity. • Protection of migrants' personal safety (use of force). • Access to information and basic services 	<ul style="list-style-type: none"> • Minors' inclusion and protection • Conduction of individual assessment. • Gender equality in the measures

Source: Table established by the author.

For Security and Liberty, the research focused on the search of the following standards in the document. First, specific mentions to adequate procedural safeguards in relation to returns, as it is considered an essential element to protect migrants' rights. In relation to that, provisions which aimed to prevent pushbacks are considered crucial to be incorporated in this Action. Finally, and linked also to the previous Action, detention and forced returns alternatives were considered in this document. In the case of Decent Treatment, the focus was on the respect of migrants' dignity as well as the protection of

migrants' personal safety in terms of the use of force. Another important element considered by this dissertation was the role provision of reliable and available information had in this Action. For that reason, access to information, but also provisions on basic services constitutes another standard to take into account. As for Non-Discrimination, the Action was analysed under the searching of specific provisions on minors' inclusion and protection, as the dissertation aimed to find how this particular group is portrayed in the Action. At the same time, the conduction of individual assessments for migrants were considered vital within the measures taken in this Action. Finally, this research aimed also to analyse how gender perspective were included in the implementation of the actions. For the purpose of the evaluation, alternative synonyms for these words and phrases were taken into consideration as well.

Upon utilising the aforementioned scaling system in Table 2, the obtained results for Action 3 are presented in Table 7. For Security and Liberty, the score was 1.5 out of 3. For Decent Treatment, 2 out of 3, whereas for Non-Discrimination it was 1 out of 3. In that regard, the summatory of these scores ended up giving Action 3 a total of 4.5 out of 9, reaching a percentage of 50% on the scale for a Normative Coherence for Human Rights.

Table 8. Normative Coherence for Human Rights results in Action 3.

ACTION 3	SECURITY AND LIBERTY		DECENT TREATMENT		NON-DISCRIMINATION		TOTAL ACTION
	ADEQUATE PROCEDURAL SAFEGUARDS	1	ENSURING MIGRANTS DIGNITY	0.5	UNACCOMPANIED MINORS' INCLUSION PROTECTION	0.5	
PREVENTION PUSHBACKS	0	PROTECTION MIGRANTS' – USE OF FORCE	0.5	CONDUCTION OF INDIVIDUAL ASSESSMENTS	0		

	DETENTION AND FORCED RETURNS ALTERNATI VES	0. 5	ACCESS INFORMATI ON AND BASIC SERVICES	1	GENDER EQUALITY	0. 5	
TOTA L RIGHT S	1.5		2		1		4.5

Source: Table established by the author.

In this paragraph, as it was done previously in the other Actions, this dissertation presents the justifications on the marks given to each right presented in Table 8. In the case of Security and Liberty, mentions to safe returns and its connection to provisions on protection and assistance services were consistently found throughout the document (Ibid., p. 14). At the same time, due process was highlighted as an integral part of the activities carried out (Ibid., p. 19). Therefore, it can be considered that there is a consideration of establishing adequate procedural safeguards, getting this Action a full point in this part. However, in the case of pushbacks, no provisions related to its prevention were found in the document. This resulted in a score of 0 as there was a complete absence of this element in the Action. Finally, in the case of detention and forced returns alternatives, the document presents the voluntary returns as an option to reduce the forced returns. Regarding the latter, the Action acknowledges that this mechanism should be taking over from the initial reintegration assistance provided by Member States, and the focus should be on delivering long-term sustainable reintegration providing information on opportunities and post arrival reintegration assistance (Ibid., p. 16). Voluntary returns could be considered as a positive, human-rights based approach to prevent the forced returns. In that regard, information on the primer is expected to be given to migrants to facilitate well-informed decisions. Yet, the mentions to alternatives to detention alternatives cannot be found in this Action. Hence, this specific criterion

receives a score of 0.5 as it can only be deemed partially fulfilled, with only one of the elements considered adequately addressed.

In the case of Decent Treatment, it was discovered that references to dignity are frequently encountered in the document, whether in relation to the Outputs or within one of the Specific Objectives (Ibid., p. 14). Yet, in many instances the references to dignity, particularly in relation to “dignified return”, lack clear elucidation regarding the specific components of dignified treatment and the measures involved in attaining it. Therefore, a score of 0.5 was assigned, indicating that a stronger emphasis on this aspect could have been incorporated into the Action. When it comes to the use of force, the document does not include any explicit provisions pertaining to its regulation or control. However, there are several mentions to the protection of migrants’ safety both in the Objectives (Ibid., p. 14) and Indicative Activities (Ibid., p. 15). For that reason, a score of 0.5 was given, as there could have been an improved articulation of strategies to prevent the use of force during return processes and enhance the protection of migrants’ personal safety. Access to information and basic services is given a full point as there are specific provisions on both elements. Regarding basic services, mentions to protection and assistance services (Ibid., p. 14) as well as specialised services (Ibid., p. 15) are encountered both in the Outputs and the Indicative Activities. Simultaneously, it is evident that the Action places significant importance on information as evidenced by its frequent mention throughout the document. References to information can be observed in relation to the provision of opportunities (Ibid., p. 16) as an Indicative Activity, as well as in the context of providing reliable and comprehensive information on return and reintegration as one of the Outputs (Ibid., p. 15).

For the case of Non-Discrimination, the implementation of gender equality got a 0.5. The reasoning behind this mark is based on the following justification. Although there are mentions to gender equality in the document, and it appears as a significant objective of this Action (Ibid., p. 2), gender as one of the general Targets of this particular Action is not marked. In relation to that, there are no explicit references to gender issues in the Objectives or inclusion in other aspects of the actions, such as Outputs or Outcomes, except for a mention in the monitoring and reporting section (Ibid., p. 31). As for the

specific provisions for unaccompanied minors' protection, the mark given is a 0.5. In this case, there is only one mention to them where it is said that unaccompanied minors and victims of trafficking will be given specialised assistance and protection (Ibid., p. 19). Yet, there is no indication of this being reflected in the objectives or specific activities outlined in the document. In the case of individual assessments, there is no specific reference in the context of migrant returns, leading to a score of 0 being assigned for this criterion.

Action 4: Towards a Holistic Approach to Labour Migration Governance and Labour Mobility in North Africa (THAMM III)

In recent years, the EU has been actively promoting labour migration and mobility as a prominent strategic approach to migration governance. In that regard, fostering a comprehensive regional approach to the governance of labour migration and the facilitation of labour mobility between North African countries and EU Member States is the heart of Action 4.

This Action draws from one of the key priorities of New Pact, particularly in relation to the implementation of the aforementioned Talent Partnerships. In that sense, an emphasis on providing more legal pathways and recognising the benefit of regular migration for societies and markets is underlined in the document. Furthermore, it builds upon and complements existing regional initiatives and actions, such as the ones mentioned in the document (European Commission, 2021c, Annex IV, p. 7). The specific goal in this case is to enhance the skills, qualifications, and competencies of potential migrant workers for both domestic and global labour markets. As stated in the document, this aspect constitutes a fundamental component of the New Pact and has been previously incorporated in the Joint Valletta Action Plan of 2015 (Ibid., p. 9). Additionally, it is highlighted as a priority area in the Renewed Partnerships with the Southern Neighbourhood (European Commission, 2021a, p. 3). The primary emphasis in this regard relies on the implementation of Talent Partnerships, as well as the enhancement of legislative frameworks and institutional capacity to facilitate orderly migration processes (Ibid., p. 17).

As in the case of the previous Action, the main SDG considered here is SDG 10, with a particular emphasis on target 10.7 on promoting orderly, safe, regular, and responsible migration mobility (European Commission, 2021c, Annex IV, p. 2). Other considerations to SDGs 8 on the promotion of sustained, inclusive, and sustainable economic growth as well as full and productive employment and decent work for all are also taken into account. In this context, the document incorporates targets 8.6, which addresses the reduction of youth employment, and 8.8, which aims to protect labour rights and promote safe and secure working environments for all workers (Ibid., p. 4).

As evident from the presentation of this Action, the focus is primarily on migrants' rights and their central role in the implemented measures. However, the research aimed to identify specific elements that are considered crucial in this context. For that reason, the operationalisation of the rights selected for this case is presented in Table 9.

Table 9. Operationalisation of the Rights selected for Action 4 into the NCHR framework.

	SECURITY AND LIBERTY	DECENT TREATMENT	NON-DISCRIMINATION
ACTION 4	<ul style="list-style-type: none"> • Fair treatment and adequate procedural safeguards. • Legal frameworks aiding migrant regularisation. • Freedom of movement. 	<ul style="list-style-type: none"> • Safe working conditions. • Social protection • Protection from work exploitation. 	<ul style="list-style-type: none"> • Comprehensive inclusion of migrants. • Equal opportunities for all migrants. • Gender equality perspective in the measures.

Source: Table established by the author.

For Security and Liberty, the following words/phrases are considered as the criteria to analyse the document. First, a fair treatment and adequate procedural safeguards for migrants as well as the provision of legal frameworks that contribute to the regularisation

of migrants will be looked out for in this Action. Furthermore, it is crucial to examine how the concept of freedom of movement is depicted within this specific Action. In the case of Decent Treatment, the focus relies on the provisions on safe working conditions but also the offering of social protection. Another important element to look out for in this particular case is how protection from work exploitation is framed in the document. Finally, the operationalisation of Non-Discrimination is constituted with the following phrases. First, the research looked out for a comprehensive inclusion of migrants in terms of high/low skilled workers. In connection to that, the implementation of equal opportunities of all migrants was searched. Finally, the inclusion of a gender equality perspective in the measures was also considered. As it was the case in the previous Actions, alternative terms and expressions for the words and phrases mentioned were also taken into account in the analysis.

After applying the scaling system in Table 2, the following results were obtained. For Security and Liberty, the score this Action achieved was 3 out of 3. In the case of Decent Treatment the mark was lower, obtaining a 1.5 out of 3. Lastly, Non-Discrimination got a 2.5 out of 3. Overall, the rating of the Action was a 7 out of 9, getting a 77,8% of Normative Coherence for Human Rights.

Table 10. Normative Coherence for Human Rights results in Action 4.

ACTION 4	SECURITY AND LIBERTY		DECENT TREATMENT		NON-DISCRIMINATION		TOTAL ACTION
	ADEQUATE PROCEDURAL SAFEGUARDS AND FAIR TREATMENT	1	SAFE WORKING CONDITIONS	1	COMPREHENSIVE INCLUSION OF ALL MIGRANTS	1	
LEGAL FRAMEWORKS AND REGULARISATION	1	SOCIAL PROTECTION FOR MIGRANTS	0	PROVISION OF EQUAL OPPORTUNITIES FOR ALL MIGRANTS	0.5		

	FREEDOM OF MOVEMENT	1	PROTECTIO N FROM EXPLOITATI ON	0. 5	GENDER EQUALITY	1	
TOTA L RIGHT S	3		1.5		2.5		7

Source: Table established by the author.

The rationales for assigning each numerical value presented in Table 10 are provided in the following explanations. Regarding Security and Liberty, all three selected criteria for the analysis of the Action received a perfect score. The manifestation of these particular phrases was consistently observed throughout the document. The document explicitly refers to the adoption of comprehensive and consistent policy frameworks guided by pertinent human rights and labour standards (Ibid., p. 6). The Action also highlights the use of tools aimed at analysing, promoting, and implementing safe and development-oriented regular labour migration and mobility (Ibid., p. 16). These tools are set to be implemented within the labour ministries and employment agencies of the participating countries (Ibid., p. 12). Regarding legal frameworks and regularisation, mentions can be found throughout the entire document. It is worth noting the collaborative nature of this Action, which complements other ongoing labour schemes and initiatives in the region supported by the EU, specifically in terms of skills recognition (Ibid., p. 7). In this aspect, it is evident that a diverse range of channels have been established to contribute to the implementation of this Action. Freedom of movement can also be addressed from this perspective, as candidates are allowed to choose between staying in the country or migrating abroad following the completion of their training (Ibid., p. 15). Simultaneously, the presence of diverse schemes that are mutually supportive enables individuals to exercise their freedom of movement within this specific context.

During the assessment of Decent Treatment, ensuring safe working conditions was highlighted through specific indicators and identified as instrumental measures to

promote this aspect within the Action, getting this criterion a full point. At the same time, the document states that the measures seek to ‘protect labour rights and promote safe and secure working environment for all workers’ in alignment with SDG 8 and Target 8.8 as previously mentioned (Ibid., p. 4). Nevertheless, there is a lack of mention to access to social protection in this Action. The document only makes a general mention of protection for migrants and does not specifically address access to social protection (Ibid., p. 6). No explicit reference can be found in the document regarding migrants’ rights to access social protection services, such as healthcare. For that reason, this criterion gets a 0. As for protection from exploitation there is a partial coherence since many references on the protection of migrants in terms of working environment are present in the document. Although there is a mention to the ‘do no harm’ principle in the document, it primarily focuses on mitigating brain drain rather than safeguarding the well-being and rights of migrants (Ibid., p. 7). Consequently, this criterion gets a 0.5 as there could have been a stronger emphasis placed on implementing specific measures to prevent migrant exploitation and ensure their protection.

Finally, Non-Discrimination achieves a near-perfect score. Both the comprehensive inclusion of all migrants and the implementation of gender equality are prioritised within the measures. In the first case, both high and low-skilled workers are explicitly mentioned as targets of this Action (Ibid., p. 17). On top of that, vocational training for young people that might not be skilled is also present (p. 10). At the same time, the beneficiaries of this Action are citizens of Egypt, Morocco and Tunisia that are in working age, but also skilled workers that are seeking work opportunities abroad (Ibid., p. 7). This creates an opportunity for individuals to enhance their skills, not limited to those who already have the necessary abilities. For that reason, this criterion obtains a full point. In the case of gender equality, it appears as a significant objective of this Action and, at the same time, there is an explicit recognition of female workers in the Indicative Activities. An illustration of this is the setting up of vocational trainings for both male and female migrants (Ibid., p. 12). This explicit incorporation of this criterion permits to grant a full point to gender equality in this Action. Yet, in the case of equal opportunities for all migrants, it was found that most of the mentions are regarding young national or in relation to gender, but nothing can be found in the measures to ensure the promotion of

equal opportunities. In this regard, an advocacy for social inclusion is found as one of the targets but a stronger emphasis is lacking on the transcription of it in the particular actions taken. Since a mention is done but it could be more emphasised in this aspect, the mark given is a 0.5.

Chapter 5: Comparative analysis of the findings

A comparative analysis of the findings will be presented in the following chapter, discussing its implications for human rights coherence. The aim is to highlight the main findings and explain how they relate to each other. This will be followed by the presentation of the main criticisms raised against the way in which the EU portrays its migration policy in third countries, as addressed in this dissertation. In that regard, this chapter of the dissertation will provide an exposition of the primary findings observed during the implementation of the NCHR framework.

After interpreting the results showed in the last Chapter, some conclusions can be drawn upon. In terms of Rights, the maximum each one could obtain was 12, as 3 was the maximum grade per right in each Action and this dissertation focussed on a total of four Actions. The three rights received similar grades, as the worst graded Decent Treatment with a 6 out of 12, and Security and Liberty the best one with an 8.5 out of 12. In some of the cases, little reference to Decent Treatment was made or the mentions were not supported enough in the measures, like the case of Action 2 where the mark for Decent Treatment was 1 out of 3. The same occurs with Security and Liberty, which lowest grade was 1.5, particularly in Action 3 that involved return and reintegration of migrants. On the other hand, the highest grade on this right was in Action 4, regarding labour migration obtaining a 3 out of 3. In terms of Decent Treatment, Action 2 takes the lowest grade with a 1 out of 3, followed by Action 1 and 4 with 1.5 each out of 3. As for Non-Discrimination, it is evident that Action 2 on border management support is the one that get the lowest grade, with a 0.5 out of 3. On the other hand, Action 1 followed by Action 4 received the best marks in these terms, with a 3 out of 3 and a 2.5 out of 3 respectively. For the clarity of the reader, Table 11 presents the final results of this research.

Table 11. Normative Coherence for Human Rights: Comparative table of Actions and operationalised Rights analysis.

	SECURITY AND LIBERTY	DECENT TREATMENT	NON- DISCRIMINATION	TOTAL ACTION (out of 9)
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ACTION 1	2	1.5	3	6.5
ACTION 2	2	1	0.5	3.5
ACTION 3	1.5	2	1	4.5
ACTION 4	3	1.5	2.5	7
TOTAL RIGHT (out of 12)	8.5	6	7	

Source: Table established by the author.

It can be concluded that Action 2 is the worst graded overall followed by Action 3, whereas the action best graded was Action 4, followed by Action 1. When considering the final aim of each Action, it is evident that in those cases where border control assumed a greater significance, the prioritisation of migrants' rights was reduced. This absence or diminishment of references to the rights of migrants in this particular Actions supports the considerations uphold by this dissertation throughout the research. In that regard, when the focus is put on the protection of the borders, the perspective implemented not only on the basic guidelines but also on the Actions promoted, is the securitarian one.

On the other hand, when Actions were taken in areas where migrants were put upfront, the rights were found to be more present and in a consistent way. In that sense, when talking about protection and resilience of migrants in Action 1 or establishing labour schemes for migrants to access to work opportunities in Action 4, a more human-right wording was found throughout the documents. This observation aligns with the notion of promoting and upholding rights that the EU seeks to project. It signifies a degree of consistency with the EU's stated objective of safeguarding and advancing the rights of individuals. However, it is important to acknowledge that certain rights received more extensive deliberation than other in these specific documents, as it is the case of Decent Treatment that obtained the lowest grade in both Action 1 and 4.

On the whole, it can be contented that certain Actions obtained favourable evaluations when applying this normative framework. However, this dissertation asserts that the Actions proposed in this specific case do not align coherently with human rights norms

as inconsistencies can be found in some of the documents. Despite some Actions being normatively coherent with human rights, the overall Action framework is not. In that regard, those Actions that are not coherent for human rights, such as Action 2 and 3, weaken the overall coherence of the framework. For that reason, it is essential to integrate human rights into all action to ensure the existence of coherence for human rights. The reasoning behind this belief is the following. The EU has compromised itself to approach migration from a holistic perspective. In that regard, there is a belief that a whole set of different elements are needed to be considered when addressing actions on migration in third countries. To that extent, the organisation has stated in numerous occasions that the values that sustain its foundation have to be present at all times and consistently guide their actions. This aspect assumes greater significance, particularly considering that ensuring coherence and consistency presents itself as a prominent challenge for the European Union to tackle as it was previously mentioned in the dissertation. Returning to the present findings this study has found, it can be asserted that, as a prevailing pattern, an undermining of normative coherence with respect to human rights is evident within the frameworks of this measure encompassing the implementation of the four Actions in conjunction.

By utilising the methodological approach presented in Chapter 2, a minimum threshold of 2 Rights out of the 3 to be openly respected are needed for an Action to be considered normatively coherent for human rights. This, translated in percentage would imply a 66% of effectivity approximately. Taking into consideration this, it is noteworthy that only two out of four Actions surpassed this threshold according to the findings of this research. Action 1, on the resilience and protection of migrants exceeded the minimum threshold reaching a 72,2% while Action 4, on labour migration achieved the highest percentage: 77,8%. Yet, the percentages of the remaining Actions are relatively minimal. In the case of Action 2 aiming at providing border support in Libya and Tunisia, the overall achieved was 38,8%. As for Action 3 which focused on sustainable return, the percentage reached was 50%. Even if in this last case the Action got a half mark, it did not reach the minimum threshold carefully established to be considered normatively coherent with human rights.

In this context, if the EU intends to advance a comprehensive approach to migration, characterised by interconnectedness among all Action, with the ultimate objective of facilitating orderly, safe, regular, and responsible migration and mobility in line with SDG 10.7, while upholding normative coherence for human rights, it is imperative to ensure a consistent promotion of these values across all Actions. Therefore, such promotion should be uniformly integrated and emphasised throughout the various initiatives. The almost absence of explicit attention to human rights considerations in Actions pertaining to border control and migrant returns indicates a prioritisation of security measures over protection of individual rights. This is in line with the findings already mentioned in the section where an analysis of the Agenda was done. Therefore, when considering these four Actions as a collective unit, it becomes apparent that while Action 4 and Action 1 demonstrate a commendable level adherence to human rights, the deficiencies observed in Action 2 and 3 pose a potential risk to the European Union's overall coherence in upholding human rights across the board.

In addition to the aforementioned observations, another noteworthy point can be argued concerning these policies regarding to the role assigned to human rights within them. Among the four Actions, only the first one related to the protection and resilience of migrants in Libya, explicitly addresses human rights in its introductory section as a Target that is marked, as it can be seen in the Action Summary Table (European Commission, 2021c, Annex I, p. 3). In neither of the remaining three Actions this Target is crossed. Hence, based on the premised that the EU recognises the need for human rights to permeate all of its external and internal actions and that the promotion of these rights should guide the implementation of measures, another instance of inconsistency becomes apparent in this context. By not prioritising the promotion and protection of human rights as a target that should be present in all of these four documents regardless the specific topic addressed in it, the EU weakens its commitment to human right values. It is paramount to emphasise the utmost importance of upholding coherence among all Action and steadfastly advancing the promotion and protection of human rights across the entirety of these initiatives. Ensuring consistency in approach and maintaining a resolute commitment to human rights principles is of critical significance in order to foster an environment conducive to the realisation of these fundamental rights.

Conclusions

The statement that guided the whole dissertation highlighted a concern regarding the EU's approach to migration and border control, suggesting that it may clash with the organisation's values and impact its credibility as a normative actor. The focus on securitisation and prioritisation on border control over other considerations have negative repercussions on the EU's normative coherence with core norms if not adequately justified. Furthermore, as presented above in this research, the issue of coherence is seen as one of the significant challenges faced by the EU in its external policy. In this conclusion the key findings of this research on the Normative Coherence for Human Rights of the EU in the particular area of migration will be presented as well as the contributions of this research. Aligned with these findings, the contributions made by this study are intricately linked to emerging lines of research.

As was mentioned throughout the dissertation, normative coherence refers to the alignment between an organisation's policies and its core values and principles. As a supranational entity, the EU has traditionally sought to promote certain values such as human rights, democracy, and the rule of law both domestically and in its external relations. In that regard, it can be said that these values are considered to be of paramount importance in defining the EU as a normative actor in the international arena. Yet, when it comes to migration and border control, there can be tensions between these core values on which the EU is based and the practical considerations of managing migration flows. This dissertation stated since the beginning of the research that the EU's emphasis on securitisation and effective border management prioritises control over human rights, diminishing the place they occupy in actions that have managing borders as the main aim. Despite being a widely researched topic, the approach employed in this dissertation is innovative in terms of the methodology used and the operationalisation of certain terms. In that regard, the presentation of a new framework is one of the contributions this research provides in this particular field.

To address this subject, the research focuses on a two-step analysis of main documents on migration in the particular region of the Southern Neighbourhood, properly collected

and presented in the Methodology chapter of this dissertation. Following a comprehensive introduction to the fundamental concepts, theories and frameworks that were deemed essential to establish the theoretical underpinnings of this research, a thorough examination was conducted in Chapter 4. In that regard, the first part of the analysis focused on the evaluation of the specific section of Migration and Mobility on the New Agenda for the Mediterranean, as well as its complementary Economic Plan on this area, with the aim of establishing a correlation between migration and security that would serve as a base for the second part of the analysis. The subsequent part of the analysis focus on analysing how that relation was presented in the specific Actions, with the ultimate goal to examine the normative coherence of the EU for human rights in the particular case of migration. Hence, the study demonstrates its uniqueness by operationalising the NCD framework and adapting it for the purposes of this specific research. In this regard, the primary contribution of this dissertation lies in the development and implementation of the Normative Coherence for Human Rights framework presented in Chapter 3, which constitutes the core focus of this research, and it is an innovative approach to address the correlation between the introduction of human rights in policies. In that regard, this dissertation aimed to contribute to a widely researched subject from a different perspective providing a new framework that has human rights in its core. In that regard, by utilising this framework in the documents selected for this dissertation important conclusions were suggested.

When examining the section on Migration and Mobility of the New Agenda for the Mediterranean and the complementary Economic and Investment Plan, this dissertation discovered that the documents adopted a security-focused approach to migration, with a notable absence of emphasis on the humanitarian perspective. By applying the theoretical framework of securitisation of migration into the practical example of these two documents, the analysis highlighted the securitised viewpoint of the EU in this area. One of the main findings was the mention to the term “migrants’ rights” exclusively when outlining the primary objectives of the new partnership and introducing the subject of migration. Yet, the subsequent paragraphs on this section do not specifically reference this term and, on the other hand, put forward a security-focused viewpoint on migration throughout its entirety, as evidenced. In that regard, the way in which certain course of

actions are presented can be subject to criticisms. Some of the issues identified include the challenges associated with embracing a “root causes” approach as a presumed comprehensive solution to migration issues without considering its limitations, the potential problems arising from agreements on Talent Partnerships if there is insufficient evaluation of eligibility criteria for accessing them, and, notable, the significant role attributed to border control and return policies in this domain as the main illustration of an securitarian approach to migration. As the dissertation argues in this particular section, albeit not inherently problematic, the manner in which migration is expressed in these texts could potentially imply a disregard for migrant’s rights, particularly in relation to the reinforcement of border controls, as demonstrated. In summary, the New Agenda and its complementary document on an Economic Plan, lack substantial measures aimed at protecting and advancing the rights of migrants, which gives rise to a potential normative inconsistency concerning the promotion of the EU’s values and, specifically, human rights.

To further explore this aspect, it was imperative to conduct a detailed analysis on the specific Actions implemented within this framework. Consequently, this constituted the second phase of the analysis in Chapter 4. The subsequent implementation of these Actions was rationalised on grounds of necessity, firmly asserting their indispensable nature in order to uphold and sustain the progress achieved through the preceding measures as it was mentioned in the Analysis of the Actions section. To conduct the analysis a development of a table of three rights selected and properly justified in the section of Data Analysis of this dissertation. This table was tailored for each Right in connection with the Action, proposing a set of words and phrases that were to be found in each document. Consequently, a scaling system was also developed and utilised in order to grade the Actions. The findings of the application of this methodology will be summarise in the following paragraph.

Consistent with the conclusions drawn from the initial phase of the analysis, it was observed that in the context of the specific Actions, those pertaining to safeguard and bolster the resilience of migrants, along with the establishment of legal pathways through work schemes, actively promoted the rights of migrants. In that regard, Action 2 on

‘Towards a Holistic Approach to Labour Migration and Labour Mobility in North Africa (THAMM III)’ reached the highest score with a 7 out of 9, followed by Action 1 on ‘Increasing protection and resilience of migrants, forcibly displaced persons, and host communities in Libya’ that reached a 6.5. Nevertheless, it is remarkable to highlight that in both cases, the Right that got the less grade was the one regarding Decent Treatment, demonstrating the importance of enhancing the efforts in effectively introduce this right in the actions. On the other hand, those actions where border control and returns constituted the main element of the policies, the place human rights occupied was either absent or not emphasised enough. This was the case of Action 2 on ‘EU support to Border Management Institutions in Libya and Tunisia’, that achieved a 3.5 out of 9, and the case of Action 3 on ‘Supporting sustainable Protection, Return and Reintegration in North Africa’, getting an average mark of 4.5 out of 9. In these two cases, it was demonstrated the lack or reduction of references to migrants’ rights, substantiating the arguments advanced by the dissertation throughout the research. Consequently, when attention is directed towards border protection, both the underlying principles and the Actions advocated predominantly adopt a security-oriented perspective.

Despite the overall positive evaluations that some Actions had when applying this normative framework, this dissertation contends that the proposed Actions in this specific case do not exhibit a consistent alignment with human rights due to identified inconsistencies of its representations in some documents. In that regard, it was argued that the EU has committed itself to approaching migration holistically and emphasises the need to consider various elements when addressing migration actions in third countries. Consequently, the EU has reiterated the importance of upholding its foundational values and ensuring their consistent guidance in its actions. Yet, the findings of this research indicate a prevailing pattern of inconsistencies that undermine the Normative Coherence for Human Rights as a whole when its presentation is not coherently applied in all the Actions. Considering the EU’s actions from a comprehensive viewpoint, the presence of inconsistencies regarding the role of human rights within each Action significantly affects the overall coherence of the entire group. Therefore, this inconsistency undermines the EU’s normative coherence for human rights, ultimately diminishing its credibility and further exacerbating the existing challenge of achieving coherence and consistency.

If Normative Coherence for Human Rights is to be understood from a holistic perspective, then the primary contribution of this dissertation is that EU policies concerning migration need to be viewed holistically, and this they are designed to depend on one another. The findings of this dissertation indicate that while the EU has embraced rights in migration affairs to a certain extent, they are not effectively implemented in the documents examined. In this regard, the securitisation of migration is particularly pronounced in those Actions that focused on border control and facilitating returns. The absence of Normative Coherence for Human Rights in these Actions has significant implications for the overall migration governance of the EU, given that strategies are interconnected and should be perceived as such.

The findings of this research hold relevance not only in relation to the aforementioned aspects but also in terms of their wider implications for future research endeavours. These results bear significance for exploring and understanding various interconnected areas, thereby contributing to a deeper comprehension of the subject matter. In that regard, the impact these findings have in the erosion of the Normative Coherence for Human Rights in the migration field is particularly important because they open up other challenges regarding the alignment of the EU's founding values. This dissertation showed that a partial coherence is actually a normative incoherence for human rights in the particular case of the EU, undermining its commitment to the respect and promotion of human rights. In that sense, if the EU evolved in the last years towards a more political organisation where the promotion and respect for human rights are established as fundamental mandates, any failure to adhere to these principles creates a strong conflict within its *raison d'être*. In this respect, such circumstances can precipitate a crisis in the fundamental principles upon which the EU was established, thereby exacerbating the prevailing lack of credibility in the realm of migration management. Hence, this incongruity undermines the Normative Coherence for Human Rights within the EU, ultimately eroding its credibility and compounding the existing challenge of achieving coherence and consistency. Given the lack of Normative Coherence for Human Rights within the EU, it is valid to ask to what extent can this organisation be considered as a normative power.

Furthermore, the findings of this research illustrate the significance of this study in relation to the contemporary understanding of migration governance. In light of the documented violations of migrants' rights in recent years (FRA, 2023, p. 150), the topic of managing migration in accordance with human rights standards has gained increased relevance, underscoring its critical importance in current discourse. The EU positions itself as a regional organisation that strongly advocates for supranational management of migration, asserting that such approach would yield superior outcomes. However, as evidenced and highlighted by this research, human rights considerations are often sidelined in numerous strategies and actions implemented to exert border control and facilitate the return of migrants. The securitised approach discussed in this dissertation not only fails to effectively safeguard against vulnerabilities, but also contributes to diminish the level of protection for migrants in practice. In that sense, the securitisation of migration erodes the Normative Coherence for Human Rights and the values of the European Union not only within the organisation itself but also in the broader international system. This effectively undermines the notion that migration can be better protected through supranational perspective, as it represents a significant failure. In this context, it is intriguing to consider the extent to which the approach adopted in recent years is genuinely enhancing safeguards for migrants' rights rather than exposing them to greater risks. Coming back to the title of this dissertation, it seems that rights language in migration governance strategies are used more to "humanise securitisation" than to "secure human rights", which is ultimately incoherent with universal human rights values.

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