



# **Norm Collision in the European Union's External Politics**

EU Development Policy Revisited

*Johanne Døhlie Saltnes*

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# Norm collision in the European Union's external policies: EU development policy revisited

Johanne Døhlie Saltnes

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## Abstract

This report contributes to the debate regarding the EU's inconsistent commitment to core values and principles. Whereas the EU has committed to conduct a value-based foreign policy, *inter alia* by promoting the respect for human rights abroad, values are not always followed consistently. The reason for such inconsistencies is often assumed to be that the EU sets its core values aside when they collide with the Union's interests. This report re-examines this claim.

Drawing on insights from recent constructivist research on the contestation of norms, the report argues that it is necessary to redirect the discussion on the characteristics of the EU's external policies away from the stalemate of determining whether interests or normative concerns drive policies. Hypotheses of norm-driven action are often dismissed when norms are not followed consistently. However, just as 'national interests' come in different forms and may compete with each other, policy-makers may be confronted with different norms pointing them in different directions.

The report contains three research articles that investigate whether norms always yield to interests in the EU's development policy. The first article reflects on the researcher's role in determining the characteristics of an actor by discussing the methods we use to determine these characteristics. I identify a selection bias in the literature on the EU's use of human rights sanctions that has resulted in interest-explanations being over-emphasised. The second article investigates why human rights sanctions were not invoked towards Rwanda in a number of episodes during the last decade. I find that EU policy-makers were confronted with a situation of norm collision. The concern for human rights as well as free and fair elections collided with a concern over the negative impact a sanction could have on the social and economic conditions in the country. The main reason the EU did not sanction Rwanda should not be linked to interests but rather to norm collision and the choice to follow one of the colliding concerns. In the third article, I examine why the so-called like-minded member states were hesitant to participate in the EU's common policy on donor coordination, despite coordination being an explicit goal for these countries. I find that the like-minded's scepticism was connected to disagreements with other member states regarding substantive issues in the policy initiative, in particular regarding the extent to which the ownership-principle should be

emphasised. Rather than seeking to maintain control over their policies for self-interested reasons, I find that these states argued over normative principles.

But how can we account for the commitment to norms? This question has so far not fully been explored by second-generation constructivist scholars. In this report, I propose to do so by drawing on the concept of communicative rationality. Through the exchange of arguments, actors are able to assess the validity of normative claims and decide whether different values should be followed.

The findings in this report could be interpreted in line with the idea of the EU as a value-based foreign policy actor. However, the report questions the assumption that a commitment to norms is a particular characteristic of the EU's foreign policy. Norm evaluations are also an important factor in states' policy-making processes. Hence, there is a need for a broader reconsideration of the basic assumptions underpinning analyses of foreign policy.

## Acknowledgements

Whereas the European Union has committed to conduct a value-based foreign policy, *inter alia* by promoting the respect for human rights abroad, values are not always followed consistently. In the literature, the reason for such inconsistencies is often assumed to be that the EU sets its core values aside when they collide with the Union's interests. In this report, I revisit the claim that the EU's fundamental values are sidestepped when respecting them involves costs. I find that inconsistencies also occur because of a collision of normative concerns. The report consists of an introduction and three stand-alone articles that all address this topic:

- The EU's human rights policy: Unpacking the literature on the EU's implementation on aid conditionality
- Norm collision in the EU's external policies: The case of EU sanctions towards Rwanda
- Resistance to EU integration: Norm collision in the co-ordination of development aid

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## List of abbreviations

ACP	Africa, Caribbean and Pacific Group of States
CFSP	Common Foreign and Security Policy
CODEV	Working Party on Development Cooperation
DCI	Development Cooperation Instrument
DFID	Department for International Development (United Kingdom)
DRC	Democratic Republic of the Congo
EDF	European Defence Fund
EPA	Economic Partnership Agreement
EU	European Union
FOI	Freedom of Information
GAERC	General Affairs and External Relations Council
GNI	Gross national income
IMF	International Monetary Fund
IR	International relations
LDC	Least developed country
NGO	Nongovernmental organisation
ODA	Official development assistance
OECD	Organisation for Economic Cooperation and Development
OECD-DAC	Development Assistance Committee
TFEU	Treaty on the Functioning of the European Union
UN	United Nations

# Introduction

The European Union (EU) is often accused of being an inconsistent foreign policy actor: The EU and its member states' policy does not match their rhetoric.<sup>1</sup> Article 21(1) of the Treaty on European Union declares that the Union's action on the international scene shall be guided by the following principles: democracy, the rule of law, human rights and fundamental freedoms, human dignity, equality and solidarity, and respect for the principles of the United Nations (UN) Charter and international law (Official Journal 2012). While some argue that the fact that the EU has made these values an integrated part of its foreign policy goals makes it a *distinctive* foreign policy actor (Aggestam 2008; Manners 2002; Rosecrance 1998; Whitman 1998), others hold that the EU is just like any other foreign policy actor because it sets these core values aside when they collide with the Union's interests (Crawford 2001; Gegout 2017; Hyde-Price 2008; K. E. Smith 2014; Youngs 2004, 2010). The discussion regarding the characteristics of the EU's external policies echoes a broader theoretical debate within the international relations (IR) literature on the possibility of normative considerations influencing actors. Can norms have behavioural effects on policymakers? Some argue that

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<sup>1</sup> In line with Hill and Smith (2005: 8), I define the EU as 'a set of international institutions and arrangements within which the interests and preferences of member states and other actors can be coordinated for international purposes'.

norms have no influence at all on international politics (Keohane 1984; Krasner 1999; Moravcsik and Schimmelfennig 2009; Morgenthau 1951; Waltz 1979). Within this line of thinking, norms are conceptualised as either window-dressing covering up the real motives behind foreign policy or 'second-order concerns' that are pushed aside when in conflict with vital interests' (Mearsheimer 2001: 46–47). Others, however, argue that norms may have constitutive effects and shape policymakers' interests and actions, and thus that acting in accordance with what is considered 'appropriate' may be just as important in an actor's choice of behaviour as notions of self-interest and material gain (Finnemore 1996; Katzenstein 1996; Kratochwil 1989; March and Olsen 1989a, 1989b; Wendt 1999).

The argument that value-based commitments are set aside when they collide with the Union's interests has become something close to an accepted truth in the literature on the EU's external policies. Value-based goals are found to be sidestepped owing to concerns for material gain and security considerations in all key areas of the EU's external relations, including the EU's military interventions (Gegout 2017); its human rights policy (K. E. Smith 1998, 2001, 2014; Youngs 2004); its democracy-promotion policy (Crawford 2005; Olsen 2000, 2002a, 2002b; Pace 2008; Youngs 2010); its security and defence policy (Hyde-Price 2006, 2008), including relations towards Russia and China (Panebianco 2006); its energy policy (Wood 2009); its asylum and migration policy (Sterkx 2008) the use of sanctions (Brummer 2009; Crawford and Kacarska 2017; Portela 2010; K. E. Smith 2006); its development policy (Carbone 2013a, 2013c, 2017; Crawford 2001; Olsen 2005; Orbie 2008; Orbie and Versluys 2008) and its trade policies (Faber and Orbie 2009; Gegout 2016; Zimelis 2011). According to these scholars, the EU promotes respect for human rights or other fundamental principles only when such promotion does not conflict with the Union's interests. In other words, the Union puts its own interests first, with the result that norms are sidestepped if respecting them involves costs. Accordingly, the EU's commitment to human rights is simply an example of the 'use and abuse of political rhetoric to conceal unprincipled and disreputable practices', argues Crawford (2013: 159).

Yet some empirical observations suggest that the 'interests prevail' thesis cannot fully explain the EU's external policies. Indeed, there are a number of examples that illustrate that the EU has been willing

to set its interests aside in order to pursue the goal of protecting fundamental values abroad. For instance, the EU has imposed sanctions over violations of human rights and democratic principles in countries of security importance, such as Mali (2012 and 2014) and Ethiopia (2005) (Molenaers et al. 2017). Mali is considered a country of security interest owing to the European countries' goal of curbing flows of migrants and combating violent extremism and radicalisation (Speck 2013). Similarly, Ethiopia is considered a key ally of the West in the fight against terrorism and because of the contribution it makes to maintaining peace in its region (Del Biondo 2011). Moreover, in countries where neither the Union nor its member states have vital interests, such as Rwanda, inconsistencies in the EU's policies also occur.<sup>2</sup> While human rights violations in Rwanda in 2012 were followed by bilateral sanctions from donors such as Sweden and the USA, the EU chose not to cut its development aid.

These empirical examples are puzzling if one assumes that the EU's interests are always put first when they collide with value-based goals, and they suggest that we may need to reconsider the conventional wisdom regarding the motivation for actors' foreign policy choices. Hence, I ask: *To what extent and why are there inconsistencies in the EU's commitment to its core values and principles?*

In this dissertation, then, I re-examine the claim that the EU's fundamental values and principles are sidestepped when respecting them involve costs. I investigate whether inconsistencies between the EU's rhetoric and practice also may occur because of a collision of normative concerns. I define *norm collision* as situations in which policymakers are faced with several and competing value-based goals that point them in different directions. Such situations require prioritisations and that one of the competing goals be set aside. Hence, the report takes the literature on the EU's external policies a step forward by providing an alternative account for inconsistencies in the EU's external policies, but without losing sight of the possibility that self-interested concerns for material gain or security can also drive the EU's decisions.

I investigate an area of the EU's external policies in which value-based goals are frequent, namely, the EU's development policy. On the one hand, it could be argued that development is an easy case for

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<sup>2</sup> See Article 2 for a discussion of the EU's putative interests in Rwanda.

confirming the hypothesis that there is something distinctive to the EU's external policies owing to the development policy's normative anchoring. If there is any EU external activity in which we are likely to find that normative considerations have been important, it should be in the policy that seeks to lift people out of poverty. Further, there is some evidence that points in the direction of the EU's distinctive role in development: 'something akin to a "European" vision and approach has been emerging. Even within the so-called "western" donor landscape, the EU has increasingly differentiated itself', find Orbie et al. (2017: 505). On the other hand, it might also be argued that development policy is a least-likely case for investigating the influence of value-based considerations on the EU's external policies. The literatures on foreign aid and EU development policy largely hold that as development has a large budgetary component, actors will likely use foreign aid as a means to secure their vital interests in developing countries or to enhance their status internationally (Alesina and Dollar 2000; Bodenstein et al. 2017; Carbone 2013a, 2013b, 2017; Carbone and Quartapelle 2016; De Felice 2015; Furness and Gänzle 2017; Koch and Molenaers 2016; Molenaers and Nijs 2011; Versluys 2008). As regards the EU, the possibility of using economic power to secure vital interests might be particularly relevant, since development is one of the few areas within the EU's external policies where the EU holds the power of the purse. There might be a variety of interests connected to the disbursement of a €14 billion budget.<sup>3</sup> This ambiguity of development policy – that it on face value could be expected to be norm-based and that it is also vulnerable to actors' self-interests – makes it a particularly interesting case for studying why the EU acts inconsistently.

### Why study inconsistencies?

The literature assessing the EU's external policy shows that there are discrepancies between the EU's rhetoric on promoting human rights, democracy and good governance, on the one hand, and its practice, on the other. In addition, the use of double standards between what the EU says and what it does is a central finding by authors investigating external perceptions of the EU's foreign policy

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<sup>3</sup> In 2017, the EU and its member states provided official development assistance (ODA) amounting to €75.7 billion (European Commission 2018). EU institutions alone dispersed \$16.5 billion of that amount (which equals approximately €14 billion) (OECD 2018).

(Fioramonti and Poletti 2008). In this report, I refer to such discrepancies as *inconsistency*.<sup>4</sup> Following K. E. Smith (2001: 200), I define consistency as a situation where ‘countries in more or less the same situation are treated more or less similarly: the same standards apply to all, unless otherwise justified’.<sup>5</sup>

Inconsistent foreign policy practices are common and are found in the foreign policies of countries worldwide. A prominent example is the United States:

Most European observers have been rather sceptical about the American claim to uniqueness, particularly as it usually implied American superiority. To many Europeans, what was unique about America was its uncanny ability to make the most inspiring idealism coincide almost perfectly with rather ordinary national objectives

(Lundestad 1990: 41, cited in Sjursen 2006a: 240)

Why, then, does consistency matter? First, a certain level of consistency is necessary if one is to be considered a credible actor in international politics.<sup>6</sup> Second, a policy that claims to promote human rights but only does so when the implementation of such a policy does not conflict with national interests also lacks legitimacy. In Elster’s (1999) terms, the misuse of values and principles to camouflage self-interested practices is equivalent to hypocrisy. Others would label it ‘organised hypocrisy’, emphasising systematic contradictions between norms and interests in organisations (Lipson 2007).<sup>7</sup> In the worst case, a continued hypocritical foreign policy could contribute to weakening

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<sup>4</sup> One can make a distinction between intended inconsistency and inconsistencies that occur because of lack of capabilities. Hill’s (1993) well-known concept of the ‘capability-expectations gap’ has been used to illustrate that the EU lacks capabilities to act on the goals it has set out to follow. The focus in the present report is slightly different: It examines two aspects of the EU’s external policies in which the question of capabilities is not questioned. The question is whether the EU has been willing to bear the costs of following its value-based commitments.

<sup>5</sup> In the literature on the EU, the concepts ‘consistency’ and ‘coherency’ are often used interchangeably. This report does not look into debates about coherency, defined as coherence among EU institutions or coherence of goals across different policy fields (Gebhard 2017). Rather, it investigates the extent to which the EU treats similar situations alike (consistency).

<sup>6</sup> I discuss this point more in depth on p. 27.

<sup>7</sup> See also Brunson (1989) and Krasner (1999).

support for the very principles it was intended to realise (Morgenthau 1951: 35, cited in Lipson 2007: 23).

The literature on the EU's external policies has made an important contribution to our understanding of what drives EU action by documenting cases where concerns for material gain and security have trumped value-based goals. However, there remains a gap in this literature in relation to inconsistent practices in cases where no such apparent 'interest' is present and where value-based goals have been pursued even when this went against the EU's interests. What many of the existing studies do not consider is the possibility that actors may be acting on reasons other than self-interest when they choose to *not* comply with a norm. Just as 'interests' come in different forms and may compete with each other, policymakers may also be confronted with different norms pointing them in different directions (Aggestam 2008; Sjursen 2006a). A similar observation has recently been made by the so-called *second-generation constructivists* who argue that norms may change and that there may be significant variation in what policymakers consider to be appropriate compliance with a norm (Deitelhoff and Zimmermann 2013; Hofferberth and Weber 2015; Joachim and Schneiker 2012; Krook and True 2010; Puetter and Wiener 2007; Sandholtz and Stiles 2008; Van Kersbergen and Verbeek 2007; Wiener 2008).

Building on the insight that norms are contested and may collide, I argue that we must reconsider whether inconsistencies in the EU's external policies can be accounted for by a collision of normative concerns. In order to do so, I develop a more nuanced concept of norms. The added value of this conceptualisation is that it allows for the theoretical possibility that references to value-based goals can be something other than hypocrisy (Sjursen 2004).

### The approach

In this dissertation, I suggest that two conceptual moves are required if we are to investigate why there are inconsistencies in the EU's commitments to its expressed core values and principles. First, it is necessary to apply an approach that is able to account for the influence of normative considerations on foreign policy. Essentially, we need an approach that conceives of norms as having a rational core – in other words, an approach within which an action conducted in accordance with norms is considered a 'rational choice'. Second, I

suggest that we need to redirect the discussion on inconsistencies away from the stalemate over the question of whether interests or normative concerns drive policies and allow for discriminating between different interest-based and value-based concerns.<sup>8</sup>

I propose to complement existing accounts of the EU's external policies with a conception of actors as communicatively rational (Habermas 1993, 1996, 1998). Following a number of scholars, I argue that elements of a communicative approach contain the tools necessary to account for behaviour resulting from normative considerations (Deitelhoff 2009; Deitelhoff and Müller 2005; Eriksen 2000, 2005; Lose 2001; Müller 2004; Risse 2000, 2004; Sjursen 2003, 2004, 2006a, 2006b). In a communicative perspective, norms are distinguished from interests on the ground that they are considered 'autonomous sources of motivation owing their validity to their *impartial justification*'. In line with this perspective, norms are justifications that can be 'defended in an open, free and rational debate (among all affected)' (Sjursen 2004: 114). Interests, on the other hand, are sources of motivation that benefit an actor's preferences. Such interests are operationalised in the literature as, *inter alia*, concerns for national security and material gain (Eriksson 2011). Rationality is linked to an actor's ability to provide justifications for their actions. Such justifications may involve arguments regarding security or other vital interests as well as *various* normative considerations, such as protecting human rights or fostering poverty reduction. Accordingly, the conception of actors as communicatively rational is particularly helpful in explaining the EU's common external policies because it allows for discriminating between different norms while also taking seriously the possibility that policy choices are guided by self-interest.

Drawing on this perspective, it is possible to take the scholarship on the EU's external policies a step forward by formulating hypotheses anchored in different norms as well as different interests (Carbone 2013a, 2013b, 2017; Crawford 2001, 2005; Crawford and Kacarska 2017; Faber and Orbie 2009; Gegout 2017; Hyde-Price 2006, 2008; Olsen 1998, 2000, 2002a, 2002b; K. E. Smith 1998, 2001, 2014; Youngs 2004, 2008). When seeking to account for inconsistencies in the EU's development policy, the literature so far has mostly considered

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<sup>8</sup> See Orbie and Khorana (2015) for a similar suggestion.

hypotheses anchored in one particular norm (e.g. human rights).<sup>9</sup> If the hypothesis based on one norm is not substantiated, it has been common to return to interest-based hypotheses. However, when applying an approach that allows for contending alternative hypotheses, we open up for the possibility that inconsistencies in complying with one norm may have resulted from policymakers acting in accordance with a different norm rather than according to self-interest. This does not mean that we should exclude the possibility that decisions based on actors' self-interests may occur. Yet interest-based explanations may have been overemphasised in previous studies because of the lack of a conceptual apparatus that, first, distinguishes between different norms and, second, conceives of norms as having a rational core.

## Contribution

This report contributes to several strands of literature (see below). While it has been established that interests contribute to inconsistent foreign policy, we know less about the extent to which and why inconsistencies occur when there are few or *no* national interests at stake. The present dissertation contributes to filling this gap both empirically, by investigating the extent to which inconsistencies occur, and theoretically, by developing an alternative hypothesis to explain the EU's inconsistent commitment to core values and principles. In doing so, it mainly contributes to the literature on the characteristics of the EU's external policies, particularly with regard to the question of whether there is something distinctive to the EU's external policies. I suggest that a commitment to norms might not be a particular characteristic of the EU's policies, but also relevant for explaining the foreign policy of states. Furthermore, I add to this literature by developing an alternative hypothesis – one based on the idea of *norm collision* – for why inconsistencies occur. Given that inconsistency is a universal phenomenon, my findings are also of relevance to the IR literature on the influence of norms on policymakers' behaviour (Finnemore 1996; Katzenstein 1996; Kratochwil 1989; March and Olsen 1989a; Wendt 1999).

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<sup>9</sup> With the notable exception of Del Biondo (2015a, 2015b) and Del Biondo and Orbie (2014), who hypothesise a dilemma between promoting economic development and democracy in the EU's development policy. See also Elgström and Pilegaard (2008). For discussions of norm collision in political philosophy, see Habermas (1993) and Günther (1993). See also Article 2 of this report for a discussion of Günther (1993).

Although this report uses the EU's development policy as its empirical basis, the argument it advances is also relevant for the literature on foreign aid. In this literature donors are usually conceptualised either as 'self-interested realists' who use aid as a tool for expansionism and Western control or, alternatively, as 'idealists' driven by altruistic motives, such as lifting those worse off out of poverty (Easterly 2006; Lumsdaine 1993; Moyo 2009; Stokke 1989). This report contributes by developing a theoretically anchored alternative to the hypothesis of actors being driven by altruism. Building on a conception of actors as communicatively rational, it can be assumed that policymakers are able to justify their choices through reference to *substantive* reasons and therefore that it is more to their choices than simply un-selfish behaviour (Habermas 1993, 1996, 1998).

To develop the norm-collision hypothesis, I build on recent norm-contestation literature, in particular the insight that norms are inherently contested and different types of normative considerations may collide (Deitelhoff and Zimmermann 2013; Hofferberth and Weber 2015; Joachim and Schneiker 2012; Krook and True 2010; Lantis 2016; Panke and Petherson 2016; Puetter and Wiener 2007; Sandholtz and Stiles 2008; Van Kersbergen and Verbeek 2007; Wiener 2007, 2008; Wiener and Puetter 2009). However, these second-generation constructivists have focussed mainly on norm contestation at the domestic level. I add to this scholarship by investigating the relevance of norm collision at the EU level. Thus, I move beyond their assumption that actors' interpretations of norms are produced by domestic socialisation (Wiener 2014) and show that the member states' positions are also challenged, discussed and altered at the EU level.

## Outline of the report

The report consists of this introductory chapter and three articles with the following titles:

- Article 1: 'The EU's human rights policy: Unpacking the literature on the EU's implementation of aid conditionality'
- Article 2: 'Norm collision in the EU's external policies: The case of EU sanctions towards Rwanda'
- Article 3: 'Resistance to EU integration: Norm collision in the coordination of development aid'

To find out why there are inconsistencies in the EU's commitment to its expressed core values and principles, I examine two aspects of the EU's development policy in relation to which it has been argued that the EU does not commit consistently to values because the cost of doing so is too high: In Articles 1 and 2, I investigate the EU's inconsistent use of human rights sanctions towards developing countries; in Article 3, I examine member state opposition to the EU's aid-effectiveness policy.

In the first article, I reflect on the researcher's role in determining the characteristics of an actor's foreign policy. I do so by discussing the methods we use to ascertain these characteristics. I identify a selection bias in the literature on the EU's use of human rights sanctions, as a result of which interest-based explanations are overemphasised. I argue that to fully understand the EU's sanctions practice, we need more rigorous methods. We also need to develop concepts other than those that are prevalent in the existing scholarship. I then suggest several alternative hypotheses of the EU's sanction practice and expand on the one I consider the most promising.

The second article follows from the findings in Article 1. I examine a so-called *non-case*, namely why the EU did not impose sanctions in relation to human rights violations in Rwanda.<sup>10</sup> We would normally expect the EU to sanction Rwanda for human rights violations because it has few interests there, and there would thus be no 'cost' connected to the imposition of such sanctions. I find that the main reason for the EU's decision not to impose sanctions on Rwanda should not be linked to interests. Rather, the consideration of two conflicting norms, and the choice to follow one of them, can account for the EU's decision. In this case, the concern for human rights collided with a concern for the potentially negative impact of sanctions on the social and economic conditions in Rwanda, and the EU chose to act in accordance with the latter.

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<sup>10</sup> See Article 2 for details on the period and events investigated.

In the third article, I investigate inconsistency at the member state level. I examine why the so-called like-minded member states<sup>11</sup> opposed the EU's aid-effectiveness policy on donor coordination. The resistance of these states is puzzling because of their unconditional commitment to aid effectiveness in multilateral fora (such as the UN and OECD). Member state opposition to common EU initiatives is usually argued to be caused by national interests (Carbone 2008, 2013a, 2013b, 2017; Horký 2012; Orbie and Carbone 2016; Orbie and Lightfoot 2017).<sup>12</sup> Contrary to this, I find that the like-minded member states' scepticism resulted from a collision of normative concerns regarding how the policy should be formulated, in particular the extent to which the ownership principle should be emphasised. While second-generation constructivists have emphasised the domestic nature of norm contestation, I identify situations of contestation also at the EU level (Puetter and Wiener 2007).

Altogether, I find that norm collision is relevant for understanding the EU's external policies. I also find that the Union's value-based policies collide. In particular, the EU's 'development norms' (fostering sustainable development, poverty eradication, ownership and partnership) collide with the overall values of the EU's external policies, namely, the respect for democracy, the rule of law, human rights, fundamental freedoms, human dignity, equality and solidarity.<sup>13</sup> Hence, if we are to fully account for inconsistencies in the EU's policies, we need to take heed of tensions between the EU's normative commitments. Rather than being evidence of hypocrisy, the gap between rhetoric and practice may be caused by the fact that the EU is committed to a series of conflicting norms. Incidentally, my findings also put the debate on the particularity of the EU's foreign policy in a different light – a matter to which I will return in the Conclusion.

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<sup>11</sup> The *like-minded* countries are Sweden, Denmark, the United Kingdom, Ireland and the Netherlands (plus Norway and Canada in non-European settings). See Article 3 for a more thorough discussion of my distinction between 'like-minded' and 'Southern' member states. For distinctions between different groupings of member states in terms of their development, see Carbone (2007), Elgström and Delputte (2015), Orbie and Lightfoot (2017), M. Smith (2016) and Szent-Iványi (2012).

<sup>12</sup> For an alternative hypothesis on the like-minded member states' resistance, one related to identity, see Delputte and Orbie (2014), Delputte and Söderbaum (2012), Elgström and Delputte (2015), and Orbie (2012).

<sup>13</sup> For a discussion of the EU's development norms, see Orbie and Versluys (2008: 79).

The remainder of this introductory chapter is organised as follows: The second section situates the EU's development policy in the context of the EU's foreign policy more generally. The third section expands on the analytical approach applied in the report, while the fourth section explains the research design, methodology and sources. Finally, the fifth section concludes with a discussion of the implications that may be drawn from the report.

## **Development policy as a case of the EU's external policies**

The development policy of the European Union can be situated somewhere in between the member state led common foreign and security policy and the EU institutions led trade policy. It is neither distinctively intergovernmental nor supranational but falls within the so-called shared competences, where member states and EU institutions develop legislation alongside each other (Orbie and Lightfoot 2017).<sup>14</sup>

In the following, I situate the EU's development policy within its external policies more generally. I show that development, both in decision-making procedures and in substance, embodies characteristics that are also typical for the EU's external policies. First, I discuss the ambivalent position of development policy following from the shared competences of the member states and EU institutions: While development involves the supranational institutions in the EU, the member states play an important role in making decisions (Orbie and Lightfoot 2017). Second, I show that the empirical aspects of development policy that are discussed in this report, human rights sanctions and aid effectiveness, raise dilemmas that are representative of the EU's external policies more generally. Accordingly, in this report, I treat the EU's development policy as a case of the Union's wider external policies.

## **Decision-making**

As regards decision-making, the realm of development differs, at least in part, from foreign policy. In development, EU institutions share competences with the member states. The ordinary legislative

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<sup>14</sup> See Orbie and Lightfoot (2017: 203) for the particular form of shared competences applying to development cooperation. For shared competences in general, see Chalmers et al. (2010: 209).

procedure – formerly known as co-decision since the Council of the EU and the European Parliament share legislative competence – applies to those aspects of the EU's development policy that form part of the EU budget (TFEU Article 209[1]). The main funding instrument within the EU budget is the Development Cooperation Instrument (DCI), which covers EU programmes in Latin America, Asia, the Middle East and South Africa.<sup>15</sup> However, significant parts of the EU's development policy are shaped outside this legislative framework (Orbie and Lightfoot 2017). For instance, the European Development Fund (EDF), which covers development cooperation with the ACP states, is funded directly by member states and, like foreign policy decisions, is therefore dependent on consensus.

In Articles 1 and 2 of this report I discuss the EU's use of human rights sanctions. Within the EU, it is the Council of the European Union that decides on whether sanctions should be imposed for human rights violations, through a process of qualified majority voting (Portela 2010: 27) – a decision-making procedure that distinguishes itself from the consensus-based model used in the Union's foreign policy, where unanimity applies. However, scholars have documented that although qualified majority voting applies in such cases, unanimity is usually the decision-making method used in practice (Laakso et al. 2007: 16). This means that human rights sanctions are seldom applied unless all member states agree to the decision. Accordingly, the issue of human rights sanctions illustrate foreign policy decisions more generally.

EU development aid is sometimes suspended without reference to the human rights clause or any other article in the Union's treaties. A typical example is the so-called budget-support suspensions that involve a reduction or halt in the funds that are transferred directly to a recipient country's budget. When such actions are taken, the European Commission usually issues a press release to provide information on its decision. One example of such a decision is the Commission's suspension of development aid to Mali in 2012 (European Commission 2012). Similarly, the decision to *not* sanction Rwanda, which is the topic of the second article in this report, was also taken by the Commission. However, as I emphasise on p. 560 in

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<sup>15</sup> South Africa is part of the ACP group; however, it does not receive funds through the EDF as other ACP countries do. EU funds for South Africa are dispersed through the DCI and thus are also subject to the EU budget.

Article 2, such decisions are not taken by EU institutions alone. The Commission consults with the member states on their individual reactions and comes to an agreement with them on what the EU's decision should be. The decision-making process in such cases, however, is difficult to document since it is up to the Commission whether it notifies the public of its decision (e.g. through a press release). There is therefore no exact record of how many times the EU has suspended aid because of human rights or democracy breaches in third countries.<sup>16</sup> At the time of writing, the official EU record of suspensions made with reference to a human rights clause includes 24 cases. All of these were EU suspensions of development aid to ACP states.<sup>17</sup>

In Article 3 of this report, I study the negotiations around the EU's policy document that sought to enhance donor coordination, namely, the *Code of Conduct on Complementarity and Division of Labour*. This policy document is one among many intergovernmentally agreed policies which together define the EU's development policy (see below). These documents are negotiated by both EU institutions and the member states and are valid for both the EU's common development policy as well as the member states individual development policies. The code of conduct was adopted unanimously in the European Council in 2007. Accordingly, the policy documents that define the EU's development policy are negotiated and decided on through similar decision-making procedures as the EU's foreign policy.

### Human rights sanctions and aid effectiveness

To investigate to what extent and why there are inconsistencies in the EU's commitment to core values and principles, this report examines two empirical aspects of the EU's development policy in relation to which it has been argued that interests have pushed aside the EU's value based commitments. These aspects are human rights sanctions (Articles 1 and 2) and aid effectiveness (Article 3). Below, I show that these aspects raise dilemmas that are relevant for understanding both the development and the wider external policies of the EU.

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<sup>16</sup> For a dataset on budget-support sanctions, see Molenaers et al. (2017).

<sup>17</sup> Taken with reference to Article 366a (Lomé) and Articles 96 and 97 (Cotonou). See Article 1 of this report for an overview. Article 1 of this report only considers cases until 2012. Since 2012, the EU has used Article 96 against Burundi (Council of the European Union 2015).

The choice to include a human rights clause in the EU's cooperation agreements with developing countries is consistent with the goal of promoting respect for human rights in the Union's external policies. The EU's commitment to human rights in its foreign policy is enshrined in Article 21(1) of the Treaty on European Union:

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.

(Official Journal 2012)

Compared to the human rights commitments of international organisations such as the World Bank and the IMF, the EU's human rights commitments are distinctive. Although many international organisations have human rights provisions in their treaties, no international organisation has a commitment that is comparable to the EU's systematic inclusion of respect for human rights in its external policy documents. The World Bank has been accused, *inter alia*, of being a 'human rights-free zone' (United Nations 2015: 2). The practice of making development cooperation dependent on respect for human rights seems at first glance to be a specific trait of the EU's external policies.

The decision to make the respect for human rights and democracy conditional for the EU's development policy was first made in 1991. The EU decided to insert human rights clauses into all of the Union's future trade and development agreements. If one party to the agreement were to be involved in human rights violations, the other party would be entitled to suspend the agreement in whole or in part:

While, in general, a positive and constructive approach should receive priority, in the event of grave and persistent human rights violations or the serious interruption of democratic processes, the Community and its Member States will consider appropriate responses in the light of the circumstances, guided by objective and equitable criteria. Such measures, which will be graduated according to the gravity of each case, could include confidential or public *demarches* as well as changes in the content or channels of cooperation programmes [...] or, when necessary, the suspension of cooperation with the States concerned [...]. The Community and its Member States will explicitly introduce the consideration of human rights as an element of their relations with developing countries; human rights clauses will be inserted in future cooperation agreements.

(EC Bulletin 1991)

The practice of including a human rights clause in cooperation agreements is also known as 'political conditionality'. K. E. Smith (1998: 256) provides a commonly used definition:

The linking, by a state or international organisation, of perceived benefits to another state (such as trade concessions, cooperation agreements, political contracts, or international organisation membership), to the fulfilment of conditions relating to the protection of human rights and the advancement of democratic principles.

Although referred to as a *human rights clause*, the EU's political conditionality policy also involves making agreements dependent on respect for democratic principles, good governance and the rule of law. Political conditionality distinguishes itself from the *economic conditionality* associated with the so-called Washington consensus and the structural adjustment programmes that were used as pre-conditions for the receipt of aid by the World Bank and the International Monetary Fund (IMF) in the 1980s and 1990s. Political conditionality, applied in the EU's foreign policy, is also different from enlargement conditionality, applied to countries seeking membership in the Union. The latter is a more comprehensive form of conditionality and involves economic conditions in addition to

political conditionality principles.<sup>18</sup> The EU has now included a human rights clause in its agreements with over 150 countries, including in the nine Euro-Mediterranean association agreements and its association agreements with the Western Balkans and countries from the former Soviet Union, Latin America, Asia, the Gulf region, and the African, Caribbean and Pacific (ACP) group of states.

The EU has put significant effort into streamlining its human rights clause into all external agreements. One example of such efforts is the negotiation of a cooperation agreement with Australia and New Zealand that collapsed over the issue of including a human rights clause in 1997 (Bartels 2008: 3; European Report 1997; K. E. Smith 1998).<sup>19</sup> The choice not to finalise an agreement with Australia and New Zealand – a choice that represented a ‘cost’ to the EU, as it lost opportunities for trade and cooperation – illustrates the importance the EU assigns to its human rights clause.

Political conditionality is a controversial instrument in the EU’s external policies. Politicians, academics and public intellectuals within both donor and recipient countries have criticised it. According to Hurt (2003), for example, the ACP states ‘vigorously opposed’ the inclusion of a human rights clause in the Lomé negotiations. The main criticisms relate to conditionality being unethical (in conflict with the principle of national sovereignty), ineffective and counter-productive (Uvin 2004). Representatives from aid-recipient countries have been especially vocal in their criticism: ‘this “second independence” may well be a virtual *recolonization* by donor agents, very much in the saddle of a unipolar world with only one source of capital, greatly in demand’ (Decalo 1992: 29, cited in Robinson 1993: 91, emphasis in original). Despite this criticism, the EU has strengthened the human rights clause’s status as a fundamental characteristic of EU development policy. In the EU’s 2010 development policy statement ‘The Agenda for Change’, the focus on good governance intensified and the European Commission (2011: 5) stated that ‘stricter conditionality will be warranted’. In addition, the recently adopted new European consensus on development holds

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<sup>18</sup> See Holland and Doidge (2012: 190–208) for an overview of political and economic conditionality. See also Molenaers et al. (2015) for a distinction between first- and second-generation political conditionality.

<sup>19</sup> Mexico and the Czech Republic also objected to the inclusion of a human rights clause in their trade agreements with the EU but eventually accepted it (K. E. Smith 1998: 264).

that ‘the EU and its Member States will implement a rights-based approach to development’ (Council of the European Union 2017: 6).

With regards to aid effectiveness, the EU’s policies emerged in parallel with the broader discussion on making aid more effective and transparent in the Organisation for Economic Co-operation and Development’s (OECD) Development Assistance Committee (DAC). Donors and recipients of aid agreed on the need to support recipient-owned development strategies adapted to local needs as well as to improve coordination among donors with the aim of reducing transaction costs. These goals were officially established at the Second High-Level Forum on Aid Effectiveness in Paris in 2005 (OECD 2005). Signed by over 100 developing and developed countries, the Paris Declaration is a roadmap for improving the quality and impact of aid by emphasising country ownership, transparency, the importance of mutual accountability and the need for enhanced coordination among donors.

During the same period, the EU began the process of formulating a common EU development policy. The first development statement was released in 2000, but it was not until the *Consensus on Development* was agreed upon in 2005 that the EU had a clearly formulated common development policy. Since then, the member states in cooperation with EU institutions have developed and agreed on a number of common initiatives on development.<sup>20</sup> In all of these initiatives, the intent to enhance *coordination* between the member states’ individual development policies and the Union’s common policy has been a central feature. Yet, the aim to enhance coordination between EU institutions and member state policies is not specific to the EU’s development policy. In fact, coordination and complementarity have been central aims of the EU’s foreign policy since the Single European Act (1986) (Gebhard 2017). The Treaty of Maastricht reiterated that coherence and consistency are requirement

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<sup>20</sup> Some define development policy, as for example the two versions of the European Consensus on Development (Council of the European Union, European Parliament and European Commission 2006; Council of the European Union 2017), the Code of Conduct on Complementarity and Division of Labour (Council of the European Union 2007), the Agenda for Change (European Commission 2011). Others have a regional or thematic rationale, such as the EU Strategy for Africa (European Commission 2005) and the EU mandate to the negotiations of the Sustainable Development Goals/ Agenda 2030 (European Commission 2013). See also Orbie and Lightfoot (2017: 203–204) for more details on common development initiatives.

for the EU's external policies, and introduced the so-called '3Cs' of development cooperation: complementarity, coherence and co-ordination (Official Journal 1992). The EU's current legal basis, enshrined in the 2009 Lisbon Treaty, defines complementarity, co-ordination and coherences as central principles for the EU's external policies in general, as well as for its development policy in particular.

In summary, the particular aspects of the EU's development policy that are examined in this report raise some general dilemmas that are of relevance to all areas of the EU's foreign policy. The specific issue of a human rights clause is not particular to the EU's development policy but is a general trait of the EU's external policies. Likewise, questions of aid effectiveness and how to fulfil the requirements of complementarity and coordination that follow from the ambition of a more effective aid policy are challenges that arise in all spheres of EU external policy. In addition, the cases I have chosen to investigate involve EU decisions that were taken through a process of unanimity, which is the general rule for EU foreign policy. These various factors make these cases relevant for an investigation of the features of the EU's external policies in general.

## Analytical approach

The primary task of foreign policy is usually defined as that of securing the 'national interest' (Carr 2001; Morgenthau 1951; Moravscik 1998; Moravscik and Legro 1999; Waltz 1979, 2000). Taking this as their starting point, scholars see foreign policy as the result of a 'rational' choice between alternative courses of action. They assume that a rational policymaker would choose the path best suited to protect the interests of the state(s). Such interest-based perspectives are also often used to account for the EU's foreign policy (Crawford 2001; Gegout 2017; Hyde-Price 2006; K. E. Smith 2001, 2014). The relevance of interests in foreign policy decision-making is undeniable, however, the question is whether we should always reduce our explanation of foreign policy to a matter of interests. Could it be that the EU's commitment to adhere to certain values and principles in its foreign policy is something more than mere hypocrisy – the misuse of norms to disguise self-interested motives? If so, how can this commitment to values be accounted for?

In this report, I suggest that while we must take the role of interests seriously when seeking to account for the EU's policies, we must take

the role of norms equally seriously. Thus, in addition to drawing on interest-based perspectives when examining the empirical puzzles, I draw on a communicative perspective that opens for the possibility that complying with norms may also be a 'rational' choice. In the following, I discuss the strengths and weaknesses of the different perspectives for accounting for the EU's foreign policy in more depth than what was possible in the individual articles. I include a brief discussion of the 'normative power Europe' literature and a justification for why I consider the normative power Europe concept insufficient to account for the EU's external policies. I also situate the communicative perspective in the IR debate between constructivist and interest-based perspectives.

### **Interest-based perspective**

Interest-based perspectives share a set of expectations about how actors behave in international relations. The main assumptions are:

- Actors are instrumentally rational and act to maximise expected utility, meaning that actors form preferences after assessing how well alternatives would help them achieve their goal(s).
- Actors have consistent preferences.
- Actors make decisions according to cost-benefit calculations that might include an element of strategic reasoning, including calculations regarding the expected behaviour of other agents.
- Actors are self-interested; they choose actions that would benefit their own interest(s), often related to economic or security considerations (Eriksson 2011: 16–24).

Different variants of interest-based perspectives, including those of realists (Carr 2001; Morgenthau 1951, 1993), neorealists (Waltz 1979, 2000) and neoliberalists (Krasner 1999; Moravcsik 1998; Nye 2004), rest more or less explicitly on these assumptions. Scholars that rely on interest-based perspectives also apply different operationalisations of the 'national interest'. It is common to range security as the most important interest, followed by (among other things) concerns for economic gain and prestige (Gegout 2017). Scholars using interest-based perspectives also share the assumption that norms play a minimal role in international relations; that is to say, if norms are influential, such influence is relevant only in minor issues that do not concern issues of national interest (Donnelly 2009).

Interest-based perspectives are widely used to account for the EU's foreign policy in general and its development policy in particular (Brummer 2009; Crawford 2001; Carbone 2013a, 2017; Gegout 2017; Hyde-Price 2006, 2008; Olsen 2002a, 2002b, 2005; K. E. Smith 2001, 2014; Youngs 2004, 2010). These scholars operationalise EU interests mainly in terms of concerns for security and economic gain. For instance, it has been argued that the EU's development cooperation with Africa is based on a concern for securing trade interests and access to raw materials on the continent (Farrell 2005; Lister 1998; Ravenhill 1985). Other operationalisations are also common, such as concerns related to prestige and enhancing the EU's status in the world (Arts and Dickson 2004; Gegout 2017; Olsen 2005; Söderbaum and Stålgren 2010). Hyde-Price (2006), for example, argues that the primary concern of the EU is to increase the member states' influence in international affairs. Normative foreign policy goals, such as fostering human rights and 'tackling poverty in the global south', are considered 'second-order concerns' that will be pursued only when they do not conflict with the vital interests of member states.

Scholars that rely on interest-based perspectives often point to inconsistencies between actors' words and deeds to back up their arguments (Brummer 2009; Carbone 2013a, 2013c, 2017; Crawford 2005; Crawford and Kacarska 2017; Gegout 2017; K. E. Smith 1998, 2001; Olsen 2000, 2002a, 2002b; Pace 2008; Panebianco 2006; Youngs 2004, 2010; Wood 2009). Scholars assume that actors calculate the costs and benefits of alternative foreign policy actions and choose the option that best serves their interests, which results in inconsistencies in the way third countries are treated. If country x has some sort of interest in country y, country x would not use negative foreign policy instruments (i.e. sanctions) towards country y because doing so would be viewed as incurring costs for country x. For instance, explaining the EU's use of sanctions following human rights violations in third countries, K. E. Smith argues (2014: 119):

There are three reasons for the inconsistencies: one or more member states blocks the use of negative measures on certain third countries because they would harm their commercial interests; one or more member states blocks the use of negative measures because the country is politically or strategically too important to antagonize; and doubts about the effectiveness of negative measures in general affect policy making.

While the first two reasons given by the author are explicitly linked to interests, the third reason also rests on an interest-based perspective via the pragmatic argument that sanctions are not expected to be effective.

The dominance of interest-based perspectives is mirrored in the broader literature on foreign aid. Also, in this literature donors' behaviour is assumed to be driven by national interests (Alesina and Dollar 2000; Bearce and Tirone 2010; Bigsten and Tengstam 2015; Bigsten et al. 2011; Bourguignon and Plateau 2015; De Mesquita and Smith 2007; Easterly 2002; Fuchs et al. 2015; Hackenesch 2015; Schraeder et al. 1998). These scholars assume that concerns related to commercial benefits, domestic visibility (satisfying national constituencies), 'political' considerations (e.g. special relationships with developing countries) or 'bureaucratic interests' (e.g. aid agencies being afraid of losing their power vis-à-vis other actors) are the main motivations for decisions on aid.

Interest-based perspectives have made an important contribution to our understanding of international relations in general and the EU's external policies in particular not least by providing an account for discrepancies between actor's words and deeds. In Articles 2 and 3 of this report, I draw on interest-based perspectives when I aim to account for the EU's inconsistent commitment to its core values. Two hypotheses were devised to investigate whether interests guided the EU's decision to implement soft instruments rather than sanctions towards Rwanda. The first was derived from concerns over domestic opinion – that is, that the EU sought to satisfy the European constituency. The second hypothesis relies on the operationalisation of interest as prestige. It assumes that the EU delegation sought to enhance its status vis-à-vis other donors in Rwanda. In the third article, I draw on an interest-based perspective to account for the so-called like-minded countries' scepticism towards adopting a common EU policy on donor coordination. I hypothesise that the like-minded countries' concern for national visibility made them sceptical about giving up the right to decide on who receives aid. I found some support for these hypotheses, however, interests could not fully account for the EU's decisions in either case. It was therefore necessary to investigate alternative hypotheses.

## Constructivist perspectives

A commonly used alternative to the conception of actors as self-interested realists is the concept of an altruistic donor driven by unselfish motives. In the literature on foreign aid, for example, the image of donors as self-interested realists is juxtaposed with an image of altruistic donors providing aid to do good.<sup>21</sup> Such an approach is normally anchored (often implicitly) in *idealism* (Lumsdaine 1993; Stokke 1989; Van der Veen 2011). Within this approach, the main motive for why donors provide aid are assumed to be moral conviction. However, scholars who rely on a conception of donors as idealists do not provide an account of why norms are followed, other than to say that following norms is something 'altruistic' – done out of 'good will'. In addition, these scholars rarely consider the possibility of several norms being valid simultaneously.<sup>22</sup> The lack of a theory that can discriminate between different norms then leads these scholars to return to assumptions of self-interest when norm-consistent behaviour does not occur. Whenever there is a deviation from 'altruistic behaviour' – for example, when sanctions towards an aid recipient are not invoked after a human rights violation – that choice is assumed to be caused by the donor's 'interest' in the recipient state.

Another group of scholars, often labelled constructivists or social constructivists, draw on insights from sociological perspectives to understand what drives actors in international relations. Constructivist perspectives share the assumption that norms may have constitutive effects on actors and shape their interests and actions (Checkel 1999; Finnemore 1996; Finnemore and Sikkink 1998; Katzenstein 1996; Kratochwil 1989; Onuf 1989; Sikkink 1993; Wendt 1999). Norms are 'collective expectations for the proper behaviour of actors with a given identity' (Katzenstein 1996: 5).<sup>23</sup> In the words of Finnemore (1996: 22–23):

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<sup>21</sup> Some scholars also consider 'merit' (i.e. good governance) to increase a recipient's chance of receiving aid (e.g. Bigsten et al. 2011).

<sup>22</sup> With the notable exception of Del Biondo (2015a, 2015b) and Del Biondo and Orbie (2014). See also the literature on dilemmas in foreign aid. This literature is anchored within the political theory tradition and is rarely used to explain donors' actions (Dasani and Erez 2017)

<sup>23</sup> Most IR scholars accept this definition (Finnemore and Sikkink 1998; Wiener 2008).

Unlike ideas which may be held privately, norms are shared and social; they are not just subjective but *intersubjective*. Ideas may or may not have behavioral implications; norms by definition concern behavior. One could say that they are collectively held ideas about behavior.

Constructivist perspectives are found to be relevant in studies of development. Discussing the emergence of global development norms, Finnemore (1996: 129) argues:

The incorporation of poverty alleviation goals in the development enterprise similarly did not promise to further any of the interests usually attributed to states by realist or neoliberal theories. Neither donor nor LDC [least developed countries] states adopted these policies thinking they would become richer or more militarily secure. They adopted the policies as an expression of what they valued, of what they believed to be good and appropriate.

Constructivist scholars have made an important contribution to IR literature by showing that it is because norms are considered to have legitimacy that it is beneficial to follow them, something that interest-based perspectives cannot account for. Norms are part of actor's social infrastructure and they can serve as sources of motivation and justification when actors make their choices.

Some constructivist scholars rely on an institutionalist account, as proposed by March and Olsen (1989a, 1989b). They suggest that actors conform to institutional roles by following a logic of appropriateness. In any particular situation, actors will ask themselves: 'What kind of situation is this? Who am I? How appropriate are different actions in this situation?' (March and Olsen 1989a: 23). Actors are conceived of as following rules rather than maximising utility. The core assumption is:

Institutions create elements of order and predictability. They fashion, enable, and constrain political actors as they act within a logic of appropriate action. Institutions are carriers of identities and roles and they are markers of a polity's character, history and visions. They provide bonds that tie citizens together in spite of the many things that divide them.

(March and Olsen 2006: 4)

Hence, following duty and obligation may be just as important in an actor's choice of behaviour as notions of self-interest and gain. In line with this perspective, in the third article of this report, I investigate the hypothesis that the like-minded states' self-understanding as globalists can account for their resistance to a regional European aid-effectiveness policy. I do not, however, find support for this hypothesis.

Constructivist scholars have contributed a great deal to our understanding of the EU's external policies, and to the influence of norms on political decision-making, not least by showing empirically that interest-based perspectives alone are not sufficient to explain all aspects of foreign policy. However, a central challenge for many constructivist perspectives is to explain variation and change. According to Eriksen and Weigård (2003: 27):

If the standard of correct action all the time is to adapt one's behaviour to the current normative structure, we first have to ask where those norms come from, how they arose and how they came to take their present form, and secondly, how they can be changed and developed over time.

Trying to meet this criticism, some recent research has emphasised the dynamic nature of norms and engaged with the observation that norms may collide or be contested. The so-called second-generation constructivist scholars have engaged in a debate on *norm contestation* (Deitelhoff and Zimmermann 2013; Hofferberth and Weber 2015; Joachim and Schneiker 2012; Krook and True 2010; Lantis 2016; Panke and Petherson 2016; Puetter and Wiener 2007; Sandholtz and Stiles 2008; Van Kersbergen and Verbeek 2007; Wiener 2007, 2008; Wiener and Puetter 2009).<sup>24</sup> These scholars suggest that norms may be less constitutive than has been argued earlier. They have pointed out that there may be significant contestation over the definition and meaning of norms, and that certain norms evolve over time and some even die (e.g. the permission of slavery).

One example is Van Kersbergen and Verbeek's (2007) study of conflicting interpretations of subsidiarity in EU integration. The authors argue that international norms, once adopted, are often subject to battles over their precise meanings, even in highly institutionalised settings such as the EU, and that such battles may lead to reformulation

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<sup>24</sup> For an overview, see Lantis (2017).

of the concerned norm. Another example is Puetter and Wiener's (2007) study of the inability of the United Kingdom and Germany to co-ordinate appropriate responses to the international crisis in Iraq in 2002 and 2003. They argue that the key to explaining the foreign policy decisions of individual member states lies in understanding the diverging interpretations they may have of norms, an approach that thus limits the influence of norms to the domestic arena.

The second-generation constructivist literature on norm contestation has taken our insights on the influence of norms in international relations an important step forward by establishing that norms are not necessarily as stable as earlier assumed. Studies have emphasised the contested nature of norms and how this may lead to actors' having conflicting positions on what is considered appropriate in any given situation. Second-generation constructivists have so far primarily focussed on studying norm contestation as explanandum. They seek to establish under what conditions norms are contested and interpretations change. Most of them point to different domestic interpretations of norms as the reason why actors *fail to agree* in international settings. However, EU policymakers make agreements every day. The EU has agreed on several common initiatives in the realm of development despite diverging positions on what that the Union's policy should look like and even though development belongs to the shared competence area of EU policymaking. The recent adoption of the new consensus on development, 'Our World, Our Dignity, Our Future', confirms that the EU is indeed capable of reaching consensus also when norms diverge (Council of the European Union 2017).

### **'Normative power Europe'**

A group of scholars have suggested that the EU is a distinct foreign policy actor because it has chosen to ground its foreign policy in normative goals and principles (Aggestam 2008; Birchfield 2011; Bonaglia et. al.. 2006; Lightfoot and Burchell 2005; Lucarelli and Manners 2006; Manners 2002; Orbie et al. 2017; Rosecrance 1998; Telò 2006; Whitman 1998). Although with significant variations, this literature suggests that the EU's foreign policy has a particular normative anchoring, that these norms are related to what the EU 'is', and that norm promotion is exercised by shaping conceptions of what is normal rather than using coercion and military means.

However, the 'normative power Europe' concept has also been subjected to extensive criticism (Diez 2005; Sjursen 2006a, 2006b). Critics have pointed out that it remains unclear whether the concepts and categories applied are descriptive or whether there is an attempt to use these concepts to explain the EU's behaviour. Some have argued that the 'normative power Europe' concept lacks the specificity needed to be relevant and operationable for the purpose of empirical research (Sjursen 2006a, 2006b). Others have called for more research on what the EU 'does' in order to move beyond the 'normative power Europe' debate regarding what the EU 'is' (Aggestam 2008; K. E. Smith 2005, 2010).<sup>25</sup> Another observation that can be added to the criticism of the 'normative power Europe' concept is that it treats norms indiscriminately. Thus, if two norms are considered valid in the same situation, which norm is followed? For instance, the principle of sovereignty will in many instances collide with other internationally agreed norms, such as the need to protect human rights abroad. If all 'normative' behaviour is clustered into one explanatory category, it is impossible to explain situations where one norm collides with another.

### Communicative rationality

The approach chosen in this report to complement the interest-based account of the EU's external policies builds on a conception of actors as communicatively rational (Habermas 1993, 1996, 1998). Studies drawing on a communicative approach are increasing in IR literature (Bjola 2005; Deitelhoff 2008, 2009; Deitelhoff and Müller 2005; Joerges and Neyer 1997; Lose 2001; Müller 2004; Niemann 2006; Risse 2000, 2004; Sjursen 2002, 2006a, 2006b; Sjursen and Rosèn 2016; Ulbert and Risse 2005). Building on the works of these scholars, I use elements of a communicative approach for the purpose of explanation – that is, to account for decisions made about the EU's external policies. I emphasise in particular two elements as potentially relevant to account for the EU's value-based policy and its inconsistent commitment to following value-based goals. These elements are *the conception of norms as having a rational core and colliding norms*.

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<sup>25</sup> This debate also involves a discussion on whether the EU's foreign policy instruments are distinctive.

### *A rational core*

A communicative approach assumes a conceptual connection between action and rationality: 'one cannot understand what people are doing unless their intentions are understood' (Eriksen 1999: 230). For others to understand an actor's intentions, she must be able to give comprehensible reasons for her choice. Hence, rationality is linked to justification. Whereas interest-based accounts assume that actors are rational when they calculate costs and benefits and act to satisfy their own interest, a communicative approach assumes that rationality is linked to the ability to provide reasons for one's behaviour that are acceptable to others. Norms are conceived of as having a rational core:

We call someone rational not only if he is able to put forward an assertion and, when criticized, to provide grounds for it by pointing to appropriate evidence, but also if he is following an established norm and is able, when criticized, to justify his action by explicating the given situation in light of legitimate expectations.

(Habermas 1984: 15, cited in Eriksen and Weigård 2003: 25)

Therefore, a justification anchored in a normative concern is considered as rational as one that refers to what best serves one's self-interest. The intersubjective element is fundamental, because providing justifications for one's actions involves being able to provide convincing reasons even when criticised by others.

Through conceiving of norms as having a rational core, it is also possible to conceive of value-based action as something other than altruism. Whereas altruism assumes that actors act out of good will, a communicative perspective conceives of an actor as able to 'critically reflect on her own understandings of reality, interests, preferences and maxims of behaviour' (Lose 2001: 185). Hence, actors are assumed to possess a 'notion of what is just and fair' (Rawls 1993: 49, see also Eriksen 2006: 263). Building on these assumptions, it is easier to understand that actors may choose to follow value-based goals even when doing so would conflict with their own interests. Altruism, on the other hand, does not provide a 'rational' alternative to following interests; it only assumes that an actor is *not* concerned with self-interest. Then, whenever there is a deviation from expected behaviour, scholars resort back to assumptions of interest-based behaviour owing to the fact that they do not have an alternative way of accounting for

norm-based behaviour. However, if we conceive of norms as having a rational core we are able to anchor an actor's commitment to value-based goals in substantive justifications, something which enables us to discriminate between different normative motivations.

Assuming that norms have a rational core constitutes a first step towards an alternative approach to accounting for the EU's external policies. The second step is to open up for the possibility of different norms and principles pointing policymakers in different directions.

### *Colliding norms*

In the Introduction, I highlighted the need to move beyond research designs that juxtapose norms with interests. Just as interests come in different forms and may compete with each other, norms may also collide. Whereas the second-generation constructivists have investigated norm contestation as explanandum, I will in the following make use of the norm-contestation as explanans. Accordingly, I use the insights provided by the second-generation constructivists for the purpose of explanation.<sup>26</sup>

By relying on a concept of communicative action it is possible to account for actors considering different normative concerns as well as disagreeing on what is considered 'appropriate' action. The observation that norms collide reflects a more general need for discriminating between different norms in analyses of international relations. In the words of Eriksen (1999: 233), 'a justified norm such as "you should not steal" may collide with the norm "you should save lives"'. In IR literature, the most commonly quoted norm dispute is between sovereignty (one should respect the nation-state's authority to govern within its own territories and not interfere in its internal affairs) and promoting human rights (Deitelhoff and Zimmermann 2013). What follows from this is that any generally valid norm may prove to be unreasonable in a particular situation.

Bringing norm application to the fore is what Klaus Günther (1993: 212–214) proposes when he suggests a distinction between a discourse of justification and a discourse of application.<sup>27</sup> A discourse of justification refers to establishing a norm's universalisability – that is,

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<sup>26</sup> See also pp. 28–29 in the section on 'Methodology' for a discussion of the type of explanation this report seeks to provide.

<sup>27</sup> See Article 2 of this report for a more thorough description of this distinction.

whether it is valid at a general level – and predicts that all situations are evaluated and treated according to a concrete moral standard. A discourse of application characterises a situation where actors encounter several universal norms having conflicting content; actors identify and evaluate several normative perspectives and determine which course of action to take after considering all possibilities.

In Article 2 of this report, I use Günther's distinction to account for inconsistencies in the EU's application of human rights sanctions. Günther's distinction helps us move away from the juxtaposition of interests and norms since it opens up to actors' evaluating several norms simultaneously. Thereby we avoid the 'automatic' resort to interest-based hypotheses when faced with observations of norms not being followed consistently. I suggest that such a situation of conflicting norms (discourse of application) can account for the EU's decision not to sanction Rwanda. Acting in accordance with concerns related to respect for human rights and democratic principles would suggest that the EU should have imposed sanctions on Rwanda. However, concerns about avoiding the negative impact of sanctions on the social and economic conditions in Rwanda ultimately led EU policymakers to avoid using aid sanctions. Whereas the EU's conditionality principle prescribed the use of sanctions, the concern that these sanctions would negatively affect the people of Rwanda accounts for the EU's decision not to impose them.

In the third article of this report, I use the concept of norm collision to account for the like-minded states' resistance to EU integration. The resistance of these states to a common EU policy on donor coordination is puzzling since these countries were frontrunners in multilateral initiatives to enhance such coordination. I hypothesise that a collision between the principles of ownership and donor involvement caused the like-minded states to be sceptical to the policy proposal. Ownership implies that aid recipients would be involved in making decisions on donor coordination. Donor involvement, on the other hand, implies that a donor-led process of coordination would better contribute to enhance coordination and thereby better contribute to changing the situation. Without an approach that allows actors to discriminate between different normative concerns, it would not be possible to account for the resistance of the like-minded states in this situation.

## Methodology

This report belongs to the tradition of qualitative research and is composed of three standalone research articles. The common goal of all three articles is, first, to examine the extent to which there is a gap between rhetoric and practice in the EU's development policy and, second, to account for such a gap through in-depth investigations of the EU's inconsistent commitment to core values. In the following, I discuss the method, case selection and data I have used.

## Method

To establish whether there is a gap between the EU's rhetoric and practice, and further to establish how such inconsistencies can be accounted for, the report applies two methods: empirical tracing of violations of the human rights clause (Article 96/97 of the Cotonou Agreement) and analysing justifications. In the first article, I systematically trace violations of the human rights clause in order to identify a complete population of cases that can be used for studying the EU's use of the clause. On reviewing the literature on EU conditionality, I observed that most studies applied a case-study design and that there was generally a lack of reflection on what the cases investigated were representative of. Whereas the instances where the EU had used the human rights clause towards ACP states (Article 96) were accurately documented, the choice of so-called non-cases (i.e. where a breach occurs but no sanction is implemented) seemed arbitrary (cf. Hazelzet 2001). The purpose of a case study is the 'intensive study of a single case' with the aim of shedding light on a larger class of cases – the population (Gerring 2007: 20). Therefore, conducting a case study without reflecting upon what population it is representative of weakens the validity of the study. Accordingly, to properly investigate the extent to which the EU (in)consistently applies human rights clause, I thus found it necessary to establish a population of cases for the EU's use and non-use of Article 96 towards ACP countries.<sup>28</sup>

In the second and third articles, I apply the method of analysing justifications (Sjursen 2002). This methodology follows from the interpretative tradition, which seeks 'explanation through interpretation'

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<sup>28</sup> See Article 1 for a detailed description of the method and data. The article provided in this report was published as a working paper in 2013 and thereby considers cases only until 2012. The version of this article that will be part of a special section of *Global Affairs* contains a population of cases that includes the years 2012–2015.

(Weber 1978). The basic assumption is that it is possible to explain actors' behaviour by interpreting the reasons they provide for their decisions. I consider this method to be the best way to trace information about both the normative and the pragmatic evaluations of policymakers. The distinction between different norms and different interests is analytical. Empirically, the different types of arguments will often co-exist. The analysis includes the process of deciphering the extent to which a decision is made largely according to one type of argument or another (Parsons 2007: 37). Pragmatic considerations are relatively 'easy' to identify, as references to interests are concrete and tangible. Normative considerations, on the other hand, are normally considered difficult to identify. Yet what is tangible regarding norms and values is the communicative process through which they are discussed and scrutinised. Such communicative processes have long been emphasised by constructivist scholars: 'because they are intersubjective and collectively held, norms are often the subject of discussion among actors. Actors may specifically articulate norms in justifying actions, or they may call upon norms to persuade others to act' (Finnemore 1996: 24). It is through communicative processes that norms are discussed, scrutinised, challenged, changed or agreed to. Hence, if we are to establish whether a certain choice or action was taken out of interest-based or out of normative concerns, it is necessary to identify the justifications given for that specific choice or course of action. Such justifications must be acceptable not only to the actor herself, but also to others, although the exact action might not be preferred by all.

A conventional objection to studying justifications is that actors may lie and that the actual reason for their actions might be other than that stated. This allegation is especially prevalent in the context of studying norms and when actors use normative justifications for their policy choices. Schimmelfennig (2001), for instance, argues that norms are used to 'rhetorically entrap' actors into a certain behaviour. References to norms are used as a means to cover up an actor's real motives. This does require, however, that norms be considered valid in the first place. Hence, we need a theory to account for norms being considered a valid and legitimate motivation for action. And further, although justifications are not necessarily blueprints of an actor's mind and thoughts, it is difficult to imagine a situation where several actors would manage to lie consistently and collectively over time (Sjursen 2002). It is possible to control for consistency, *inter alia*, by

the triangulation of data. In Articles 2 and 3, I have attended to this concern through several strategies. First, in order to cross-check consistency, I have collected data from different sources: interviews, official documents and freedom of information requests. Second, I have also controlled for consistency by asking interviewees to describe not only their own positions but also those of other relevant actors.

### *Type of explanation*

In this report, I investigate explanans encompassing both interests and various normative concerns to explain the EU's policies. Whereas interests are generally considered easy to identify and measure,<sup>29</sup> norms are intangible. They do not lend themselves well for the purpose of explanation (Parsons 2007: 95). As Kratochwil and Ruggie (1986) have noted: 'Norms [...] do not effect cause in the sense that a bullet through the heart causes death'. Making a causal link between a norm and actual behaviour is not straightforward. However, this report seeks to focus on exactly how it is possible to do so.

If X causes Y, exactly how does this happen? This is the main endeavour of scholars seeking mechanistic explanations (Elster 1989; Guzzini 2012; Hedström and Swedberg 1998; Kiser and Hechter 1991). Mechanisms are 'hypothesising devices' that intermediate between X and Y – 'a force that transforms initiatives into practical results' (Eriksen 2018: 11). A mechanism is a 'systematic set of statements that provide a plausible account of how I and O are linked to one another' (Schelling 1998). A mechanistic explanation differs from the so-called covering-law model, which considers explanations satisfactory only when they are composed of two elements: the identification of the general covering law and the conditions that make the law applicable in a particular case (so-called scope conditions) (Hedström and Swedberg 1998: 8).<sup>30</sup> The advantage of focussing on mechanisms is the possibility of focussing on *how* causality happens. Such a focus is also beneficial for the task of making sure that causality is genuine and not related to spurious explanans correlating with the outcome. If we know how X influenced Y, we are better equipped to conclude that the relationship is in fact a causal one.

The choice of seeking a mechanistic explanation follows from the choice of research question. I identified a research gap in the literature

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<sup>29</sup> However, see a more thorough discussion of this in Article 1.

<sup>30</sup> The origin of the covering-law model is associated with Carl Hempel (1942).

regarding the question of why there are inconsistencies in the EU's external policies. In this context, there are a number of empirical cases that remain unaccounted for. Analysing policymakers' justifications and seeking a mechanistic explanation was considered the best way of investigating the relevance of any interest-based and normative evaluations policymakers have considered when making their decisions. There is a 'trade-off' in developing a mechanistic explanation as opposed to a more classical positivist explanation in which one searches for law-like relationships and their scope conditions. Looking at mechanisms allows for explanation *post factum* but not for predictions (Elster 1998; Eriksen 2018). Whereas mechanistic explanations are 'deeper, more direct and more fine-grained explanations' of occurrences that have happened, they do not engage with the task of establishing law-like relationships that can predict future behaviour (Hedström and Swedberg 1998: 8). Yet mechanistic explanations lend themselves well to developing new hypotheses and making theoretical generalisations that can be applied in other studies.

The main argument presented in this report is that the EU's lack of norm-consistent behaviour (explanandum) can be accounted for by colliding norms (explanans). Relying on a mechanistic explanation, I show how conflicting norms contribute to cause the lack of norm-consistent behaviour. I rely on the mechanism 'learning' to identify a causal link between norm conflict and the seemingly inconsistent commitment to core values on the part of the EU and its member states. I follow Günther's (1993, cited in Eriksen 2018: 17) definition of learning: 'establishing directives for appropriate and justified conflict resolution in concrete situations'. The 'how' is substantiated by analysing central policymakers' justifications for their choice of action.

### Case selection

In the first article of this report, I establish a complete population of cases for studying the EU's use of Article 96 (the human rights clause) towards ACP countries. Articles 2 and 3 are, respectively, an embedded case study and a single-case case study. Each of the two case studies was selected on the ground that it provided a typical/common case – that is, a case that provides insight into a broader phenomenon and is representative of a broader set of cases (Gerring 2007: 91; Yin 2014).

The population of cases I establish in Article 1 relates only to the non-implementation of Article 96 and not to all types of sanctions. Hence,

whereas Mali was sanctioned by the EU after the coup that took place in that country in 2012, it appears as a non-case of Article 96 in the cases identified in Article 1 of this report. Article 96 suspensions differ from informal suspensions in that they include a process of consultations and dialogue between the EU and the breaching country. Therefore, I maintain a distinction between the more comprehensive Article 96 instrument and informal aid suspensions. In addition, there are non-cases of sanctions that do not appear in the population of cases constructed in Article 1. Rwanda, which is the case I investigate in the second article, is one such example. There have been clear breaches of human rights and democracy in Rwanda, but these breaches have not been typical Article 96 breaches (coup d'état, domestic human rights breaches).

Rwanda (Article 2) was selected as a common case of non-implementation of sanctions by the EU (inconsistency). Rwanda is a relatively stable country with overall positive economic developments. It has been shielded from sanctions by the EU following breaches of human rights and democratic principles during the last decade (a so-called non-case). The decision to study the Rwandan case follows from the insights presented in Article 1, where I find that countries where the EU has no vital interests have also been shielded from sanctions. The choice to study Rwanda is therefore grounded in the fact that it represents a typical non-case where the EU has no vital interests at stake. Rwanda stands in contrast to other typical non-cases, such as Ethiopia and Nigeria, where it is often assumed and found that donors refrain from sanctions because of security and economic interests. Similar cases to Rwanda within the ACP group are Tanzania, Uganda, Mozambique, the Solomon Islands and Papua New Guinea. Of course, these cases are not similar in every way. They present considerable differences in terms of both economic development and political stability. However, they are similar to

Rwanda in that the EU has no evident and important economic or security interests in these countries.<sup>31</sup>

For the third article, the negotiation of the EU's aid effectiveness initiative 'the code of conduct on complementarity and division of labour' was selected as a common case of resistance to EU integration in the realm of development policy. The like-minded member states' ambiguous position towards donor coordination – resisting coordination in EU initiatives and supporting it in multilateral fora – illustrates inconsistency. Whereas the negotiation of the consensus on development has attracted some attention (Bué 2010; Carbone 2007), the *negotiation* of the code of conduct has not to my knowledge been investigated earlier.<sup>32</sup>

The second and third articles complement each other by emphasising different actors within EU development policy. The second article looks mainly at the position of common EU institutions such as the European Commission and the EU delegation in Rwanda. The focus lies on justifications provided by representatives in EU institutions, since this was where the decision to not sanction Rwanda was taken. The third article shifts the focus to the member state level and provides an in-depth investigation of the positions of one group of EU member states: the so-called like-minded member states. As the EU's development policy belongs to the shared competences of EU decisionmaking, the member states are important decisionmakers (Orbie and Lightfoot 2017). The like-minded member states' influence on the EU's development policy has already been the subject of a considerable amount of research.<sup>33</sup> Hence, rather than investigating whose priorities win and why, this article teases out the substantive arguments forwarded by the different groups of member states and investigates the extent to which the collision of different views on

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<sup>31</sup> The definition of what constitutes 'having interests' in a country is contested. Some would argue that the EU has interests in nearly all countries in the world or that the United Kingdom and France have interests in their former colonies. I build on the assumption that the EU and its member states can be considered to have 'vital' interests in some countries. As far as ACP countries are concerned, these are normally considered in the literature to be Ethiopia, Kenya, Nigeria, Niger and Chad (Crawford 2013; Del Biondo 2015a). More recently, Mali is often identified as a country of interest owing to the recent influx of refugees from that country to Europe.

<sup>32</sup> Carbone (2007, 2010) writes about the code of conduct in many of his publications; however, he has to my knowledge not investigated the negotiation process.

<sup>33</sup> See, for instance, Elgström (2016), Olsen (2013) and Orbie and Lightfoot (2017).

how to best achieve aid effectiveness contributed to resistance towards this EU development document.

## Data

I have used data from a multitude of sources for this report. They may be grouped into three categories: interviews, document data and statistics and reports from external databases. An important concern throughout the report has been that of data triangulation (Yin 2014). Ensuring that data are not collected from only one source or one type of source has made it possible to cross-check the information collected, thus strengthening the robustness and credibility of the findings.

First, external databases were used in the first article for tracing major episodes of breaches of human rights, democratic principles and the rule of law to create a population of cases for the use and non-use of the Cotonou Agreement's Article 96. In addition, some external databases were used as proxies to measure the EU's security and economic interests in ACP countries. How the data from these external databases are used and accessed is described in detail in Article 1.

Second, interview data were used for Articles 2 and 3.<sup>34</sup> In total, I conducted 25 semi-structured interviews with open-ended questions. All interviewees worked in the relevant EU/member state institutions at the time of the events investigated. The details provided for institutional affiliations correspond to the jobs interviewees had at the time of the event investigated and not to their affiliations at the time of interview. Interviewees were asked to explain the reasons for their choices and to describe the processes they were involved in. In addition, they were asked to describe the positions of other relevant actors. All interviews were conducted under the promise of anonymity, which increases the likelihood that interviewees will speak freely and gives them little reason to lie about their motives. Interviewees were identified with the help of official documents and online CVs (LinkedIn), and through the snowball sampling method (i.e. as a result of advice from other interviewees). Because there are few policymakers who work with each of the decisions that are studied in this report, interviewees were not selected as representatives of a broader population but on the basis of their centrality in the processes

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<sup>34</sup> The interviews for Articles 2 and 3 were conducted in Oslo, Stockholm and Brussels between November 2015 and December 2016. Some interviews were conducted by telephone.

in which they participated. Hence, the selection criterion was the ability of interviewees to reveal and describe the main reasons for the decisions that are studied.

Table 1. Sources

<b>Statistics and reports from secondary sources (Article 1)</b>		
Election reports on 118 elections, ACE – the Electoral Knowledge Network		
Keesing's World News Archive		
'Coup d'état events' by M. G. Marshall and D. R. Marshall, Centre for Systemic Peace		
'Major Episodes of Political Violence 1989–2008', Centre for Systemic Peace		
'Conflict Barometer', Heidelberg Institute for International Conflict Research		
World Bank indicators (various), World Bank		
'Comext EU27 Trade since 1988 by CN8', Eurostat		
Millennium Development Goals Monitor, United Nations		
Worldwide Governance Indicators, World Bank		
US Energy Information Administration		
<b>Interview data (Articles 2 &amp; 3)</b>		
Council of the European Union Secretariat official (1)		
European Commission officials (6)		
European External Action Service officials (3)		
Member state delegation to the EU officials (9)		
Member state delegation to Rwanda officials (4)		
EU delegation to Rwanda officials (2)		
<i>Total interviews: (25)</i>		
<b>Document data (Articles 1, 2 &amp; 3)</b>		
<i>EU documents:</i>	<i>Reports and other documents:</i>	<i>Member state documents (obtained through FOI requests)</i>
Council of the European Union documents	Agence Europe articles	Parliament minutes
European Commission documents	Reports from NGOs	Letters
European Parliament documents	OECD reports	Speaking notes
External Action Service documents	European Political Cooperation Bulletin	Speeches
EU – Rwanda country strategy papers and reports	United Nations documents	Logs from the government archives of national development agencies

For instance, when investigating the decision-making process that led to the adoption of the code of conduct (Article 3), I interviewed several member state representatives to the Council Working Party on Development (CODEV), which was where the negotiations took place. Member states have only one representative each in this working party. By interviewing several of the national representatives as well as the representative for the Council Secretariat and one of the European Commission's representatives, it was possible to obtain reliable information on the positions presented by different actors and their justifications for them.

Third, I rely on data from documents. These are official documents from the EU and member states obtained through systematic searches online, as well as reports from a few international organisations and nongovernmental organisations (NGOs). In addition, I rely on information obtained through freedom of information (FOI) requests to Denmark and the United Kingdom asking for government documents related to the negotiations on the code of conduct. The documents obtained through FOI requests are official government documents, letters, speaking notes and archived notes from representatives who worked with the negotiations on the code of conduct. Documents obtained through FOI requests were in this case considered particularly helpful for teasing out the reasons for the like-minded states' resistance to the code of conduct since they can be considered first-hand information about the member states' positions. Data obtained through FOI requests complement and contextualise the data obtained from official documents and interviews, thus adding validity to the findings (Savage and Hyde 2012).

## Conclusion

Whether the EU can be characterised as a distinctive actor because of its commitment to certain value-based foreign policy goals such as human rights, democracy and the rule of law, is a recurring topic among scholars researching the EU's external policies. What influences the EU's choices in international politics? Is it interests or norms, power or ideas? A central component of this debate is the question of what explains inconsistencies between the EU's rhetoric and its practice. The main goal of this report has been to revisit a common explanation found in the literature on the EU's external policies, namely that the main motivation for the Union's foreign policy is to secure the interests of the Union and its member states

(Crawford 2001; Gegout 2017; Hyde-Price 2008; K. E. Smith 2014; Youngs 2004, 2008). I find that this explanation is not sufficient to account for the EU's external policies and that it is necessary to add norm collision as a complementary account of the EU's inconsistent policies. On the basis of the findings, I present in the three research articles, I will in what follows discuss the empirical and theoretical implications we can draw from this report.

In line with the majority of the literature on the EU's external policies, I find that the EU acts inconsistently in its human rights and aid-effectiveness policy. In relation to the question of why these inconsistencies occur, I bring some novel insights. While the literature mainly finds that inconsistencies stem from the interests of the EU and its member states overriding principled commitments, I verify the norm-collision hypothesis set out in this introductory chapter. I find that the instances of inconsistencies between rhetoric and its practice investigated in this report can mainly be explained by a collision of normative concerns. Hence, the articles that make up the bulk of the present report underscore that we need both the interest-based perspective and the communicative perspective to fully account for inconsistencies in the EU's external policies.

Two types of collisions stand out. The first is related to the tension between the fundamental principles of the EU's foreign policy, namely, respect for human rights and democratic principles, and the main principles of its development policy, which are fostering sustainable development and poverty eradication. A typical example that would give rise to such a tension would be the case of an aid-receiving country that, on the one hand, has achieved good results in economic growth and reducing inequality but, on the other hand, is reducing the space for a free press and opposition parties. If a donor chooses to terminate aid because of violations of the respect for democratic principles, such termination may directly harm citizens of the aid-receiving country if the recipient government chooses to suspend benefits to its population. However, if a donor continues to provide funds to a country with authoritarian traits, it also runs the risk of harming the citizens by contributing to the deterioration of democratic institutions and thus to citizens' right to autonomy. The second tension relates to a collision of development values – in particular, a collision between donor involvement and country ownership, both of which (from different perspectives) are argued to enhance aid

effectiveness. Country ownership may contribute to enhancing aid effectiveness because local strategies and methods for reducing poverty are more likely to succeed than those that are externally driven. On the other hand, donor involvement may enhance aid effectiveness, *inter alia*, in instances where local institutions are not in place to identify and report instances of corruption. Although such aid dilemmas have been discussed in the foreign aid literature, they have so far not been identified as reasons for inconsistent commitment to core values (Dasani and Eres 2017; Hasselskog et al. 2017; Hayman 2009; Whitfield 2009; cf. Del Biondo 2015a, 2015b).

This finding – that inconsistencies occur because of a collision of normative concerns – provides us with a better understanding of the EU's external policies. With regard to human rights sanctions (Articles 1 and 2), my findings function as a corrective to the relatively abundant literature on political conditionality. I find that this literature has overemphasised interest-based explanations precisely because of the lack of theoretical and methodological tools that allow for an alternative to interest-based explanations. Many of these contributions rightly identify a correlation between interests in certain countries and the lack of donor sanctions. However, many may also have mistaken this correlation for causation, owing to the lack of alternative hypotheses that take seriously the possibility that norms influence policymakers' behaviour.

With regard to aid effectiveness, my findings suggest that instead of reducing resistance to integration in development to the notion that individual member states were seeking to protect their material and reputational interests, this resistance is better understood as a result of a conflict of normative concerns. The member states had competing interpretations on substantive issues in the policy proposal that led some of them to oppose the policy in whole. It was not until the conflict was resolved and the like-minded member states succeeded in getting their position accepted by all member states that the policy was adopted. While providing novel insights as to why resistance occurred, my findings also support existing research that finds that the like-minded member states serve as drivers and 'norm-setters' of the EU's development policy – the thesis of the so-called *like-mindisation* of EU development policy (Elgström 2016, Elgström and Delputte 2015; Olsen 2013).

Moreover, I find that there is no set hierarchy of norms within EU foreign policy. In the cases explored, those of human rights sanctions and aid effectiveness, EU policymakers are faced with multiple normative concerns and struggle to decide which concerns to prioritise. Nor do their policy documents give clear prescriptions for how to make such prioritisations. This lack of clarity is evident in the recent European Union Global Strategy and the coining of ‘principled pragmatism’ as the new paradigm for the EU’s foreign policy:

We will be guided by clear principles. These stem as much from a realistic assessment of the current strategic environment as from an idealistic aspiration to advance a better world. Principled pragmatism will guide our external action in the years ahead.

(European Union 2016)

Not only are interests and principles here suggested to be ‘two sides of the same coin’ (Sjursen 2017: 449), but value-based foreign policy concerns are also reduced to an ‘idealistic aspiration to advance a better world’. Such a definition of core principles is devoid of any reflection upon the different and possibly colliding normative concerns the EU might be faced with. The recently agreed new version of the European Consensus on Development provides some guidance: ‘The prime focus of development cooperation remains poverty eradication in all its dimensions and there will be no diversion of effort from that goal’ (Council of the European Union 2017: 33). Yet the same document highlights that the EU and its member states will implement a ‘rights-based approach to development cooperation’ (Council of the European Union 2017: 6). If concerns for human rights collide with concerns about alleviating poverty in any given situation, there is no clear answer regarding which concern the Union should prioritise. The issue of norm collision should therefore be of interest in future research on the EU’s value-based goals and principles.

The substantiation of the norm-collision hypothesis questions the conception of the EU as an interest-based foreign policy actor (Crawford 2001, 2005, 2008; Crawford and Kacorska 2017; Gegout 2017; Hyde-Price 2006, 2008; Olsen 2000; Pace 2008; Youngs 2004, 2010). Articles 2 and 3 of this report find that the EU’s development policy is driven by value-based concerns in addition to interest-based ones. At face value, this finding suggests that there is something

distinctive about the EU's external policies – that they differ from the foreign policies of states (Aggestam 2008; Manners 2002; Rosecrance 1998; Whitman 1998). However, beyond this initial observation, this report also contributes to nuance the literature on this so-called distinctiveness. On the one hand, I find that a commitment to norms is not a particular trait of the EU's external policies. Norm collision also occurs in the member states' decisions on aid. Article 3 underlines that value-based concerns are equally important for the member states and the EU when they make foreign policy decisions. Accordingly, this report disagrees with the assumption that a commitment to norms means that the EU's foreign policy is distinct from that of states. Norms are just as relevant for explaining the foreign policy of states as they are for explaining that of the European Union.

On the other hand, I also find that the choice to sanction human rights breaches is more affected by political pressure from the domestic constituency in the member states than in the EU. This observation illustrates that there might be something particular to the EU's policies after all. In Rwanda (Article 2) the EU was able to de-politicise the sanctions process and act without public scrutiny to a greater extent than the member states. In this instance, a more democratic decision-making process would have increased the likelihood that the EU would act according to pressure from the media or other voices 'at home'. Paradoxically, because of the lack of these characteristics, the EU was able to act out of consideration for what it ought to do, something that also adds nuance to the literature calling for increased democratisation of the EU's external affairs (Sjursen, 2011).

Scholars who investigate whether norms have influenced political decisions are often accused of using weak methodological tools. This criticism is mainly due to the inherent nature of norms: they are intangible and do not lend themselves well to explanation (Parsons 2007: 95). Yet we cannot discard the possibility that norms and principles influence policymakers' decisions just because they are difficult to identify. In this report, I have attended to such concerns both by applying a combination of theoretical tools that consider norms to have a rational core and by applying a method that can trace both normative concerns and pragmatic considerations.

My findings indicate that we need to reconsider the core assumption in IR theory that foreign policymaking is primarily driven by interests

(Carr 2001; Krasner 1999; Morgenthau 1951; Moravcsik 1991; Moravcsik and Schimmelfennig 2009; Nye 2004; Waltz 1979, 2000). I find that the collision between different norms and the choice to follow one of them contributes to nuance our understanding of what are the factors that drive the EU's decisionmaking. I find that norm collision is relevant for explaining decisions where the EU is expected to have few interests (Rwanda) and in a case where we know that the member states had strong interests (aid effectiveness). Hence, norms are not 'second-order concerns' that will be pursued only when they are *not* in conflict with actors' interests (Mearsheimer 2001: 46). Rather, they must be considered a first-order concern on a par with interests. Our expectations of what drives foreign policymaking should not be reduced to interests.

Furthermore, I contribute to nuancing and specifying our knowledge of how norms influence policymakers. Some scholars have suggested that norms are 'unable' to serve as determinants of foreign policy: 'We should not expect a causal relationship, i.e. trying to explain foreign policy behaviour by means of VIP [values, images, principles]'. Jørgensen (2006: 56–57) bases this conclusion on the fact that norms and principles can conflict with each other and therefore 'are a poor guide for political choice and action'. Contrary to such an approach, I find that norm collision does affect policymakers' behaviour. When norms collide, policymakers make a prioritisation and choose to follow one norm over another. It proved particularly fruitful to make a distinction between what Günther (1993) refers to as applicatory and justificatory norm discourses (see Article 2). This distinction enables us to differentiate between norm collision (does the norm apply in a given situation?) and norm contestation (the norm's validity under unchanging circumstances). The conflict of norms is a problem of a norm's appropriateness, not of its validity. The focus in this report is on applicatory norm discourses related to a norm's appropriateness in a given situation (norm collision). Arguably, norm collision is a hypothesis that lends itself well to theoretical generalisation and may be relevant for future research on the EU's external policies in particular as well as foreign policymaking more broadly (Lewis and Richie 2003).

The perspective applied in this report may also be useful for future research on how and why policy-makers choose priorities among conflicting value-based goals. A communicative perspective assumes

that rational actors *can* make prioritisations between norms. Actors are able to agree by engaging in a process of exchanging arguments, including the evaluation of multiple and colliding concerns. Considering the possibility that actors reach agreements through deliberation may therefore prove to be a fruitful addition to the second-generation constructivist literature on norm contestation (Deitelhoff and Zimmermann 2013; Hofferberth and Weber 2015; Joachim and Schneiker 2012; Krook and True 2010; Puetter and Wiener 2007; Sandholtz and Stiles 2008; Van Kersbergen and Verbeek 2007; Wiener 2008). So far, these scholars have interpreted agreements as resulting from strategic bargaining games and power relations between actors (see, for instance, Van Kersbergen and Verbeek 2007). Yet the existence of a norm conflict would seem to be a particularly interesting case for investigating the possibility that actors reach agreements through deliberation, because they argue over norms.

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# Article 1

## The EU's human rights policy: Unpacking the literature on the EU's implementation on aid conditionality

### Abstract

The European Union (EU) is often denoted as a *sui generis* international actor. Assessing this putative uniqueness, this paper examines one key aspect of the EU's foreign policy: the linking of development aid to compliance with human rights and democracy principles, commonly referred to as conditionality. The chapter unpacks the literature on the EU's conditionality policy and systematically evaluates the record of implementing the human rights clause. The literature has largely followed realist theory arguing that the EU's foreign policy decisions are driven by economic interest or security considerations. I find that existing studies have used a biased selection of cases. A combination of (implicit) theoretical assumptions and methodological choices appears to be guiding the selection process. Existing hypotheses are not sought falsified, as they are tested only on a set of cases where 'interest' of some sort is already known to exist. I find non-implementation of the clause also in countries where the EU has no

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such specific 'interests'. Given these additional cases the account of the EU's policy regarding aid conditionality must be reconsidered.

So, what does this tell us about the EU's uniqueness as an international actor? According to the conventional conception of a foreign policy actor, one would expect the EU to act in line with its interests. Although I suggest that there is more to the EU's performance than its interest, this might not be a particular trait of the EU. It is plausible that a similar analysis would find that nation states do not act only according to interests either. Thus, what is needed are concepts and research designs that allow for hypothesising alternative explanatory factors, both in the study of the EU and in foreign policy in general.

## Introduction

In 1995, the European Union decided that it would include political conditionality in form of a human rights clause in all of its cooperation agreements with non-EU countries. The term political conditionality is used to refer to a situation in which the validity of an international agreement is made dependent upon the partner's mutual respect for certain principles, normally related to human rights, democracy, good governance and the rule of law. The human rights clause is usually formulated in two articles: an essential elements clause describing the principles which the agreement is dependent upon, and a non-execution clause enabling the suspension of the agreement or parts of the agreement (normally aid allocations) in case of breaches. In the literature analysing the EU's implementation of the clause it is usually argued that the EU has acted inconsistently. Indeed, the EU has been accused of being 'selective and inconsistent' (Crawford 2000: 240) and of 'the use of double-standards' (Fierro 2003: 378). Overall, the literature holds that the EU puts their own interest above norms, so that norms are sidestepped if respecting them involves cost (Moravcsik and Schimmelfennig 2009). Policies promoting human rights are assumed to be simple rhetoric, disguising the 'real' objectives of national interest (Schimmelfennig 2001, Waltz 1979).

However, some observations suggest that this is not correct. For example, the EU cut aid to Nigeria after irregularities in the 1993 elections (European Political Cooperation Bulletin 1993: 364). The EU adopted new sanctions in 1995 following the controversial trial and public execution of ten environmental activists (Council 1995). Even

though Nigeria is considered to be of economic importance to the EU because of its oil-exports, sanctions were adopted after breaches of both democratic and human rights principles.

The example suggests that the literature rests on a shaky empirical foundation. In this paper I re-examine the empirical basis for the existing literature and find that there is a selection bias in the literature on the human rights clause. The bias concerns the so-called 'non-cases', which are cases where punitive measures are not implemented although breaches have occurred. Only non-cases where 'interest' of some sort is already known to exist are examined, thus the hypothesis is not sought falsified. In addition to the ones used in the literature, I find many instances of such non-cases where economic and strategic interest does not exist. I further argue that this bias results from a combination of (implicit) theoretical assumptions and explicit methodological choices. Consequently, there is a need for systematic empirical scrutiny of the evidence provided in the literature. The aim of the paper is thus mainly empirical, namely to establish a full universe of cases on which further research on the EU's implementation could be tested.

The paper proceeds as follows: Section two unpacks the theoretical foundations of existing contributions and systematises the hypotheses put forward in the literature. Section three provides evidence of selection bias in existing studies. I identify all cases of implementation and non-implementation of the human rights clause in ACP-states. In section four, I revisit the hypotheses identified in the third section of the paper in light of the new universe of cases. Through this empirical groundwork I challenge the theory and method applied by existing accounts, and open a path for further research into the question of why the clause is implemented incoherently. In section five I identify key questions for further research and discuss a few possible alternatives.

### **The conditionality debate: domination of interest-driven perspectives**

The EU's human rights clause has only been used in 23 instances and only towards ACP-states. Therefore, the research focusing exclusively on the clause's implementation is limited. Yet, the human rights clause is often discussed in more general literatures on sanctions and

democracy promotion, and thus the following review includes such contributions.

### **The primacy of economic interest?**

The conditionality clause is included in broad cooperation agreements regulating the trading rules between the EU and third states. In the literature it is often asserted that possible economic gains through trade trump normative foreign policy objectives and that this in turn can explain the variance we find in the implementation of political conditionality. Several contributions argue that poorer and smaller states are more likely to be targeted with sanctions than bigger and richer states. This is done by showing that political conditionality is more often implemented in countries from Sub-Saharan Africa than countries from other regions (Crawford 1997, 2000, Smith 1998, Uvin 2004). Sub-Saharan countries are generally poorer than countries from other regions of the world, but this is not sufficient information to establish a causal relationship between the economic interest in a target state and the likelihood of implementing conditionality. The fact that the poorer countries are more often targeted with sanctions, could also be explained by the spurious effect of democratisation or human rights violations taking place to a greater extent in these states. The implicit expectation of interest governing the choice of sanctions seems to lead the above studies to conclude without taking alternative accounts into consideration.

Furthermore, quantitative and qualitative studies present conflicting results on the importance of economic interest. The hypothesis is only found to be valid in research based on case studies (Crawford 2000, del Biondo 2011, Smith, 1998) and not in studies testing a wider set of cases (Warkotsch 2010). Using the case of Nigeria, it has for example been claimed that the EU's economic interest accounted for the late implementation of sanctions and absence of hard sanctions such as an oil-embargo in the early 1990s (Arts 2000, Crawford 1997, 2000, Smith 1998, Tomaševski 1997). The same explanation is used for non-implementation of the human rights clause after fraudulent elections in Nigeria in 2003 and 2007 (del Biondo 2011, Meyer-Resende 2008). Yet, the EU has not refrained from implementing sanctions against Nigeria. Development cooperation was suspended in 1993 due to irregularities in the election process and sanctions were renewed in 1995 after the execution of eight environmental activists (Council 1995, European Political Cooperation Bulletin 1993). The sanctions

were not lifted until Nigeria's return to a democratically elected government in 1999 (Council 1999). Although the contributions rightly identify the EU's economic interests in Nigeria, it cannot be concluded that it was the concern for cost that explains the non-use of the human rights clause.

### **The primacy of security considerations?**

A second strand of hypotheses ties to the argument of security interests. First it is posited that countries situated in the sender's neighbourhood are more likely to be targeted with sanctions than countries that are further away (Warkotsch 2010). However, as none of the ACP states are situated in the European neighbourhood, the distance hypothesis has only limited relevance for understanding when the conditionality clause is used. Moreover, the clause has been implemented in ACP countries that are relatively close to the EU, as in the case of Niger, and in countries that are geographically further away, as in the cases of Haiti and Fiji.

A second hypothesis concerns a donor's reluctance to sanction a state because of its putatively important position towards other states. A stable country in an unstable region can, for example, become an ally to donors because of its position vis-à-vis its neighbours. Ethiopia is often pointed to, being a stable country at the Horn of Africa and an ally of the United States (US) in the fight against terror (Brüne 2007, Jünemann and Knodt 2007, Meyer-Resende 2008). Del Biondo (2011: 386) argues that security interest accounts for the lack of implementation of the human rights clause in Nigeria, Ethiopia and Kenya, as they are countries that are considered key partners of the West in the fight against terrorism, and are important to maintaining peace in their respective regions. Yet again, the conclusions are based on an implicit expectation of interest-based behaviour without explicitly accounting for the theoretical mechanisms that supposedly trigger specific behaviour. The identification of security interests is correct, however, the hypothesis is not sought falsified since it is tested only on cases where such interest is known to exist.

Thirdly, various contributions argue that variation in the use of conditionality can be explained by the colliding foreign policy objectives of security and democracy promotion (Crawford 2000, Olsen 1998, 2000, 2002a, 2002b, Santiso 2003). The claim reminds us of the hypothesis forwarded by structural realists stating that, due to

structural constraints in the international system, normative ideas stop determining policy when in conflict with vital national or common interests (Hyde-Price 2008, Mearsheimer 2005). Nevertheless, the articles are based only on the identification of security concerns in a limited selection of cases. This raises questions with regard to the contributions' validity. Furthermore, the categories that are used lack specificity and clear definitions. A typical example is the following quote from Olsen (2002a: 133):

[...] if there is a conflict between democracy promotion and security, the EU will always give higher priority to security. Only in those cases where other, more important issues are not at stake will the EU seek to promote democracy with considerable consistency and vigor.

In this instance, there seems to be no limit to what can be understood as more 'important issues'. Almost any empirical finding can easily fit this category, and thus support the expectations of the author.

### **'Special relationships'**

Another category of arguments suggest that negative measures will be less frequent towards countries that have a 'special relationship' with donors. Close bilateral relations combined with the lack of negative measures has been labelled the 'foreign-policy paradox' (Feliu 2003), suggesting that the closer the relations between a sender and receiver state the larger the possibility for influence, yet equally less the chance of the donor state adopting punitive measures. In the literature there is, however, no attempt to specify when or under what conditions this paradox occurs or indeed to define a 'special relationship'. The alleged special relationships are not sufficiently specified to stand out as a clear analytical category. Smith (1998: 273) holds that sanctions following the violations of democratic principles in Cameroon have been blocked by France because the target state is in France's 'sphere of influence'. Seen in an historical context, it has been argued that colonial powers would be more reluctant to punish their former colonies with sanctions than other countries, especially France (Alesina and Dollar 2000, Olsen 1998, Stokke 1995). Two questions arise: What are the main ingredients defining such a 'special relationship'? When is it 'strong enough' to account for the alleged behaviour? The empirical record shows conflicting results: Jünemann and Knodt (2007: 354) find the paradox to be of

importance in the EU's relations with northern Africa but not with sub-Saharan Africa, whereas Warkotsch (2010) finds no support for the hypothesis at all. Furthermore, contrary to the hypothesis, Hazelzet (2001) finds that the EU punishes former colonies in a harsher way than other countries, but at the same time former colonies are rewarded more than others.

### **Complementary hypotheses**

Some contributions in the conditionality literature do explore alternative explanations. Portela (2007) argues that the EU implements the human rights clause only when 'it considers that it stands a reasonable chance of influencing the leadership responsible for the breaches' (2007: 42). Similarly, Laakso (2007: 125) states that 'there is no willingness to use the instrument if prospects of its usefulness are low'. In the following I refer to it as the usefulness-hypothesis. The claims are nevertheless neither supported by empirical evidence nor theoretically accounted for. It seems like there is an underlying expectation of calculative and/or strategic decision-making by the actors involved, however this is not discussed explicitly.

Civil war and conflict has also been suggested as a possible reason for the non-implementation of the human rights clause. Laakso (2007) and Portela (2007) use the cases of Sudan and Eritrea as empirical evidence supporting this hypothesis. Whether this reasoning is tied to the hypothesis of usefulness, e.g. prospects of achieving a positive result using the human rights clause when conflict or war is waging is low, or if there is another type of reasoning, is not clear. Furthermore, the hypothesis must be tested on a broader set of cases before its explanatory strength can be evaluated.

A recent contribution suggests that the so-called 'democratisation-development dilemma' can partially explain lack of donor sanctions. Del Biondo (2011) argues that high economic growth, significant progress towards reaching the Millennium Development Goals and technocratic good governance of aid programmes can account for the absence of Article 96 consultations in Rwanda and Ethiopia in the aftermath of fraudulent elections in 2003 and 2005. In this study, it is argued that the EU refrains from using the conditionality clause because it prioritises the foreign policy goal of promotion of development over democratisation. Del Biondo's hypothesis is an interesting and novel contribution to the debate. Nevertheless, with limited

empirical evidence the hypothesis must be subjected to further testing before it can be confirmed.

Summing up, two weaknesses can be discerned in the literature: First, there is a lack of explicit theoretical foundations. The majority of studies are conducted without clarifying the theoretical assumptions underpinning their hypotheses. The implicit assumption is that actors calculate costs and benefits, and choose the best option accordingly. Even when theory is used explicitly there are rarely alternative hypotheses to the ones based on interest. The second weakness concerns methodology. When comparing cases where sanctions have been implemented with the so-called ‘non-cases’, it becomes clear that only countries where ‘interest’ of some sort is already known to exist are empirically tested. The biased selection of cases results in that the hypotheses are not sought falsified. The selection bias is most notable in the literature that focuses specifically on the EU's human rights clause but it is also evident in a number of contributions to the general literature on sanctions and democracy promotion.

### **Implementation of conditionality: establishing variance**

As a retort to the weaknesses in the literature I conduct in the following a more comprehensive study of the human rights clause's implementation. The study constitutes a first step towards a more nuanced understanding of conditionality by identifying all possible cases. I conduct a systematic empirical tracing of the human rights clause's use and non-use by the EU towards ACP states. In total, 40 cases were identified. They constitute 23 cases of implementation of the human rights clause and seventeen (non-)cases where the clause could have been used. I used data in the forms of official documents from the Council and Commission, existing datasets on coup d'états, and election observation reports from international organisations (see below).

One caveat applies. First, the identification of the seventeen non-cases is based on the analysis of official documents and cannot be regarded as a constant population. The record in respect to democratic principles has for example been constructed according to the EU's earlier record of implementation including a narrow definition of democratic quality based on holding elections and winning party holding power. In addition, the fact that the election reports assessed

are developed by eight organisations increases the possibility of inconsistencies in the selection process.

### Invoked conditionality

Table 1 below lists the 23 instances of official consultations initiated by the EU in accordance with the human rights clause, together with the reason for the triggering of the consultations. The clause was in fifteen out of twenty-three cases initiated due to a coup d'état while the remaining eight cases were initiated following a deterioration of the respect for democratic principles, human rights or the rule of law.

Table 2: Consultations according to the human rights clause\*

Year, Country	Coup d'état	Flawed Elections	Human Rights	Rule of Law
2011 Guinea-Bissau			X	X
2010 Niger	X			
2009 Niger		X		
2009 Madagascar	X			
2009 Guinea	X			
2008 Mauritania	X			
2007 Fiji	X			
2005 Mauritania	X			
2004 Guinea		X		
2004 Togo		X	X	
2003 Guinea-Bissau	X			
2003 Central African Republic	X			
2001 Zimbabwe		X	X	X
2001 Liberia		X	X	X
2001 Côte d'Ivoire		X		
2000 Fiji	X			
2000 Haiti		X		
2000 Côte d'Ivoire	X			
1999 Guinea-Bissau	X			
1999 Comoros	X			
1999 Niger	X			
1998 Togo		X		
1996 Niger	X			

\*The cases listed here comprise Article 366a of the Lomé-agreement and Article 96 and 97 of the Cotonou-agreement. Source: Council (2010) and General Secretariat, DG F, Press Communication and Transparency.

The data clearly shows a tendency to implement the clause where there are breaches of democratic norms, with a coup d'état being the single most important trigger. The second most important reason is

irregularities in elections. Human rights and good governance are only rarely important reasons for the initiation of the clause. As pointed out by earlier studies on political conditionality, this pattern depicts a minimalist conception of democracy, focusing on clear-cut breaches such as coups and elections (del Biondo 2011, Diamond 1999, Tomaševski 1997). Sharply defined breaches are considered 'easier' to react to than human rights breaches, the latter being more problematic to judge in terms of 'cut-off points' for reaction (Smith 2001).

### **The non-cases?**

When exploring the variance in the clause's implementation, that is identifying non-cases, I have focussed on breaches of democratic norms. I conducted an assessment of narrowly defined democratic quality, operationalised as electoral record and coup d'états, of all ACP states between 1995 and 2012. Six cases of coup d'états that were not followed by the human rights clause were identified by a search in the CSP dataset 'Coup d'état events 1946–2010' and cross-checked with the Conflict Barometer developed by the Heidelberg Institute for International Conflict Research and Keesing's World News Archive. In addition, all elections taking place in ACP countries in the time-span 1995–2012 were identified (169 elections) followed by an assessment of election reports (118 reports). The 51 elections that were not observed by an international team were checked for irregularities by Keesing's World News Archive. The latter search did not result in the identification of any major irregularities. The former assessment resulted in the identification of eleven non-cases being reported as majorly flawed elections according to the election observation reports. In addition, Côte d'Ivoire (2004) was added as a non-case because of a Commission proposal for the opening of consultations under the Cotonou-agreement's Article 96 which was not followed up by the Council. The proposal was put forward due to the deteriorating human rights situation, delays in preparations for elections and obstacles put in the way for an EU financed audit in the cocoa-sector (European Commission 2004). Table 2 lists the seventeen non-cases identified sorted by the nature of the breach.

Table 3: Identified breaches, not subject to the human rights clause

Year, Country	Coup d'état	Flawed Elections	Human Rights	Rule of Law
2012 Mali	X			
2010 Côte d'Ivoire		X		
2007 Nigeria		X		
2007 Kenya		X	X	
2005 Ethiopia		X	X	
2004 Côte d'Ivoire		X	X	X
2003 Nigeria		X		
2002 Papua New Guinea		X		
2002 Equatorial Guinea		X		
2000 Solomon Islands	X			
2001 Chad		X		
2000 Mauritania		X		
2000 Tanzania		X	X	
1997 Sierra Leone	X			
1997 Congo–Brazzaville	X			
1996 Burundi	X			
1996 Sierra Leone	X			

Two observations can immediately be made based on the data. First, it challenges the current consensus in the literature claiming that the EU has acted coherently by implementing Article 96 consultations in all cases of a coup d'état in an ACP country (del Biondo 2011, Laakso et al. 2007: 49). Four coups in 1996–97, one in 2000, and the recent 2012 coup in Mali were not followed the initiation of the human rights clause. Second, as many as eleven cases of flawed elections not followed by the human rights clause were identified. In earlier studies, only a few such non-cases have been identified, which were normally countries with a relatively strong link to the EU through development cooperation or trade, for instance Ethiopia, Kenya and Nigeria. The systematic examination in this study, however, also pins down cases where no such strong link between the EU and the non-cases exist, as for example in Papua New Guinea and Solomon Islands.

The human rights clause's historical development is also relevant. In the beginning of its existence the human rights clause was contested at the European level. In 1994, Portugal challenged the legal basis of the human rights clause included in the EU's external cooperation agreement with India. Portugal argued that such a clause should contain a reference to Article 235 TEC which would require unanimous decisions in cases of suspension of development cooperation. The Council, on the other hand, argued that the EU could include such a

provision on specific matters without recurring to other legal bases. The ECJ gave its judgement in December 1996 (European Court of Justice 1996), finding that there was sufficient legal basis for the inclusion of a human rights clause without referring to Article 235. Hypothetically, this process of questioning the legal status of the clause may have contributed to the lack of implementation following the coups in Sierra Leone in January 1996 and Burundi in July 1996. However, Niger was subjected to the human rights clause after a coup in January 1996. Thus, the ECJ case cannot be a sufficient explanation of non-implementation towards Sierra Leone and Burundi.

## Examining explanations

Operationalisations of interest-based hypotheses are challenging. 'Interest' as such is not easy to define. Definitions are often lacking details and it must be questioned if economic and security interest can be measured objectively. Most contributions in the field of political conditionality use existing datasets as proxies for economic and security interest. For example, oil production and trade statistics are used as proxies for economic interest and geographic location measured in distance to donor or to conflict areas for security interest. Although I find several weaknesses with these operationalisations I use them to replicate data for the set of (non-)cases identified in the previous section.

The most frequent proxies used for assessing economic importance in the literature are oil production and trade link with the EU (Crawford 1997, del Biondo 2011, Smith 1998). Assessing oil production, only Nigeria can be said to have an extensive production of oil, amounting to 2000 barrels per day and ranked as the 12th producer in the world in 2011. Also Equatorial Guinea, Congo-Brazzaville, Papua New Guinea and Côte d'Ivoire produce oil ranked respectively 36, 35, 69 and 65 in the world on production. The state's import and export rates with the EU vary significantly. The countries represented in the non-cases have an overall higher average and median both for import and export with the EU than the implementation cases. Thus, some support for the economic interest hypothesis is found. However, the trend is strongly reduced when controlling for the outlier case of Nigeria which has exceptionally high values.

When it comes to security considerations, the hypothesis of sanctions being implemented to a lesser extent towards states with an important

position towards another state or region (Brüne 2007, Jünemann and Knodt 2007, Meyer-Resende 2008), is relevant for several cases in our universe. Following del Biondo (2011), I argue that Nigeria, Ethiopia and Kenya are cases of relatively stable countries in an unstable region. Nigeria, situated in West Africa, is the main economic driver in the region and hosts the headquarters for the regional integration organisation ECOWAS. Ethiopia and Kenya are situated in East Africa, both bordering unstable Somalia and Ethiopia bordering Sudan, Djibouti and Eritrea in the north. Furthermore, Ethiopia has been considered to be a key ally of the US in the war against terror. One could argue that Chad has also played an important role over the last years as cooperation partners for the EU in hosting the protection forces for refugees fleeing from Darfur. However, apart from these considerations none of the other non-cases can be regarded as being of key security interests to the EU.

When it comes to the hypothesis relating to special relationships between specific countries, existing studies argue that sanctions are less likely to be used towards target states that are in a political or historical way closely tied to the sender, be this either due to colonial background or close political relations. The literature claims that this is most notably seen in the case of France (Alesina and Dollar 2000, Olsen 1998, Stokke 1995). I do not find support for this hypothesis. The human rights clause has been implemented towards French ex-colonies in 70 per cent of cases, and it has been refrained from being implemented in only 35 per cent of cases. Thus, negative measures are more frequently used towards French ex-colonies than British. Furthermore, it must be reiterated that such alleged special relationships are difficult to measure precisely. The hypothesis' operationalisation into mere dichotomies such as British or French ex-colony or close political ties or not, have obvious weaknesses tied to validity for the former and measurement error for the latter.

Of the alternative hypotheses, the first concerned the reduction of sanctions towards countries showing signs of democratisation. Del Biondo (2011) argues that countries showing stable signs of development are less likely to be punished for democratic wrong-doing by looking at data on GDP growth (over 10 per cent), Millennium Development Goal (MDG) Monitor (amount of goals achieved/expected to be achieved) and the World Bank's governance indicators. The replication shows that of the non-cases, only Ethiopia and

Equatorial Guinea have growth rates over 10 per cent in the years leading up to the democratic breach. In addition, Chad, Kenya, Nigeria and Côte d'Ivoire show almost only positive growth during the period, although below 10 per cent. Similarly, Ethiopia and Equatorial Guinea show a positive trend in the MDG indicator, with six and four goals respectively, on track to be achieved by 2015. The remaining countries in the non-case group are reporting poorly with respect to the MDGs on track to be fulfilled before 2015. As for the indicators for worldwide governance, all non-cases score below the 50th percentile of world average. Most cases are situated in the lowest 0–10th percentile. Thus, del Biondo's hypothesis can only be confirmed in two out of sixteen cases presented here.

When it comes to the civil-war hypothesis, systematic data was not presented in any of the contributions where it is used (Laakso 2007, Portela 2007). Using an existing dataset I find that there was civil war in three of the non-cases (Congo in 1997, Cote d'Ivoire in 2004 and Sierra Leone in 1996). On the other hand, I also find that in four of the cases where the human rights clause was implemented, civil war was occurring (Cote d'Ivoire in 2000 and 2001, Guinea-Bissau in 1999 and Liberia in 2001). Thus, the hypothesis is not supported by data in the cases identified in this study.

## Revisiting core concepts

The main purpose of this paper is to establish a better empirical basis for the study the human rights clause as a first step towards a more nuanced understanding of the EU's conditionality policy. As such, it fills gaps and holes in our knowledge of the EU's actual policy. This being established, I will in the following suggest a few possible ways forward for studying the question of why the human rights clause is implemented inconsistently.

The conditionality literature claims that the EU's decisions to implement conditionality are a result of the member states national interests. It claims that strategically important states are exempted from sanctions and that less important countries are targeted to a larger extent. Nevertheless, in this study I found many cases of non-implementation that previously have not been addressed. I also found that many of these (non-)cases cannot at first sight be explained by the hypotheses commonly used in the literature. Thus, we have a series of cases that remain unexplained. For example, the coup d'états

in Mali in 2012 and Solomon Islands in 2000 were not followed by the EU implementing the human rights clause. Being cases of no evident 'interest' to the EU, how can the non-implementation in these cases be explained? Moreover, Cote d'Ivoire was subjected to the human rights clause after a coup in 2000 and after flawed elections in 2001, but on the contrary the 2004 Commission proposal to implement the human rights clause after flawed elections in 2004 was not followed up by the Council. How can the cases of implementation and non-implementation towards the same country be accounted for?

Looking at all the cases identified in the third section of this paper, the EU's implementation appear accidental. Some questions immediately arise. Is the EU aware of all breaches that take place? To what extent are human rights and democracy monitored? We know that the EU disposes of several different policy instruments and that economic sanctions have been adopted earlier without referring to the human rights clause, for example towards Nigeria (European Political Cooperation Bulletin 1993). Thus when the human rights clause fails to materialise, perhaps it is because other instruments are applied. There might also be certain situations where the clause is not considered legitimate to implement, or perhaps not useful. As some contributions have argued, calculations of the probability for success or effectiveness of implementing the clause might influence the choice (Laakso 2007, Portela 2007). The answers to these questions can probably tell us something more about the choice of (non-)implementation. They might also show that the implementation of conditionality is not so inconsistent after all. However, what remains to be explored is how these decisions can be accounted for.

As pointed out earlier, there are several problems connected to defining, operationalising and measuring 'interests'. It is important to make sure that we have clear analytical categories that enable us to distinguish interest from other putative explanatory variables. The identification of any type of 'interest' in a certain case is not enough to draw the conclusion that it was this interest that caused the non-implementation. Moreover, looking closely enough at each case, we are bound to find 'interest' of some sort. Thus, one could ask whether the main problem is that interests are operationalised inaccurately or if 'interests' alone cannot explain the implementation of conditionality. Given the latter, what other theories presents plausible explanations?

Considering the normative aim of the policy, the influence of norms on decision-making presents itself as a possible hypothesis. Is there evidence to support that implementation was conducted on the basis of the norms? If so, which norms? Among many, new institutionalist perspectives bring the influence of norms into focus. Following a 'logic of appropriateness' actors make decisions linking particular situations to particular identities (March and Olsen 1989). Actors evaluate what kind of action would be 'the right thing to do' given their particular role. Thus, rather than calculating costs and benefits actors are understood as rule-followers with the capacity of evaluating what rule is appropriate in a given situation. One hypothesis could be that the clear pattern of implementing the human rights clause after clear-cut breaches such as coup d'états and election fraud has emerged as an informal rule of implementation. Likewise, one could hypothesise similar rules for non-implementation. If we are to believe Laakso (2007) and Portela (2007) the clause is not implemented towards countries experiencing civil war, a finding that is more easily understood if actors are conceived of as rule-followers rather than utility-maximisers.

In the realm of EU foreign policy a widely discussed hypothesis has been forwarded under the idiom 'normative power Europe'. It is argued that the EU is constructed on a normative basis, 'and that this predisposes it to act in a normative way in world politics' (Manners 2002). A hypothesis based on this framework would expect the EU to implement the human rights clause consistently in all breaches of human rights, democracy and good governance. The problem with many of the contributions that study the influence of norms on EU policy, is that norms are treated statically, as a predetermined given. However, norms and institutions may and often do change over time. In addition, we need to be able to account for actors distinguishing between different types of norms. In a given situation norms may collide or point us in different directions. It is through communicative processes that norms are scrutinised and that their relevance and binding character is rationally assessed (Sjursen 2004). It is thus necessary to take the power of words and arguments seriously. Instead of a conception of actors that presumes them having a pre-given set of preferences one could hypothesise that actors are able to reach agreements through the use of dialogue and arguments. In the context of the EU's conditionality policy such a hypothesis could be particularly interesting because the policy puts strong focus on political

dialogue and consultations. Following a breach, the offender is asked to give reasons for its failure to comply with its obligation. Based on the reasons that are put forward to justify the breach the other party can make a distinction between compliance and non-compliance. Depending on their validity, these arguments can be an important factor in deciding whether to retaliate by hard sanctions, the human rights clause or to continue already established political dialogue.

Yet, looking at the foreign policy literature more generally, there are other alternatives approaches to understanding foreign policy decisions. For example, Graham Allison's (1971) seminal study on the Cuban missile crisis paved way for exploring the role of institutions in decision-making. One of his hypotheses, the bureaucratic politics model, part from the observation that decision-making processes cannot be traced back to one unitary actor, but rather to a complex of many actors, i.e. ministries, directorates and other public administration units. These actors, parallel to making foreign policy decisions, compete for power and resources. Thus, decisions are assumed to be the result of not only pre-existing goals, but also a result of internal conflict, compromise and bargaining between competing actors. Although used to study the foreign policy of the United States, Allison's hypothesis can be relevant also for studying the foreign policy of the EU. In order to initiate the human rights clause three units are involved: the Commission issues the official proposal for implementation, either at its own initiative or at request from the Council, civil servants in Council working groups do the preparatory work, and the final decision is made in the Foreign Affairs Council with qualified majority voting. It could be interesting to investigate whether there is evidence of particular organisational interests that can be traced back to these particular units. The earlier mentioned hypothesis of implementation depending on the possibility for success can be more easily understood if we assume that these different units compete for influence and power. A successful outcome can redeem influence and increased power. The ACP working group in the Council might be of particular interest in the testing of this hypothesis.

Arguably, various alternative perspectives provide plausible hypotheses to understanding the EU's conditionality policy. Why, then should we rely only on interest-based perspectives, knowing that they cannot paint the whole picture?

## Conclusion

In this paper, I have established that the literature on the EU's use of conditionality rests on a biased empirical foundation. A systematic assessment of the human rights clause shows that both strategically important and non-important states have been exempted from consultations in the aftermath of a breach of the essential elements. In previous studies, only strategically important states such as Ethiopia and Nigeria have been used as examples, resulting in existing claims becoming a self-fulfilling prophecy: the hypotheses are only tested on the cases where it is already known that interest exist. Further, it is argued that this bias results from a combination of (implicit) theoretical assumptions and explicit methodological choices. The study constitutes a first step towards a more nuanced understanding of conditionality and has proposed a few alternative paths for further research.

The paper seeks to contribute to the broader debate about the EU's international role and the tools we use to analyse it. First of all, the findings establish the need for systematic empirical investigation. Conclusions made on a biased set of cases, as found in the assessment of the human rights clause, can lead to wrongful conclusions. Furthermore, the findings raise doubts about the validity and dominance of interest-based explanations more generally. The exercise of systematic identification of non-cases proves that empirical reality does not provide unified support for the hypotheses based on economic and security interest. This lesson can probably also be of benefit to the wider debate on the EU's foreign policy and role in the world. Although I suggest that there is more to the EU's performance than its interest, this might not be a particular trait of the EU. It is plausible that a similar analysis would find that nation states do not only act according to interests either. Thus, what is needed are concepts and research designs that allow for hypothesising alternative explanatory factors, both in the study of the EU and in foreign policy in general.

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# Article 2

Norm collision in the EU's external policies:  
The case of EU sanctions towards Rwanda.

## Abstract

The EU is the world's biggest donor of aid to developing countries. The provision of EU aid is conditional on respect for human rights and democratic principles in the recipient countries. This article questions to what extent norms always yield to interests in decisions over whether to sanction breaches of human rights and democracy. Building on a theory that allows the simultaneous consideration of different norms, the article suggests that rather than interests being the determining factor when the EU takes decisions on implementing sanctions, the weighing of various norms and the choice to follow one of them can explain why sanctions have been avoided in certain cases in Rwanda. The article shows that this weighing of different norms plays an important role in foreign policy decisions and can have concrete consequences with regard to sanctions. In so doing, it

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advances the literature on the EU's global role by developing a theoretical account of the evaluation process and the ultimate decision to act in accordance with one norm in particular.

## Introduction

The European Union (EU) is increasingly willing to sanction non-compliance with international rules and agreements (Giumelli, 2013). However, it is still the case that sanctions are unequally applied. Why is it that sanctions are applied towards some aid-receiving countries in situations of objectionable behaviour and not towards others?<sup>1</sup> The standard answer to this recurrent question in discussions of the EU's global role is that donors refrain from imposing sanctions when doing so would damage their own interests; however, in some cases, this answer is not satisfactory. Amongst the cases that have not been sanctioned we find Rwanda. Rwanda does not have any particular characteristics or natural resources that would qualify it as a country of economic or security-related interest for the EU (Hayman, 2009; Zorbas, 2011); nevertheless, the EU has adopted a 'soft approach' towards Rwanda.<sup>2</sup> Despite several incidents of objectionable behaviour over the past decade, the EU has refrained from implementing sanctions, choosing instead to react through diplomatic means (EEAS#1#2#3; EUdel#1#2).

In this article, I explore to what extent it is reasonable to expect that norms will yield to interests and whether the absence of sanctions can be shown to result from a concern over costs, as the literature argues (Brüne, 2007; Crawford, 2001, 2005; Emmanuel, 2010; Hyde-Price, 2008; Olsen, 2000; Warkotsch, 2008, 2010; cf. del Biondo 2011, 2015a, 2015b). I argue that we must at least consider the theoretical possibility that a decision not to sanction may be due to a conflict of norms rather than a conflict between norms and interests. It might be the case that a decision not to sanction has nothing to do with the economic or security interests of the donor; rather, it could arise from the prioritisation of one norm over another. In order to develop this argument, I establish a distinction between different types of norms. Norms do not provide a single moral standard that must be followed consistently. Actors

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<sup>1</sup> 'Objectionable behaviour' refers to situations that are considered to be breaches of the conditionality principles enshrined in the Cotonou Agreement: namely, respect for human rights, democracy, good governance and the rule of law.

<sup>2</sup> I use the terms 'the EU' and 'EU institutions' interchangeably in reference to decisions regarding common EU aid.

may weigh the benefits and disadvantages of various norms and choose to act according to one of these norms on the basis of this evaluation. This expectation of a weighing of different norms provides an alternative to existing hypotheses on cases in which sanctions have not materialised. One problem with these hypotheses is that they rely on an indiscriminate view of norms. If a norm is not consistently followed (i.e., rigged elections in country A result in sanctions, but those in country B provoke political dialogue), it is assumed that interests must explain any discrepancy. However, interests might not be the determining factor in the choice to not implement sanctions; actors may simply have decided to act according to a different norm. Why has the EU chosen to apply a soft approach in the case of Rwanda? In this article, I develop an account for the EU's lack of sanctions towards Rwanda anchored in theory that opens up to norms influencing policy. The added value is the ability to explain why the EU chooses one norm over another when they point in different directions. This is arguably a much-needed contribution to the literature on the EU's global role, as empirical evidence suggests that the number of cases in which norms collide is increasing (del Biondo, 2011, 2015a, 2015b).

## **Analytical approach**

The literature analysing the application of instruments following incidents of objectionable behaviour generally ascribes the use of sanctions (or lack thereof) to the donor's self-interest (Brüne, 2007; Crawford, 2001, 2005; Emmanuel, 2010; Hyde-Price, 2008; Olsen, 2000; Warkotsch, 2008, 2010). It is argued that economic, security-related or historical interests in an aid-receiving country prevent donors from implementing sanctions when the interest in question is considered more important than sanctioning the breach. When there is no such interest, breaches of human rights and principles of democracy would be followed by a 'hard approach'. In the absence of any particular interest in jeopardy, the 'cost' of implementing a sanction is low and the 'benefit' is high in terms of satisfying domestic voters and the international community by reacting with concrete and tough measures. This is in line with rational choice theory, which predicts actions according to a cost-benefit analysis.

In the case of Rwanda, the local economic and security concerns are not considered to be important to the EU (Hayman, 2009; Zorbas, 2011). In the conditionality literature, it is commonly asserted that ex-

colonial states are treated with more lenient measures than other countries because of 'historical interests' or the desire to maintain bilateral interests and influence. This has been most prominently cited in the case of France, in particular with regard to its relations with Cameroon and Algeria (Claeys, 2009; Emmanuel, 2010). Belgium's conditionality policy towards Rwanda has been gentler than, for instance, the country's hardline approach towards the Mobutu regime in Zaire. Nonetheless, Belgium has carried out human-rights and democracy interventions in Rwanda relatively frequently (Renard and Reyntjens, 1995:102). In addition, the EU has applied sanctions towards Rwanda in the aftermath of genocide as a response to the government's failure to arrest the perpetrators (Portela, 2010:132). Given that the EU has previously been willing to sanction Rwanda, it is not unreasonable to expect that it could sanction the country again. It has also been argued that Rwanda is a 'special case' for Western donors because of the 1994 genocide – specifically, that Western donors apply soft instruments in Rwanda because of a 'genocide guilt' (Zorbas, 2011) or a 'genocide credit' (Reyntjens, 2004). Rwanda's history is assumed to impact donors, but there is no agreement on exactly how its special status influences donor decisions, as both the 'historical interest' and 'genocide guilt' arguments are difficult to measure and operationalise. Each of these categories is used so broadly that any type of reference to the genocide or historical events can be used to confirm such hypotheses; consequently, the categories are of little analytical value. Moreover, there is no clarification of how these interests actually impact behaviour: some scholars suggest that they might lead to a harder approach, while others expect the EU to resort to soft measures instead (Renard and Reyntjens, 1995:107). For these reasons, the historical interest and genocide guilt hypotheses will not be investigated further.

However, there might be other types of interests that are relevant. Inter alia, we know that critical voices 'at home' can be important in policy-makers' decisions on how to react to cases of objectionable behaviour in other countries, especially behaviour associated with allegations of the misuse of aid (Borchgrevink, 2008). It is therefore necessary to investigate whether interests of some sort have influenced the EU's choice of instruments in the case of Rwanda.

The literature on norms in EU foreign policy is expanding but still limited. Two hypotheses have been dominant in the literature: first,

that norms are used only rhetorically (Schimmelfenning, 2001), and second that the EU is predisposed to act in a 'normative way' (Manners, 2002). Neither of these hypotheses are particularly useful if we are seeking to seriously investigate whether norms influence policy choices. The former hypothesis does not allow for norms having an independent effect on behaviour and the latter fails to spell out the conditions governing how norms may influence policy (Sjursen, 2006). However, beyond these two dominant hypotheses, certain important contributions have been made regarding the role of norms in foreign policy. Lucarelli and Manners (2006: 201-202) map 'a core set of values, principles and images of the world [that] emerges through EU foreign policy, and thus constitutes the international identity of the EU'. Within the social-constructivist tradition, several models have recently proposed to explain norm change and even norm death as a consequence of contestation (Lantis, 2016; Panke and Petersohn, 2016; Björkdahl et al, 2015). By challenging the 'first generation' of constructivist theory, these studies make an important contribution to the literature on norms in international relations by demonstrating that norms are not necessarily as constitutive as previously assumed. Norms can be contested, and the result of this contestation may be a redefinition of the norm or even its rejection. Other studies have shown how a small number of member states can promote certain norms in the EU by using tactics such as entrapment and framing (Elgström, 2016). However, there have only been limited attempts to explain the prioritisation of one norm above another once these norms have presumably been accepted and internalised.

A notable exception to the interest-based sanctions literature is the work of del Biondo (2011, 2015a, 2015b), who presents evidence that aid recipients that perform well in terms of social and economic development are excluded from EU sanctions. However this is only a first step, as no theoretical account is provided. It is not explained why one norm trumps the other, and thus the result could have been the same for any alternative norm. There is thus an urgent need for such prioritisations to be theoretically anchored. Whereas prior studies have treated norms indiscriminately and have only been able to account for one norm's influence at a time, this article accounts for situations in which actors weigh a variety of norms and ultimately choose to act in accordance with one of them.

We need a theory that takes into account the independent effects that norms can have on policy choices. The approach chosen here builds on the conception of actors as communicatively rational (Habermas, 1993): it assumes that they coordinate behaviour through language and that they are able to give reasons for their actions. The communicative perspective expands our understanding of what constitutes rational behaviour, facilitating an analysis in which actions according to what ought to be done are considered an equal possibility to weighing the costs and benefits and choosing the option that best resonates with the actors' interest. Following norms is thus considered to be equally rational as following interests. Research based on the communicative perspective has made important contributions to the literature by providing a distinction between different kinds of norms (Sjursen, 2002) and by showing how agreements can come about through deliberation (Risse, 2000).

I make use of Günther's (1993) distinction between a discourse of justification and a discourse of application. A discourse of justification refers to the establishment of a norm's universalisability – that is, whether it is valid at a general level – and expects all situations to be evaluated and treated according to a concrete moral standard. A discourse of justification resonates with a common implicit expectation among researchers studying the use and non-use of conditionality instruments: namely, that a breach of a conditionality norm (i.e., a coup d'état) in country A will be treated equally in country B (i.e., Article 96 of the Cotonou Agreement). However, this is not always the case. Does this necessarily mean that policy is interest-based, or is there an alternative way to account for discrepancies?

A discourse of application characterises a situation in which there are several universal norms with conflicting content:

Norms which are valid under unchanging circumstances can conflict with one another when all the circumstances of a situation are considered. In justification discourses we simply establish that there is no norm which, under unchanging circumstances, conflicts with the norm requiring justification. The conflict of norms would then be a problem of their appropriateness and not of their validity.

(Günther, 1993: 212)

We see a discourse of application when several normative perspectives are identified and evaluated, allowing actors to determine which course of action to take, all considerations taken into account. The aim is to establish 'if a particular rule should be followed in the present circumstances, and in case of yes, how this should be done' (Eriksen and Weigård, 2003: 80). Günther's distinction is anchored in the process of how norms are handled: they can be differentiated by examining the structural attributes of 'under unchanging circumstances' (that all other things are equal) and 'considering all the circumstances' (that all things are considered). In the former case, there is no information about the situation in question; hence, if a norm is valid in situation *s*<sub>1</sub>, then it will also be valid in *s*<sub>2</sub>, *s*<sub>3</sub>... under unchanging circumstances. The latter however, allows the possibility that norms that are valid under unchanging circumstances can conflict with one another when all the circumstances of a situation are considered.

### **Hypotheses and indicators**

In accordance with rational choice theory, two hypotheses were devised in order to investigate whether interests have guided the EU's decision to implement soft instruments in the case of Rwanda. The first hypothesis is derived from concerns over domestic opinion: (H1) EU institutions choose instruments based on the desire to satisfy the European constituency. Because sanctions were not implemented in the circumstances under investigation, the validity of this hypothesis would be indicated by a lack of concern over negative reactions in the public opinion. The second hypothesis is derived from the expectation that power-seeking is the main motivation behind the EU's actions: (H2) EU institutions act out of a desire to enhance their status vis-à-vis other donors in order to determine and shape aid politics in Rwanda. This desire to enhance its status could relate to EU member states, but also to other donors (such as China). The indicator for this hypothesis would be justifications referring to instruments implemented in order to secure a more powerful role as a donor in Rwanda.

In order to develop the normative hypotheses, I rely on Günther's theory, which differentiates the discourse of justification from the discourse of application. It is not a straightforward exercise to operationalise an abstract theoretical argument such as Günther's, and make it relevant for an empirical analysis. Nevertheless, his

theory offers a much-needed distinction between situations in which one norm is evaluated and consistently followed and situations in which the context is emphasised and the actors are faced with several norms that point in different directions. Two hypotheses were devised. In accordance with a discourse of justification, (H3) EU institutions choose instruments based on the determination that universal principles have been breached, regardless of the context. In order to operationalise the discourse of justification, I use the proportionality principle from international law. I consider this principle to embody the characteristic of acting according to a single moral standard. With regard to sanctions, it prescribes that there should be a correct balance between a restrictive measure and the severity of the objectionable behaviour. This entails tougher instruments for the gravest situations and softer instruments for less severe incidents. The validity of this hypothesis would be indicated by the EU's definition of concrete thresholds for the activation of each instrument (i.e., a coup d'état leads to the withdrawal of aid) and the consistent use of these thresholds as an objective standard in the EU's justifications.

In accordance with a discourse of application, (H4) EU institutions choose instruments after a process of identifying several relevant norms and evaluating their relative importance in the particular situation. The requirement of unchanging circumstances is lifted, meaning that justifications can be tied to a particular situation. We open up to situations in which there is a collision of contextual norms. This hypothesis' validity would be indicated by actors not only evaluating to what extent a situation represents a breach of the conditionality principle as such (i.e., rigged elections as a breach of democracy), but also identifying other norms that are valid in the specific situation. What is often labelled 'development norms' are expected to be especially relevant, as they have been empirically shown to frequently clash with democracy and human rights (del Biondo, 2011, 2015a, 2015b).<sup>3</sup> For instance, the implementation of a sanction might be perceived as potentially weakening economic and social conditions in the target country. Actors would then evaluate their best course of action: is it more important to protect human

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<sup>3</sup> 'Development norms' are defined here to be the norms that underpin most OECD donors' aid disbursements. In addition to economic development and poverty reduction, emphasis is placed on the process of development policy, namely ownership by the recipient country, partnership, effective aid and donor coordination (Orbie and Versluys, 2008: 79).

rights by sanctioning breaches, or to not impede economic and social development by failing to sanction a breach of human rights?

### **Method and data**

The method applied is a qualitative analysis of the EU's justifications for implementing soft instruments in Rwanda. I systematically trace and analyse the arguments that the EU has used to justify the instruments it has chosen to implement. The method follows from the choice of theory. Analysing justifications is the best way to trace information about the normative evaluations policy-makers might have conducted. This analysis belongs to the interpretative tradition, where the aim is to discover what led to a decision and the reasons behind it from the actor's point of view (Eliaeson, 2002: 52). There are certain analytical challenges associated with the study of norms. For example, norms are often contested, and it may be difficult to account for their various meanings. Moreover, it is not easy to measure a norm's precise impact on an actor's behaviour (Jørgensen, 2006). Some might argue that an actor's justifications, especially normative ones, can serve to cover up other underlying motives. Although justifications are not necessarily blueprints of an actor's intentions and thoughts, we can control for consistency by comparing justifications from different actors and also by confirming whether words are followed up by actions. It is difficult to imagine a situation in which all actors manage to lie consistently and collectively over time (Sjursen, 2002). Furthermore, interviews were conducted under the promise of anonymity, giving respondents little reason to lie about their motives.

The units of analysis are the arguments justifying the EU's choice of instruments in a number of situations. In what Yin (2014: 50) would describe as an embedded and longitudinal case study, I analyse the arguments presented in several incidents that were independent of one another but took place within the same case; the Rwandan elections in 2003, the establishment of the Gacaca court system in 2002 and allegations of Rwandan support of rebel groups in the Democratic Republic of Congo (DRC) in 2008 and 2012. I have chosen these particular situations because they were identified as the most important settings in which the EU has chosen to react in one way or another. This identification took place both through an examination of official EU documents and by asking the interviewees. These incidents do not cover all instances in which a reaction has taken place (or could have

taken place), but rather situations that are typical or ‘common cases’ and hence lend themselves to a case-study analysis (Yin, 2014:52).

Rwanda is a ‘common case’ in terms of being a relatively stable country with positive economic developments shielded from sanctions following breaches of human rights and democratic principles. Similar cases from the Africa, Caribbean and Pacific group of states (ACP) that have avoided the negative repercussions of the conditionality clause (Article 96) are Ethiopia, Tanzania, the Solomon Islands and Papua New Guinea (Saltnes, 2013). A case study of the justifications for not sanctioning Rwanda provides in-depth knowledge on one common case, thereby empirically contributing to the literature on the EU’s global role. In addition, the case study is an apt candidate for theoretical generalisation.

EU development policy and aid suspensions fall within the mixed-actor category of the organisation’s competences. Both the supranational and intergovernmental bodies of the EU are involved, in addition to the independent aid policies and decisions of the member states. As a result, the data used in this article encompasses all of the EU actors involved in EU-Rwandan relations. Data from the member states is employed to corroborate the EU’s positions as well as to identify when EU policy differed from that of the member states. To control for consistency, the triangulation of data is important. I have used the following sources: official documents from the European Commission, the EEAS and the European Parliament, articles from Agence Europe identified through systematic searches and semi-structured interviews with officials from the Commission, the EEAS, the EU delegation and member-state delegations in Rwanda. The interviewees all worked in Rwanda or with Rwanda from institutional headquarters at various points in time during the period between 2002 and 2014. Six European member states had diplomatic missions in Kigali during this period; representatives from two of these member states are included in the interviews. Finally, the analysis builds on sources external to the EU, such as relevant articles in the media, an official UN Report, reports from NGOs and secondary literature.

## Calculation of voter influence or power-seeking manoeuvres?

### Concern for domestic voters?

Is there evidence to support the assertion that the EU selects instruments based on the desire to satisfy the European constituency or its member states? One situation in particular has caused severe problems for Rwanda vis-à-vis the international community: the allegations regarding Rwandan government support of rebel groups operating in the DRC, which were substantiated by a report from an expert group from the UN Security Council (United Nations, 2012). The Rwandan government has consistently denied supporting the rebels, and one of the interviewees related that the donors in Rwanda (at least in the early stages) were unsure of the validity of the accusations in the absence of concrete proof (MS#1). However, the UN report seems to have been accepted as valid by most donors (Agence Europe, 2012a, 2012b). Several member states decided to cut bilateral aid after the allegations in 2008 and 2012. Sweden, which had been a leader in the provision of direct budget support, halted this aid modality entirely to Rwanda in 2008. According to one of the interviewees, this was done out of consideration for the public opinion in Sweden:

Our development minister just suddenly decided that we will not pay budget support. For our government, the most important question was not if the allegations were true or not. It was what the media thought, and if the media thought it was true, it was serious. [...] Tax money going to warfare in the Congo[...]

(MS#1; my translation)

Similarly, the interviewee stated that the Swedish government had no aspirations to achieve anything by eliminating this aid; it was done for the constituency at home. Thus, the expected benefit of satisfying the voters at home seems to have played an important role in at least one member state's decision to cut aid to Rwanda. But what about the EU delegation? There is some confusion regarding the actual reactions of EU institutions to the allegations of Rwandan support of rebels in the DRC. In the press, it was claimed that the EU cut aid to Rwanda in 2012 (Smith, 2012). However, the Commission itself asserts that the only reaction was that some of the aid provided through the budget

support modality was redirected to sectorial support, and that the decision on new and additional allocations was put on hold for a period of about six months (EUcom#1; Official Journal, 2012). This freeze on allocations was not expected to impact the Rwandan government's behaviour; rather, it arose from a concern over the possibility of funds reaching rebels in the DRC (EUcom #1). The allocations were reinstated after six months, long before their actual disbursement. Furthermore, the Commission was explicitly asked by the member states not to cut its support to Rwanda in 2012 (EUcom#1). It redirected the budget support to sectorial support because it would be easier to control where the money was spent; however, the aid flow continued as before. Why? Several of the interviewees stated that they did not expect to achieve any results by cutting aid to Rwanda (MS#1#2#3; EUdel#1). The solution found by the EU was to allow the member states to decide what they wanted to do with their aid, but to continue the aid flow from the EU as a whole: 'I guess that national parliaments have a strong influence on what their governments do, and that influence is less strong when it comes to the European level. [...] Our constituency in that sense is the member states' (EUcom#1). Contrary to many of the member states, EU institutions decided to continue their support despite international pressure for sanctions. This suggests that the EU delegation was able to de-politicise the process and act without public scrutiny to a greater degree than the member states. It also indicates that the EU features characteristics that do not reflect a conventional state-like actor, and that it was able to operate within a different scope of action than its individual member states.

### Enhancing powers?

Could the EU's decision to avoid implementing sanctions be dependent on its desire to enhance its power vis-à-vis other donors? Both the EU and some of its member states provide aid to Rwanda. EU aid is channelled through the Commission and managed by the EU delegation in Kigali; member states channel aid through their embassies or national cooperation offices and remain in full control over bilateral aid. In cases in which cuts in aid are considered, coordination between EU aid and that of the member states is preferred but not obligatory. In Rwanda, there is a strong tradition of donor coordination between member states and the EU delegation (European Union and Rwanda, 2008). Representatives of the two groups meet twice a month in addition to ad-hoc meetings before

political dialogue meetings with the Rwandan government. All interviewees confirmed the importance of these coordination meetings, in which representatives often took decisions on which issues to address. One interviewee emphasised the importance of these coordination meetings for the delegation's role vis-à-vis the member states:

One of the reasons for having the Article 8 [political dialogue] was to open the space for legitimately talk about political things as the EU [...] The article is more to empower the EU institutions vis-à-vis the member states than to empower vis-à-vis the ACP countries.

(EUdel#2)

Hence, we can identify a concern for the empowerment of the EU delegation vis-à-vis the member states in the choice to use political dialogue as an instrument during a key phase of the establishment of the EU delegation as a political actor in Rwanda. However, there is only limited empirical evidence to support this concern, and it was not traceable over time. Overall, I find little support for the two first hypotheses. The common explanation for the absence of sanctions – that is, the donor's 'interest' – is not substantiated in this case. The EU's desire to expand its own powers was only valid at a particular point in time; moreover, the costbenefit calculations of applying sanctions to satisfy domestic voters were important for some of the member states but not for EU institutions. Hence, it is necessary to investigate whether normative reasons can account for the EU's decision to implement soft measures in the case of Rwanda.

## One moral standard or colliding norms?

### A question of proportionality?

If there is one moral standard that guides the EU's decisions on sanctions, we would expect to see justifications referring to the situations in Rwanda as not proportionally severe enough for sanctions but rather qualify for softer instruments. Several references to the proportionality principle were traced in justifications provided by EU representatives:

The instruments are used according to the severity of the situation. [...] So let's suppose that something we do not agree to takes place; it could be from a journalist being arrested for about 3 or 4 hours to a massacre where a complete tribe is wiped out from the face of the earth. Our reply cannot be the same.

(EEAS#2)

When asked what would trigger a cut in the budget support modality, a representative from the EU delegation replied:

In the case of Rwanda, we were monitoring closely what was the percentage of GDP that was being spent on arms, and we had quite a close look at the national budgets and discussions with ministers of finance and so on to demonstrate that there was an increase in armaments expenditures. That would have been a trigger.

(EUdel#2)

References to the proportionality principle were especially important in the discussion over Article 96 of the Cotonou Agreement. 'Article 96 is not something you do now and in three months you can start again; it is supposed to be for something that is so important that it cannot be solved in a couple of months' (EUcom#1). This was also evident in discussions with member-state representatives: 'It is a very heavy one. You use it only in extreme cases' (MS#4). However, in situations in which Article 96 is not a relevant alternative (i.e., a regional conflict), the proportionality principle is not decisive. A telling example is the Council conclusions from 19 November 2012, in which it is reported that the EU 'will contemplate measures to be taken to follow up the deliberations of the Security Council and encourage a constructive attitude on the part of the regional players' (Agence Europe, 2012c, emphasis added). The UN report from November 2012 in which Rwandan support of the DRC rebels was confirmed did not trigger a specific response by EU institutions in accordance with the proportionality principle. Concerns that sanctions would not have the intended effect and could result in a worse situation for the Rwandan people featured prominently in the interviews, rather than reference to a concrete moral standard that should be applied equally in all situations:

We need pragmatism because otherwise – certainly, our constituents here in Europe would applaud us if we took a firm stand, and then does this solve the problem? Are people going to have better human rights? Going to be better treated? On the contrary, we are breaking the bridges with this people that we could influence, and then we have no leverage whatsoever.

(EEAS#2)

Not only does this statement contradict the hypothesis whereby choices are made according to concerns for domestic interests, but it also highlights the fact that instruments are not automatically implemented according to a single moral standard. Sanctions were considered but set aside because concerns other than response to a breach of human rights were determined to be more important in that particular situation. Hence, a discourse of justification (H3) is not substantiated by the evaluations these policy-makers conducted when deciding the course of action to take in Rwanda.

When a normative hypothesis is rejected, it is common to return to interest-based hypotheses and conclude by default that some kind of interest accounts for the actions under investigation. However, we have already established that interests cannot explain the lack of sanctions in the case of Rwanda. Thus, we must explore whether there is an alternative way to account for the EU's decision to implement soft instruments. Might it be the case that normative evaluations, referring to other norms, can explain the lack of sanctions?

### **Competing norms?**

The fourth hypothesis expects that concerns connected to a particular situation – the context, influence the choice of whether to implement a sanction or not. Are there normative concerns beyond the initial breach of a conditionality norm that were deemed more important in each particular case that may explain why sanctions were not implemented? Rwanda scores high on development indicators and is often described as one of the best compliers with development norms such as ownership of development policy, partnership and aid effectiveness. This is widely emphasised in official EU documents (EEAS, 2012; European Union and Rwanda, 2008; Official Journal, 2012, 2013a, 2013b; Republic of Rwanda and European Community, 2007). These factors also figured prominently in all the interviews.

Can the lack of sanctions in Rwanda be explained by a clash of concerns between development norms and respect for human rights?

There is evidence supporting hypothesis four. For instance, the presidential and legislative elections in Rwanda in 2003 confronted the EU with a normative dilemma. The Rwandan government was accused of manipulation and intimidation in the electoral process, and the EU election observation report characterised the elections as 'tainted by fraud and irregularities' (Agence Europe, 2003a). Concomitantly, Rwanda showed stable signs of economic development and poverty reduction, and its successful management of aid funds and relationships with donors was highly valued. The EU could either withdraw aid as a reaction to the election fraud or continue normal relations; it chose the latter option, and after the elections, EU policy returned to 'business as usual' (Youngs, 2004: 312). Furthermore, the EU signed a € 10 million aid package with Rwanda only ten weeks after the elections. According to Youngs, Rwanda's exceptional record in economic development was a significant factor in various justifications provided by EU diplomats for their choice to continue aid. It was also highlighted in official statements by the EU following the elections: High Representative Javier Solana congratulated President Kagame on winning the elections by highlighting the 'remarkable progress in reconstructing and reuniting the country following the 1994 genocide' (Agence Europe, 2003b). When the interviewees were asked about the elections, the majority acknowledged that they were aware of the miscounting of votes and the fact that the opposition was 'granted' several per cent of the vote so that the result would not 'look rigged' (EEAS#2#3; EUdel#2). When asked about the reasons underlying the lack of a negative response, they all stressed that official negative reactions would not result in anything but a more difficult situation between the EU and Rwanda:

Let's be very frank, with Rwanda you will not achieve anything with Article 96. You will even have probably a worse result in terms of dialogue and cooperation than if you try through Article 8, through the normal channel of communication.

(EEAS#3)

It follows from this that the EU did consider the possibility of adopting sanctions towards Rwanda following the elections; however, it

opted against this approach because sanctions were not expected to change the situation and could harm other important goals.

Furthermore, in interviewees' explanations of the EU's reaction to the situation in the DRC, concerns that sanctions could weaken economic and social conditions in the Rwanda were repeatedly raised – specifically, the idea that aid cuts would reduce government-supplied benefits to the population rather than harming the government itself. A representative from the EU delegation stated, '[This was] precisely why I was against the suspension of aid to Rwanda, because we were impacting the poor people without any chance of changing the minds of the leadership' (EUdel#1). Another EU representative concurred:

The main paradox is that if you stop general budget support you are not actually punishing the government, because what the government will do is to cut services, which again punishes the people. So the solution that was found was not to stop the support but to give it in a way that would ensure that it would go to the population.

(EUcom#1)

This statement explains how a concern over targeting the population rather than the government led to the avoidance of sanctions. In line with a discourse of application, considerations pertaining to the specific situation guided the decision. Similar concerns also featured prominently in official documents. A typical example is High Representative Ashton's response to a question in the European Parliament: 'A full suspension of the international aid to Rwanda would have had significant impact on its budgetary situation, but also directly affect the population and efforts made towards the achievements of the MDGs' (Official Journal, 2013b). The above justifications show that it is only when we identify the various norms that were considered that we can understand why a specific choice was made. If we had only investigated the normative hypothesis of human-rights breaches leading to sanctions (as the discourse of justification hypothesis suggests), a normative explanation would be rejected.

Another example in which the clash between different norms can be traced is the EU's decision to sign a € 89 million budget support package in May 2012. This happened at the same time that allegations

of Rwandan support of rebels in the DRC were raised, although before the official UN report was published. Whereas most of the bilateral donors suspended their aid after the preliminary report was released in June, the EU Head of Delegation justified the continued provision of its aid package in the following way:

This is due to the exemplary progress Rwanda made in recent years in good governance, sustainable development and the fight against poverty and hunger. [...] The fact that all funds are spent exclusively through the Government budget shows our trust in a Government which is highly committed to its development agenda and which has established a regular dialogue with all budget support donors.

(EEAS, 2012)

Some months later, High Representative Ashton emphasised poverty reduction as the reason for not implementing sanctions:

The EU has given considerable thought, together with its Member States, to maintaining a coherent approach on development assistance. The bulk of this is focused on poverty reduction and support to the people of Rwanda. The EU is continuing this assistance but decided to postpone new decisions on budget support until the question of Rwanda's involvement in Eastern DRC is clarified.

(Official Journal, 2012)

Similarly, Commissioner Piebalgs, in explaining how the EU was ensuring that funds would not go to rebels, stressed that 'indicators show our BS [budget support] aid has a positive impact on improving living conditions and eradicating poverty in Rwanda. There was a 12% reduction in the poverty rate in the last five years and an 11% reduction in extreme poverty' (Official Journal, 2013a). These statements highlight the positive impact of EU aid on poverty reduction, which was evidently deemed more important than the possible impact of an aid cut. The link between poverty eradication and the EU's choice to continue aid becomes even clearer in Ashton's justification of the resumption of the delayed allocations in February 2013: 'This positive development [path for a negotiated solution], and the overall budgetary situation in Rwanda, led to the decision to

resume decisions on sectorial budget support in particular on pro-poor grounds' (Official Journal, 2013b). In addition to the concerns identified in official documents, the interviews provided more nuanced justifications, expressing worries over cuts to aid they perceived as spent in a good way. Sanctioning a country that had taken control of its development strategy and demonstrated good practices of managing both a large aid budget and its relationships with and between donors was deemed a high risk (EEAS#2#3, EUdel#1#2). Hence, the goal of poverty eradication and the desire to foster good donor-recipient relationships were in this case judged to be more important than imposing a sanction based on a human-rights violation.

I also found evidence of the weighing of different norms in situations in which the EU was considering new aid allocations. A typical example is the EU's decision to fund the Gacaca court system, which was established to process the approximately 125,000 suspects who remained in prison without trial following the 1994 genocide. In its initial phase, the Gacaca system's ability to deliver justice and reconciliation was questioned in several reports (Amnesty International, 2002; Penal Reform International, 2002). There was also disagreement within the EU donor group over whether the process should be supported (Schotmans, 2011; Uvin, 2000). The EU clearly faced a normative dilemma: whether it should financially support a system plagued by substantial doubts over its capacity to deliver justice or not support it without a viable alternative. A representative from the EU delegation described how the International Criminal Tribunal for Rwanda was failing to deliver justice in quantitative terms: 'Justice delayed is justice denied' (EUdel#2). The most important argument in favour of supporting the courts was the Rwandan government's ownership of the process, along with the potential for popular ownership implied by the court's traditional roots, as the tribunals combined a traditional system of community hearings with a Western formal court structure (Schotmans, 2011). The importance of ownership was also underscored: 'The EU collective view on Gacaca – other than yes, it was necessary – we had a positive opinion of the South African process of truth-telling as opposed to punishment, so I think we were prepared to give Gacaca a go' (EUdel#2). This illustrates how the EU weighed various norms against one another before taking the decision to support the courts, in accordance with (H4).

In summary, situations that can be ascribed to a logic of application (H4) are dominant. In the cases discussed above, EU representatives took decisions based on the evaluation of different norms, deducing from these considerations what they should do in each instance. They argued over what option would be best rather than calculating gains and losses with reference to their own preferences and interests. The determining factor for the choice of instruments was not a norm's validity, but rather which norm should be considered most important in the particular situation. The findings also contradict the oft-cited prediction that donors treat 'success stories in Africa' with softer instruments because this benefits the donors politically and thus forms part of their strategic interests (Zorbas, 2011).

## Conclusion

In this article, I have shown that the EU chose to not sanction Rwanda because of concerns over the negative impact of sanctions on the social and economic conditions in the country. Instead of harming the government, a sanction could result in the government's suspension of benefits to its population. I traced similar norm evaluations in a number of situations in which the EU could have chosen to sanction Rwanda but ultimately decided not to do so. Situations in which EU representatives evaluated which norm was most important in the particular context dominated. The prevalence of the weighing of norms challenges well-established conceptions of the EU as an interest-driven foreign policy actor (Crawford, 2001; Hyde-Price, 2008; Olsen, 2000). This finding contributes to the broader debate over the influence of norms in international relations. For decades, realists and idealists have argued about what influences the choices actors make in international politics – power or ideas? Although the idealist hypothesis, proposing that foreign policy actors only follow their values, is generally considered to be utopian, this does not mean that we must resort to power-based hypotheses. The findings presented in this article show that more nuanced conceptual approaches are necessary in order to understand EU policies as well as foreign policy in general. The prioritisation of development norms over human rights and democracy concerns identified in this article support what is referred to in the literature as the democracy-development dilemma (del Biondo, 2011, 2015a, 2015b). However, I extend the research beyond the existing literature by providing a theoretical account of this prioritisation. I suggest that a distinction between a logic of justification and a logic of application is useful in explaining

why sanctions were not applied in the case of certain human-rights and democracy breaches in Rwanda. The logic of application is dominant: policy-makers weighed the effect of sanctioning a human rights breach against the sanction's impact on development concerns (such as ensuring continued poverty reduction or the effective use of aid). Without this distinction, which links norm evaluations to the context of each situation, we would be unable to account for the EU's decisions to not implement sanctions in these cases.

In addition, the findings presented in this article lend themselves to 'theoretical generalization' (Lewis and Richie, 2003). The distinction between the discourses of justification and application can provide a viable hypothesis for other cases in which normative considerations are expected to have influenced policy choices. Making Günther's distinction between the discourses of justification and application relevant for empirical research helps us to explain situations in which democracy and development concerns collide (similar cases, such as Ethiopia), but it can also be used to hypothesise the prioritisation of one norm over another in different realms (unlike cases).

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# Article 3

Resistance to EU integration?  
Norm collision in the coordination of  
development aid

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The European Union (EU) has committed to conduct a value-based foreign policy, for example by promoting the respect for human rights abroad. However, such value-based goals are not always followed consistently. The reason for this is often assumed to be that the EU sets its core values aside when they collide with its interests.

Drawing on recent constructivist research on the contestation of norms, this report argues that such inconsistencies are not just a question of values versus interests. Just as 'national interests' come in different forms that may compete with each other, policy-makers may be confronted with different norms pointing them in different directions. This report contains three articles that investigate norm contestation and the relationship between norms and interests in the EU's development policy.

On the one hand, the findings support the idea of the EU as a value-based foreign policy actor. However, the report also questions the assumption that a commitment to norms is a particular characteristic of the EU's foreign policy. Norm evaluations are also important in states' policy-making processes. Hence, there is a need for a broader reconsideration of the basic assumptions of foreign policy analyses.

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ARENA Centre for European Studies at the University of Oslo promotes theoretically oriented, empirically informed studies, analysing the dynamics of the evolving European political order.



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