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The Refugee Crisis Of the Mediterranean Sea and The European Union: Causes, Traditional Instruments of Response And Consequences.

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ANTI-PLAGIARISM COMMITMENT STATEMENT

I declare on my honor that the work I am presenting is original and that all citations are correctly identified. I am aware that the use of unidentified elements from others constitutes a serious ethical and disciplinary misconduct.

Andreia Carina Ferreira Bastos

A handwritten signature in black ink, consisting of a stylized 'A' and 'B' followed by a period.

Acknowledgements

Firstly, I want to thank my supervisor, Ms. Ana Rita Gil for being a major key during the elaboration of this study, for her constant availability and for her crucial guidance in every step of the process. Thank you for having provided me with the necessary tools to build this analysis.

To my parents that have always supported me during my life and have always encouraged me to be the best version of myself.

To my brother Fábio that inspires me daily for his intelligence and personality.

To my partner in life Francisco, that has been by my side daily during the entire process, through good times and bad times, and has always insisted that I do not give up on this project.

LIST OF ABBREVIATIONS AND ACRONYMS

UN - United Nations

EU- European Union

UNHCR – United Nations High Commissioner for Refugees

UNODC – United Nations Office on Drugs and Crime

WWI – World War I

WWII – World War II

V4 – The Visegrad four

USA – United States of America

UNTOC – United Nations Transnational Organized Crime Convention

TFEU – Treaty on the Functioning of the European Union

EASO – EUROPEAN ASYLUM SUPPORT OFFICE

Frontex- European Border and Coast Guard Agency

UDHR – Universal Declaration of Human Rights

Europol - European Union's law enforcement agency

Abstract

Title: The Refugee Crisis Of the Mediterranean Sea and The European Union: Causes, Traditional Instruments of Response And Consequences

Author: Andreia Carina Ferreira Bastos

This study aims to analyse the causes, the consequences and the instruments of response of the humanitarian crisis of migrants and refugees that started in the beginning of the last decade – 2010 – and did not end yet in 2021. This humanitarian crisis had its peak of deaths and movements in the Mediterranean Sea in 2015, and even though these numbers decreased after 2015, this issue remains a humanitarian emergency that reflects the distress of millions of migrants and refugees.

The consequences of this humanitarian crisis are negative for migrants/refugees and for the hosting countries. As analysed in this study, migrants and refugees have a high probability of die during their crossing, falling victim of crimes such as migrant smuggling and human trafficking and other serious human rights violations. Migrant smuggling and human trafficking are crimes that allow the growth of organized crime networks, put migrants' lives at stake, and affect negatively the countries of destination.

The origin of the humanitarian crisis of migrants and refugees lies on the massive wave of migrants coming from Africa and the Middle East into the EU during the last decade. This phenomenon is a behavioural expression of various complex problems such as climate change, wars and conflicts, corruption, human rights violations, poverty and lack of natural resources and job opportunities.

By analysing the instruments of response to this crisis, such as the migration legal and non-legally binding instruments set forth by the United Nations and the European Union, we concluded that some of these instruments need a reform, for instance the notion of refugee set forth by the 1951 Refugee Convention. The fact that this Convention excludes economic migrants from the right of applying for the refugee status, distinguishing these from migrants fleeing persecution and conflicts, is a factor that contributes for the increase of irregular migration in the countries of destination.

The results obtained in this study allowed me to conclude that creating more legal paths to enter the EU and the establishment of solidarity political agreements between Middle

Eastern hosting countries and the EU would contribute for the ease of the negative consequences of this humanitarian crisis, especially by decreasing the incidence of irregular migration and migrant smuggling.

Keywords: Humanitarian crisis; migrant; refugee; irregular migration; migrant smuggling; United Nations; European Union; solidarity.

Resumo

Título: A Crise dos Refugiados no Mar Mediterrâneo e na União Europeia: Causas, Instrumentos Tradicionais de Resposta, e Consequências.

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Este estudo visa analisar as causas, as consequências e os instrumentos tradicionais de resposta da crise humanitária de migrantes e refugiados que decorre desde inícios da última década – ano de 2010 – e que, em 2021, ainda não terminou. Esta crise humanitária teve o seu pico de mortes e deslocações no Mar Mediterrâneo em 2015, e embora este número tenha diminuído após 2015, continua a ser uma emergência humanitária que reflete a angústia de milhões de migrantes e refugiados.

As consequências desta crise humanitária são negativas tanto para os migrantes/refugiados como para os países que os acolhem. Tal como analisado neste estudo, os migrantes correm risco elevado de morrer durante a travessia e são vítimas fáceis para crimes tais como o tráfico de migrantes e tráfico de seres humanos, assim como de outras violações graves dos direitos humanos. O tráfico de migrantes e o tráfico de seres humanos são crimes que permitem o crescimento de redes de crime organizado, põem em risco a vida dos migrantes e afetam negativamente os países de destino.

A crise humanitária de migrantes e refugiados resultou da onda massiva de migrantes vindos de África e do Médio Oriente para a União Europeia ao longo da última década. Este fenómeno é o sintoma de vários problemas complexos, tais como alterações climáticas, guerras e conflitos, corrupção, violações dos direitos humanos, pobreza, falta de recursos naturais e de oportunidades de emprego.

Ao analisar os instrumentos de resposta a esta crise, tais como os instrumentos legais e não legais de migração estabelecidos pelas Nações Unidas e pela União Europeia, concluímos que alguns destes instrumentos necessitam de uma reforma, por exemplo a noção de refugiado estabelecida pela Convenção dos Refugiados de 1951. O facto de esta Convenção excluir os migrantes económicos do direito de requerer o estatuto de

refugiado, distinguindo-os dos migrantes que fogem de perseguições e conflitos, é um fator que contribui para o aumento da migração irregular nos países de destino.

Os resultados obtidos neste estudo permitiram concluir que a criação de mais vias legais para entrar na UE e o estabelecimento de acordos políticos de solidariedade entre os países de acolhimento do Médio Oriente e a UE contribuiriam para atenuar as consequências negativas desta crise humanitária, especialmente para diminuir a incidência da migração irregular e do contrabando de migrantes.

Palavras-chave: Crise humanitária; migrante; refugiado; migração irregular; tráfico de migrantes; Nações Unidas; União Europeia; solidariedade.

“Supreme excellence consists of breaking the enemy's resistance without fighting.”

— By *Sun Tzu*, *The Art of War*

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PART I

1. INTRODUCTION

1.1. Problem Statement

Over the last decade, the European Union has been facing a humanitarian tragedy originated by the massive displacements of migrants and refugees coming from Africa and the Middle East. This humanitarian crisis has caused death, distress and human suffering in the affected regions, and has brought to the surface political and legal flaws, especially those related to the migration laws implemented by the United Nations and the European Union on the aftermath of World War II.

The post-World Wars' conjuncture was characterized by the urgent need for long-term peace between Nations and, especially, for a Universal recognition of Human Rights. The lack of political consensus between countries had caused major military conflicts, whereas World War I (1914 – 1918) and World War II (1939 – 1945) killed millions of lives worldwide and left many others without a home. The non-recognition of all human beings as equals had been one of the major causes of genocides and other crimes against humanity in the past, especially because of racial, ethnical and religious supremacy. This issue culminated in the Holocaust, where during World War II, the totalitarian ideals imposed by Adolph Hitler while leading the Nazi regime led to unprecedented violence and death under the excuse of non-sense extreme racial supremacy. During the Holocaust, persecution, violence and extermination were committed against minority groups such as the Jewish people, disabled people (Holocaust Encyclopedia, 2019) and persons who spoke and stood up against the regime. Millions of people were imprisoned and killed in concentration camps during what is known today as the worst genocide of our civilized society.

On the aftermath of World War II in 1945 (Nazi Party, 2009), the global feeling of insecurity and shame remained, as well as the urge for change and peace. This context promoted the foundation of the United Nations (UN) in October 1945; the adoption of the Universal Declaration on Human Rights (UDHR) in 1948; the creation of the European Union (EU) in 1945; and the adoption, in 1985, of the Schengen Agreement of free movement of people between countries, adopted by the EU in 1999 (European Union).

The foundation of the United Nations brought up the concept and legal bases of International Law and International Humanitarian Law, regulated by Treaties, Conventions and Protocols (un.org), generating a sentiment of togetherness and co-operation among its Member States in matters such as the Human Rights and self-determination of peoples; international peace, and international humanitarian problems (United Nations, 1945). The establishment of the European Union with its common monetary currency¹, the free transit between borders and economic relations between its Members allowed the absence of conflicts between neighbouring countries, and a fast economic growth along with the development of a welfare society. By being a highly attractive territory, the EU became a desired immigration destiny for migrants and refugees from all over the world. Even though the EU was a strongly successful project, the lack of border controls allowed organized criminality to extend, taking advantage of the freedom of movement between countries to move drugs, weapons and humans without attracting attention from law enforcement entities.

The creation of both the United Nations – with its implementation of International Law – and of the European Union – with its own migration legislation and adoption of control free borders – took place in a post -World War context. Such context did not predict Global Warming, nor did it predict the upcoming conflicts and civil wars in Africa and the Middle East. In 2011, the rapid increase on the inflows of irregular migrants and refugees into the EU is justified by a variety of factors, for instance, serious violations to human rights; violence; totalitarian regimes; corruption; lack of freedom; economic problems; natural disasters; and lack of resources in the African and Middle Eastern regions of the globe. The spread on the dissemination of internet, social media, satellite television and globalization had built an interconnected world that enables the discontentment of people and facilitates such migratory displacements from every part of the world. The Arab Spring, a phenomenon characterized by the uprisings and unrest of peoples, followed by violence and war in the Middle Eastern and African Arab communities, was a major root cause for this migration wave starting in late 2010. This was especially due to the civil war in Syria, not only because it was propelled by the Arab Spring and the insurgence of extreme terrorist groups, who contributed to the destruction of the country, but also because Syria became the origin of the largest wave of refugees in the world. The conflicts and consequent destruction in Africa and the Middle East were

¹ Euro

the major cause of the refugee wave of the last decade. This timeline corresponded to the worsening of Climate change, which caused many migrants to flee their homes and try to reach the European Union. The obstacles to the entry of third-country residents in the European territory, besides not impeding people to try to enter the EU, propelled smugglers to grow their businesses, at the cost of many migrants' lives. The Humanitarian crisis of the last decade reflects the deaths and distress of thousands of migrants and refugees in the Mediterranean Sea, migrant abductions and increase of human trafficking into the EU, creating social and political constraints in the EU and a response's crisis, which put the EU's unity at jeopardy. Prior to 2015, the numbers of migrant inflow into the EU have been decreasing year after year. However, this complex problem is still unresolved and is still a major concern worldwide, and in 2020, due to the Global Coronavirus pandemic, this issue worsened in different levels, especially from the point of view of migrants' life conditions and the level of abuse by smugglers.

1.2. Approach

This study aims to evaluate the last decade's migration and humanitarian crisis, focusing on the existence of three major problems which are the humanitarian tragedy itself; the crime of migrant smuggling – with its negative implications for migrants and for the European Union – ; and irregular migration –. We will analyse the complexity of this matter, by studying varied phenomena linked to this crisis. Starting on the analysis of the crisis of migrants and refugees coming from Africa and the Middle East to the European Union over the last decade, we will understand the reasons that force migrants and refugees to flee, as well as why they fall victim of migrant smuggling. Then we will see the obstacles and hardship that both migrants and refugees go through to reach and establish themselves in the EU, or to reach a temporary establishment out of the EU. At this point, we will proceed with the analysis of the migration legislation available to provide migrants and refugees with rights and obligations. The final goal of this study will be to understand how well the EU and the UN are addressing these issues, and how they can improve their response to this Humanitarian crisis. At the end, I intend to find the better solution for some of the major struggles that obstruct the path for solving this

problem and, in the absence of a solution, try to find a middle way to improve or ease this crisis.

On chapter 2, we will analyse the reality of this crisis, by analysing the migrants' and refugees' backgrounds that lead them to flee their homes, as well as the precarious life conditions and distress they face during their crossings. On this chapter we will see the different backgrounds in various regions of the African continent and in the Middle East that caused such massive migrations flows in the specific timeline between 2010 and 2020. Then we will discuss the major role that the Arab Spring played in this whole context, the impact it had in the Syrian civil war that caused the largest wave of refugees in the world. Other important subjects we analyse in this chapter are both the maritime and land routes used by migrants and refugees to reach a hosting country out of the EU or to reach the EU, as well as the common dangers they face in each of the routes. While we analyse the common dangers we will surely analyse one the major risks that await migrants, the complex crime of smuggling of migrants, which commonly starts before their crossing journey and always leads them to traumatizing, violent and sometimes fatal consequences.

At the end of chapter 2, we will evaluate the three countries of the Middle East that were the most affected by this migration wave while hosting countries, as well as how they have been addressing the inflows of people. At this level, we will investigate the major link between these three countries and the EU in this context, and the urge for all actors to work together in order to ease the consequences of receiving such flows of migrants and refugees, a solution that would benefit both the receiving nations and the migrants.

Chapter 3, will present the United Nations and the European Union's legally and non-legally binding backgrounds that comprehend the migration laws; as well as the Protocols, Resolutions, Instruments and agencies that protect migrants and refugees. At this level, we will also see the role that the UN, the EU and their agencies have played in the Humanitarian crisis of refugees, not only in the Mediterranean Sea and islands but also in hosting countries such as Lebanon, Turkey and Jordan.

Finally, on chapter 4, we will discuss the crimes of migrant smuggling, the activity of facilitating irregular migration as well as the impacts of the entire phenomenon that is this humanitarian crisis for the EU.

PART II

2. THE HUMANITARIAN EMERGENCY

2.1. The evolution of the regional unrest of populations in Africa and the Middle East, the Arab Spring and the consequent migratory movements

2.1.1. Background and origin

The year of 2011 marked the beginning of the current refugee crisis. Since then, 2015 was the most critical year in terms of human loss in the Mediterranean Sea and in terms of numbers of arrivals by land and Sea in the EU. These migration movements are not the cause for the Humanitarian emergency; they are the collateral damage of such emergency. A complex economic, social and political context resulted in political conflicts, civil wars, and social unrest. This scenario prompted the increase of some communities' discontentment in this specific conjuncture. The spread of internet and social networks enlarged the access to information; global warming worsened the livelihood of populations in these less developed zones of the Globe; and the economic instability, combined with the abuse of power by authoritarian governments, conflict and war led many citizens to flee their homes, looking for better conditions of living. From this scenario resulted also a *wave of pro-democracy protests and uprisings* (Augustyn, 2019) in Arab communities of the Middle East and North Africa, known today as the Arab Spring. The end of 2010 and beginning of 2011 was characterized by revolutionary upheaval demonstrations against the political and economic conjuncture in these regions whose regime leaders had, some of them, ruled the country for decades, using power and influence to enrich themselves and their families (Reilly, 2019), leaving citizens with neither freedom nor economic stability.

The insurgencies that characterise the Arab Spring are known to have officially started in Tunisia when, after a Wikileaks publication with critics from the US towards the Tunisian regime, a young graduate Mohamed Bouazizi set fire to himself and died, event that led to protests by young Tunisians (Vale, 2011). The resulting anti-

authoritarian protests eventually extended to Libya, Egypt, Yemen, Bahrain, Saudi Arabia, Syria, and Sudan. In Tunisia, these protests resulted on the departure of the dictator Zine El Abidine Ben Ali and his family to exile in Saudi Arabia, where he died on September 2019 (Gladstone, 2019). In Libya, armed rebels killed Leader Muammar Gaddafi in August 2011 (Reilly, 2019). Egyptian President Hosni Mubarak resigned on February 2011, handing the power to the armed forces (Shenker, 2011). After thirty-three years in power, Yemen's president Ali Abdullah Saleh resigned in 2011 (Whitaker, 2011). Also in 2011, Bahrain was targeted by the Arab spring waves, resulting on the *day of rage* (Richter, 2011) on February 14, an event characterized by protests supposedly stimulated by the protests in Egypt and Tunisia (Richter, 2011). In Syria, the protests against the regime resulted in what we know today as the ongoing Syrian civil war, which is the cause of a massive *exodus* of Syrian citizens, a defining trait of the refugee crisis. Sudan has had ongoing internal conflicts for the last two decades, and even though the protests have started in 2011, they differ from those of its Arab counterparts, as Sudanese protests were linked to the economic situation, and not so much from political reasons (Amara, 2019). However, the time overlap may prove the influences from the Arab Spring. The timeline of these waves of social uprisings is a key detail on this storyline. The previous lack of access to information and, especially, the fear of persecution, torture, and death that had been installed for decades in these totalitarian regimes, contributed to the delay of the outbreak.

As a matter of course, migratory movements increased in a large scale, resulting in the Humanitarian crisis of refugees. Due to the large migratory movements that had started in 2011, the EU would soon be the scene of a massive wave of entries by refugees and economic migrants, which would create a response's crisis among EU's Member States. Although there has always been irregular and regular entries of migrants into the EU, from 2011 and on, the flows started to increase extraordinarily year after year.

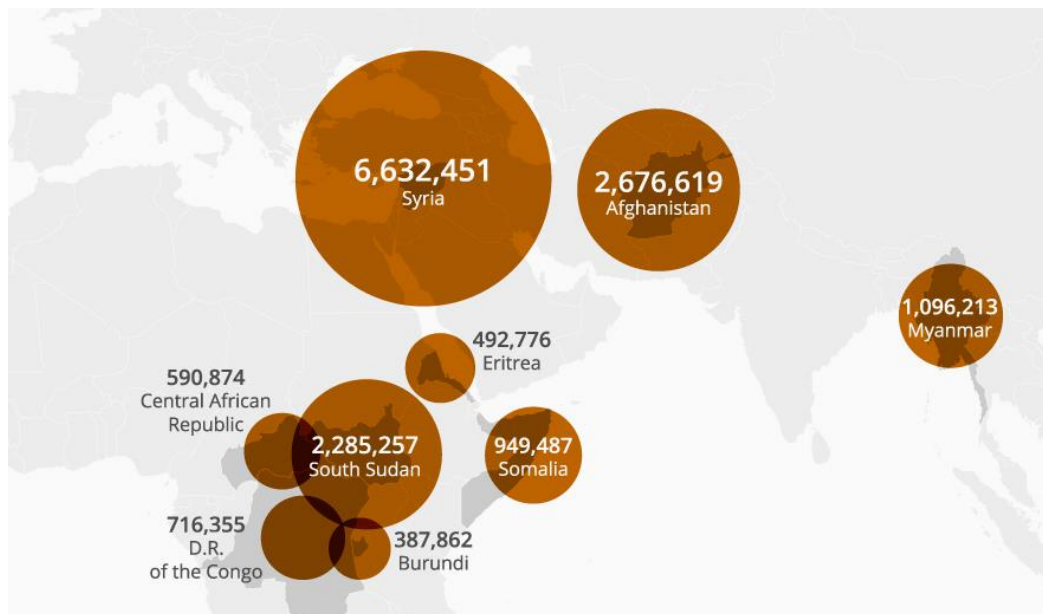


Figure 3 – Total number of forcibly displaced people by country of origin in 2018 - (McCarthy, 2019)

Within the first years' following the Arab Spring, the most common nationalities arriving in Italy³ were Syrians, Eritreans and sub-Saharan Africans sailing from Libya or Egypt through the central Mediterranean route, which was the most common route used by migrants coming from those areas of the Globe. Considered as the first crucial gateway of this crisis (Reitano, 2018) the Central Mediterranean route comprehends the maritime path linking both the Libyan coast and the Egyptian coast⁴ to the South of Italy, and it has been the most dangerous and deadliest maritime crossing path for migrants in the world (IOM, 2017). During the deadliest year of 2015, Eritreans were the major nationality crossing the Central Mediterranean Route, and in 2016, the largest group of nationalities comprised Nigerians and Eritreans (MSF, 2017). These are among the most vulnerable nationalities, as we will analyse on the next chapter.

Following the rise of Libyan conflicts and the consequent security problems, migrants and refugees started facing extreme violence such as imprisonment, torture and rapes. In 2015, Syrians became the largest portion of migrants arriving to Greece through Turkey⁵. The Aegean Route proved to be faster and safer than departing from Libya, and

³ In 2014, 170,000 people reached Italy (Kingsley, 2016).

⁴ Also known as the North Coast.

⁵ The maritime route connecting Turkey and Greek islands through the Aegean Sea, is known as the Eastern Mediterranean Route.

in 2015 received highest peak of migrant arrivals⁶. The dissemination of information through the internet was also a contributing factor to the shift of routes in 2015, because there was an increase of social media pages with stories shared by migrants who succeeded similar trips to share their journeys as well as their advice and tips.

Migrant arrivals in Italy via the Mediterranean have decreased significantly in recent years, with 75% fewer migrants from the East and the Horn of Africa arriving by sea in Italy in 2018 than in 2017 (Migration data in Eastern Africa, 2020). This decrease results from a variety of reasons, such as the smoothing of conflicts and violence in the countries of origin, physical obstacles to the movement of migrants and the 2016 Agreement between Turkey and the EU where Turkey agreed to stop irregular migrants from leaving its territory (CORRAO, 2019). Therefore, research for solutions to address the issues that have caused, or are currently the cause of Humanitarian problems, that result in or from the massive flow of people fleeing one region, is urgent. It is a fact that these regions have known conflict and hardship for long and it is a fact that the risk of an unchanged economic, political or social situation is high. It is urgent that the EU and Middle Eastern hosting countries cooperate on this matter, anticipating the possibility of a continuing massive influx of migrants.

2.1.2. Deprivation, Conflict, Instability and Human Distress

In this section, we will analyse briefly the conjuncture of some of the African and Asian countries, ranked on the top ten of arrivals to first European country during the critical timeline, between 2015 and June 2016, according to the UNHCR (UNHCR, Refugees & Migrants Sea Arrivals in Europe, 2016).

⁶ See graphic on section 4.1.3. - Routes.

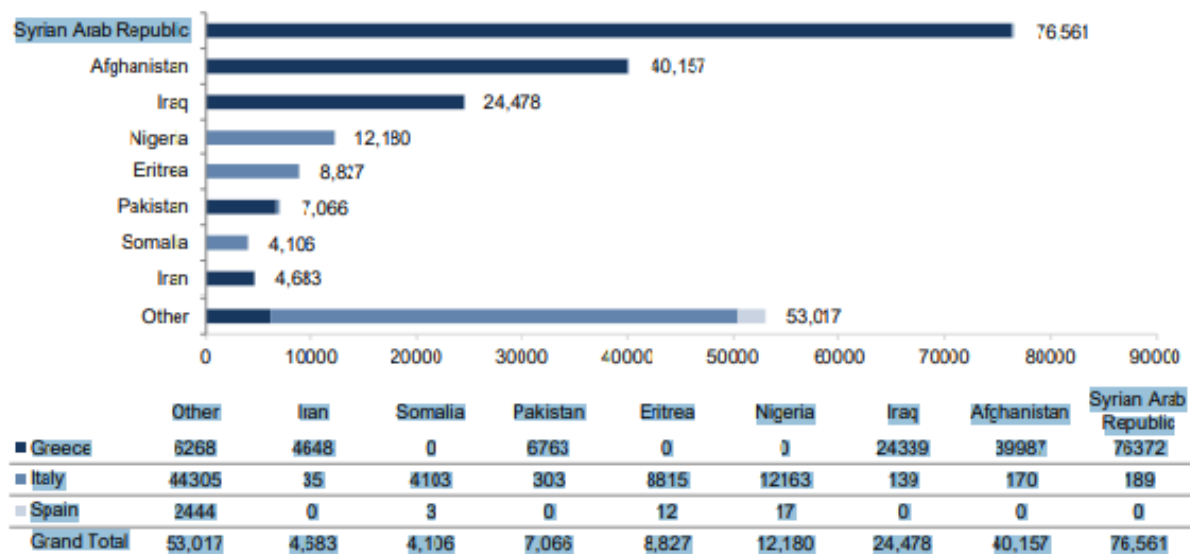


Figure 4 – Total Arrivals by Nationality to first country of arrival in the EU between 2015 and June 2016 (UNHCR, Refugees & Migrants Sea Arrivals in Europe, 2016)

a) Central Asia and the Middle East

Syria

One of the most developed countries of origin for migrants, Syria is also responsible for the largest wave of refugees in the World. Being the group with the strongest purchasing power among all nationalities of migrants and refugees, Syrians own their distress to the ongoing internal conflicts in their country. In Syria, the long installed *wall of fear* (Reilly, 2019) was corrupted when in 2011 major anti-government protests broke out, inspired by the Arab Spring that had started in Tunisia, Egypt, Libya and Yemen. The fact that the government responded to these protests with violence, spread on the *media*, causing more protests demanding the end of violence and the recognition of human rights. The situation worsened during the summer of 2011, when the authorities reacted to the unrest of the population by *firing into crowds, unleashing (...) criminal gangs (...) to intimidate and murder, and torturing prisoners to death*. (Reilly, 2019, p. 193) . By August 2011, Muslim Brotherhood sympathisers and local militias joined the Syrian opposition in what represented the beginning of a conflict with no end at sight.

Soon, the Syrian uprising would turn from political driven protests into an endless deadly civil war. It was also in Syria that many extreme groups have developed, with sense of fighting against the government. However, the conflict grew into proportions of hatred and violence, which on the one hand keeps the Syrian war alive and, on the other hand, forces civilians to flee the country in order to survive.

In the Syrian war, the Assad regime took support from Russia⁷ and Iran⁸. Turkey became a crucial place of refuge for opposition organizers, after Erdogan broke with Assad decisively, due to his *reluctance to offer anything substantive on the political front while the government's security forces used live ammunition to suppress demonstrations* (Reilly, 2019, p. 197). The opposition to the Assad's regime leaned on some regional governments, *Qatar, Saudi Arabia, Turkey and Jordan, as well as wealthy private donors in the Arab Gulf states, they responded to opposition appeals for arms and money* (Reilly, 2019, p. 198). Each country who supported the opposition to the Assad regime worked to influence at their own interests, which did not always match. This explains the support that every militia received and the enormous proportions that this war took.

Syrian migrants represent one of the top nationalities taking the Mediterranean migration routes in 2015. Even though the conflict in Syria has been ongoing since 2011, the numbers of Syrian migrants' arrivals in the EU increased drastically in 2014 and 2015. Several reasons explain this rise. First, during the initial years of war, many Syrian citizens believed the conflict would end soon, but by 2014, there was no sign of its ending, so as citizens lost hope, they fled their homes. Second, with the breakthrough of ISIS⁹, Assad's bombs, and Russian airstrikes, the level of destruction in the country left no doubts that the post-war country will be miserably ruined. Finally, the continuous impossibility for children to attend schools and the loss of homes urged the need for long-term safety and stability (Kingsley, 2016, p. 186).

⁷ Syria was a valuable regional client state and host to Russia's only overseas naval base in Tartous (Reilly, 2019, p. 198).

⁸ Syria had been the most consistent Arab ally for 30 years (Reilly, 2019, p. 198).

⁹ *ISIS (Islamic State of Iraq and Syria) is a powerful terrorist militant group that has seized control of large areas of the Middle East; <https://www.history.com/topics/21st-century/isis>.*

Afghanistan

Coming from the South-Central Asia, Afghans corresponded to the second largest nationality of migrants arriving to Europe during this timeline of analysis. The landlocked country is characterized by its variety of ethnic groups, and its trade relations due to its position linking the European Continent and the Middle East to Asia (Britannica, 2020). At war with the United States since 1999 (CFR, 2020), Afghanistan has one of the *longest- running refugee crises* (UNHCR, 2020). The high numbers of Afghan refugees has put a heavy pressure in hosting countries, especially in Iran and Pakistan (UNHCR, 2020) that are themselves among the inflow of refugees and migrants arriving in the EU. The war in Afghanistan is a major problem whose reasons are controversial. On the South-eastern border of Afghanistan, Pakistan is both hosting country for refugees and country of origin for migrants, hosting more than 1.4 million Afghans who fled their homes (UNHCR, Pakistan, 2020). Among the reasons forcing Pakistani to reach the EU, are the slow economy, lack of security, environmental disasters, political instability (Schloenhardt, 2020), and the presence of high numbers of Afghans in the country, causing a hardened life and increased lack of resources for Pakistani citizens.

Iraq

Located in south-western Asia, Iraq has had an history of political instability, corruption and security issues (IOM, Migration Flows from Iraq to Europe: Reasons behind Migration) for decades. Characterized by three main ethnic groups, Arabs being the dominant group, Kurds and Azerbaijani (Chambers, 2020), Iraq has Arabic as its official language and the Muslim religion prevails. The reasons that explain why Iraqis chose to come to Europe are the opposite of the reasons making them leave Iraq: security, equality, social justice and a welfare culture (IOM, Migration Flows from Iraq to Europe: Reasons behind Migration).

Iran

Bordering on the west side with Iraq, Iran is considered as the last Middle Eastern country on the eastern side. Geographically characterised by heavily eroded mountains surrounding an interior arid plateau, and a subtropical to subpolar climate, where similarly to the last countries observed, the majority of the population is Muslim (Avery, 2020). The political and social conjuncture is very strict due to its conservative dictatorship,

where human rights violations are common. There are current executions for light criminal offences, and the police controls journalists, online media activists and human rights defenders. Iran is one of the worst countries in the World in terms of lack of freedom of expression. Even though Iranians are at great risk inside the country, it is reported that Iranian migrants have had strong difficulties to apply for or to be granted with asylum in the EU (Long, 2019).

b) Africa

Eritrea

Located in the Horn of Africa with a coastline in the red Sea, and with a wide range of temperatures throughout the country (Markakis, 2019), Eritrea is an ethnically diversified country and has at least six spoken languages¹⁰, of which Tigrinya, Arabic and English are official (CIA, 2020). Country of origin for one of the first nationalities to cross the Mediterranean Sea into the EU, it ranks the 14th position of the least developed countries in the world (UN, UN list of Least Developed Countries, 2019), where the most important sector of activity and livelihood of the country's economy is the agriculture (Markakis, 2019). Eritreans flee their country due to military conscription, forced labour and poverty. Its highly militarised government orders its soldiers to patrol the country's land borders, with instructions to kill anyone found attempting to leave (Reitano, 2018).

During the year of 2014 alone, nearly 37,000 Eritreans sought for refuge in the EU (Divers, 2014). In 2017, around 20,000 arrived in Italy (Plaut, 2018). Eritreans are among the most vulnerable of migrants, often falling victim of physical abuse, extortion and kidnapping by smugglers, and more Eritreans than any other nationality, have drown in the Mediterranean Sea, mainly due to the fact that smugglers often put them on the less seaworthy vessels (Reitano, 2018).

Somalia, Uganda, Ethiopia, Kenya and Nigeria

Also a common nationality among the Arrivals in the EU, Somalis flee civil war and the lack of gainful employment opportunities for young people. In addition, Somali migrants who made the journey, press others to do the same. Since January 2020, and on

¹⁰ Tigrinya (official), Arabic (official), English (official), Tigre, Kunama, Afar and others.

April 30, 2020, 383 Somalis arrived by Sea or land in the EU (UNHCR, Mediterranean Situation, 2020).

There has been massive displacements inside the African continent and from Africa towards the Middle East. Countries of origin have also been countries of destination and/or transit. Yemen, for instance, which is entitled as having one of world's worst humanitarian crisis, has received over the years migrants fleeing conflict from Eastern Africa. Uganda, Ethiopia, and Kenya are estimated to be the three countries hosting the highest number of international migrants in East African region at mid-year 2019 (Migration data in Eastern Africa, 2020). On March 2019, nearly 200,000 Somalis had fled to Yemen. Ethiopia has also been an origin country, as well as both country of transit and destination. On March 2019, Ethiopia hosted 4.6 million Somalis. (Gulleid, 2019). Ethiopian citizens have themselves been fleeing persecution and hardship in the Oromia region, and violence in the country (Sabr, s.d.). Nigeria has had for a long time internal and external migration due to factors such as the size of the population and economic situation (IOM, A Brief on IOM Nigeria's Projects, s.d.). One of the main causes for Nigerians to flee their homes is the Islamic group Boko Haram that has killed more than 37,500 people since May 2011 (Harwood, 2018). This terrorist group has been one major source of conflicts in the country, represented by suicide bombings, especially in Muslim places of worship (Harwood, 2018).

Sudan

In Sudan, there are ongoing conflicts since 2003, especially with South Sudan after it became independent from the North in 2011. Conflicts over disputed regions, for instance Abyei and Southern Kordofan, and disputes over the profits from the oil production and exportation have been a struggle since 2010. Adding to this, there is a constant presence of rebel groups in the country that are opponent to the government. The two different new currencies in the North and in the South also lead to economic instability. These ongoing conflicts led and lead many Sudanese to flee from their homes. By the end of 2014, about 650,000 people had sought refuge in Ethiopia, Chad, and Egypt, while another 1,873 000 were internally displaced (Spaulding, 2020). Back in 2015, the ongoing rebel activity in Darfur, Southern Kordofan and Blue Nile, made the government to use brutal campaigns to quell the resistance, deploying air bombardment, tanks, and sophisticated weaponry. In 2018, *the authorities censored the media, confiscated newspapers, detained outspoken critics, and barred key opposition figures from travelling*

outside the country (HRW, Sudan: Events of 2018, 2018), as the NISS¹¹ used violence to stop protests and detain *activists and opposition party members* (HRW, 2018).

Even though in this study we are not analysing all the nationalities arriving in the EU, we must also point out that Gambia, Côte d'Ivoire, Guinea, Senegal, Mali Egypt, Ghana, Morocco and Cameroon were also among the largest nationalities arriving in Italy during the same chronological moment analysed in this section (UNHCR, Refugees & Migrants Sea Arrivals in Europe, 2016).

2.1.3. Routes

There is a diversified limited number of routes available that are commonly used by migrants and smugglers in order to reach the EU. Depending on the country of origin, migrants can opt for Maritime routes or for Land routes. In this brief section, we will be analysing both of these types of routes, in order to establish the background for the next chapter about the crime of migrants' smuggling.

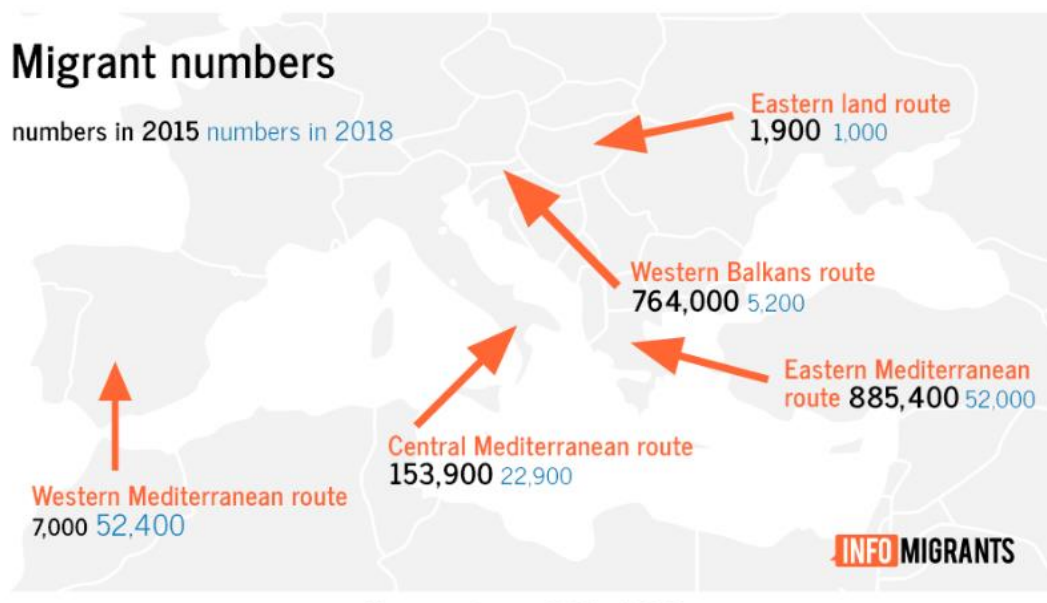


Figure 5 – Migrant numbers in 2015 and 2018 (MacGregor, 2019)

¹¹ National Intelligence and Security Service.

a) Maritime Routes

There are three maritime routes available to cross the Mediterranean Sea into the EU. The route of choice for every migrant depends on factors such as the location of the country of origin, the path chosen to cross the continent of origin¹², and the trends practiced during a certain period. As we will see, there are variations of figures and nationalities over the years in each of these three maritime paths. In this point, we will analyse the situation according to IOM data (2019) on the numbers of migrant arrivals and deaths in the Mediterranean in 2018 and 2019.

The first considerable gateway of this current migrants' crisis (Reitano, 2018, p. 90), the Central Mediterranean Route, is used to reach Italy and has had at least three different departure ports: Libya, Egypt and Tunisia. Migrants who use this route are mainly Africans among which Eritreans, Nigerians and Somalians were the top nationalities in 2014 and 2015 (Reitano, 2018, p. 90). Nonetheless, Syrians were among the nationalities travelling from Libya and Egypt in 2013 (Reitano, 2018, p. 90). The number of arrivals in Italy and deaths in the Central Mediterranean Route has decreased significantly over the last years after 2015, where the highest number of arrivals and deaths was registered.

The second major maritime path, the Eastern Mediterranean Route, links Turkey to Greek islands and is a gateway to the EU from Central Asia and the Middle East and for migrants coming from the Horn of Africa (Reitano, 2018, p. 95) who use Yemen as a transit country or a temporary refuge. The statistics of arrivals by the Aegean Sea have decreased drastically after 2015, year that had registered the highest numbers of all three maritime routes¹³. The year of 2015 was the year when most of Syrian migrants switched routes, representing at least fifty percent of all migrants arriving in Greece in 2015 (UNHCR), this change was mainly due to the EU-Turkey Statement & Action Plan.¹⁴

¹² If there are various countries to cross before reaching the Mediterranean Sea.

¹³ Syrians stopped using the Central Mediterranean Route and started going through Turkey.

¹⁴ See more about this agreement here: <https://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-eu-turkey-statement-action-plan>.

The Western Mediterranean became the most frequently used route into Europe during 2018, however, during 2019 it decreased to around half of the prior numbers. This route establishes the straight sea connection between Moroccan and Algerian coasts to Spain. In the beginning of the crisis, it was predominantly used by sub-Saharan Africans, but from 2018 on, the figures of Moroccan migrants increased (Frontex, Migratory Routes: Western Mediterranean Route, 2019). According to the IOM (IOM, 2019), the total number of deaths in the Western Mediterranean Route between the January 1st 2018 and October 30th 2018 was 621, where the number of registered arrivals was 47,505. In 2019, the number of deaths amounted to 324, and there were 22,247 registered arrivals, which shows a strong decrease of both rates in 2019.

b) Land routes

At the easternmost side of the EU, The Balkans comprehend the geographic region of Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Kosovo, Montenegro, North Macedonia, Romania, Serbia and Slovenia (Allcock, 2019). There are two possibilities to reach the Balkan route from Turkey, the first is to leave Izmir or Bodrum by boat, reach a Greek island and then move to Greece; the second is to leave Istanbul and reach the Greek or Bulgarian border. However, due to security reasons, geographical accessibility and availability of smuggling services, the majority of migrants chooses not to reach Istanbul and, instead, to cross through Izmir (Reitano, 2018, p. 185). In Greece or Bulgaria the journey of the Balkans starts, in order to reach the desired country of destination and to apply for asylum, depending on the context. There is not a unique way of taking the Balkan route, and the dangers faced by migrants can vary. When in Greece, migrants who have the intention to apply for asylum can do it there, but Greece is never neither the first nor the second choice for migrants, who always have in mind a wealthiest country, usually in northern or Central Europe. However, Greece is not surrounded by any Schengen zone's country, therefore, in order to reach Central Europe regions without being caught by law enforcement forces or immigration agents, any possibly way of ground transportation is demanded, whether it is walking, train/bus, or car. Crossing the Balkans implicates a long journey from days to months, depending on the transport and the obstacles. Organized criminality in the Balkans is high, and the risk of human trafficking or smugglers' exploitation are a constant concern.

In 2015, most migrants arriving in Greece would follow the path to the EU by crossing the former Yugoslav Republic of Macedonia, Serbia, Hungary or Croatia (Frontex). However, in 2015, with Orbán's implementation of a wired fence surrounding the Hungarian border with Serbia¹⁵, and the construction of a fence in Macedonia by its army, the routes available decreased, as, at the same time, violence towards migrants along the route in these regions increased.

Largely due to the obstacles created to the entry or transit of migrants in the Balkans region, for instance police violence and risk of arrest, it has gotten more difficult for refugees to reach Central Europe from Greece (PUNDY, 2019). This may be one of the reasons at the origin of the decreased numbers of migrants and refugees' arrivals through the Mediterranean since 2015. Reportedly, in 2018 the numbers of illegal border crossings decreased to half the numbers in 2017 (Frontex).

2.2. Temporary Refuge in the Middle East

Over the last decades, because of the ongoing conflicts in Central Asia, Africa and the Middle East, there are countries who have been continuously hosting migrants and refugees. Therefore, there are numerous second and third generation of migrant families, who live in precarious situations. One of the strongest difficulties for people who flee their homes and find a temporary refuge in another country are integration and stabilizing, because it is hard to accept that maybe there will be no returning home. In this section, we will analyse three countries in the Middle East that have been hosting the largest refugee and migrant populations in the World. Over the last years, in the context of the Arab Spring and environmental changes, Jordan, Lebanon and Turkey have been impacted like no others, each of them addressing the influx differently.

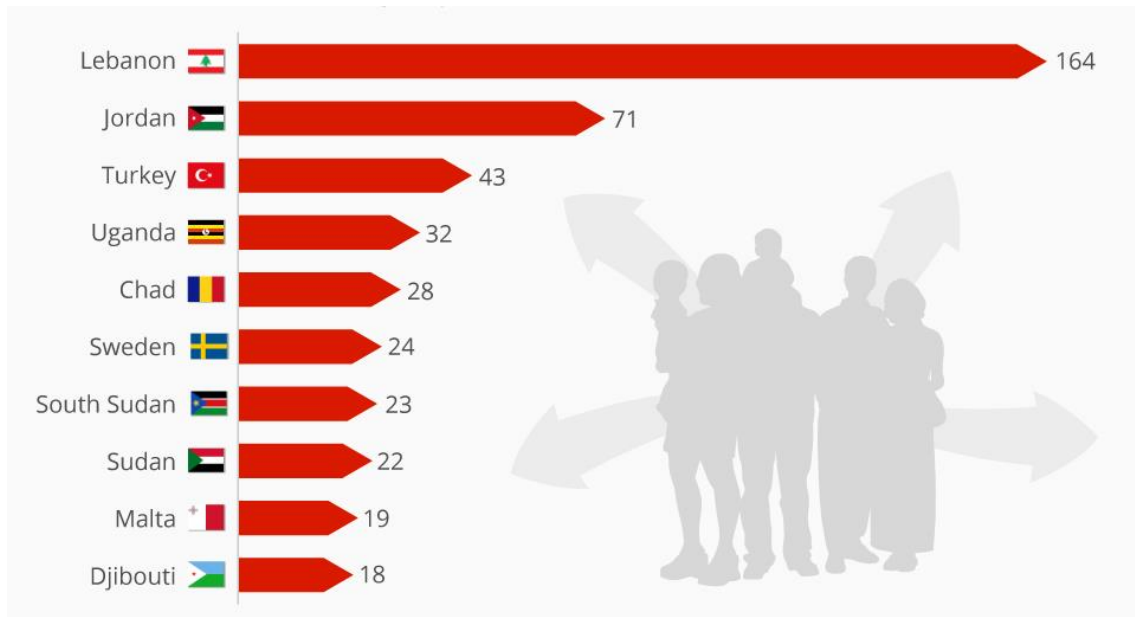


Figure 6 – Countries with the most refugees per 1,000 inhabitants at the end of 2017 (Loesche, 2018)

(a) Jordan

Jordan has been highly impacted by the Syrian refugees' inflow, having been considered by the UNHCR as the second country with the largest refugee population in the world in 2017. Jordan had hosted Palestinian refugees since the beginning of the Arab-Israeli War in 1948 (anera), long before Syrians started to cross the Syrian border into Jordan in 2011. In 2012, the UNHCR and the Jordanian government opened the Zaatari camp, which was, in 2015, the *second largest refugee camp in the world* (Francis, 2015).

As an economic disadvantaged country with scarce resources, the influx of Syrian refugees was deeply impactful within the Jordanian society and economy. With the high competition on the fight for resources, employment, healthcare, shelter and education (Francis, 2015), the public frustration in Jordan increased drastically. Maybe as a response to the public unrest and to the fears of the consequences of the inflow, in some occasions, between 2013 and 2015, the Jordanian government limited the access to its territory to Syrians (Francis, 2015). Deportations of Syrian refugees took place in Jordan

with a peak in 2016 and another in early 2017. Even though there was a stabilization by mid-2017, some individual refugees are still deported every occasionally (Frelick).

(b) Lebanon

Since the outbreak of conflicts in Syria, Lebanon has been receiving Syrian refugees, who found in Lebanon an easy refuge due to the geographic proximity with their country, a familiar environment and loose border controls (Dionigi, 2016). Similar to Jordan, Lebanon *had hosted Palestinian refugees for over 60 years* (Dionigi, 2016), and is today the country with more refugees in relation to the size of its population. Lebanon did not have an official response plan to the refugee crisis, which made it difficult to the integration of refugees and for Lebanese citizens themselves (Hochberg, 2020). Syrian refugees have settled mostly in informal refuges¹⁶ such as *tent settlements, abandoned buildings, or cramped spaces in the country's decades – old Palestinian camps* (anera). Counting twelve Palestinian refugee camps (UNRWA, 2020), Lebanon has already more than 2,000 informal settlements, with the largest concentration in Bekaa Valley, *a fertile but harsh valley bordering Syria* (EU, Syrian refugees in Lebanon's Bekaa valley, 2019).

Since their arrival in Lebanon, Syrians were often seen as threat by the Lebanese (Hochberg, 2020), and on April 24 2019 the Lebanese Higher Defense Council decided to implement restrictions for Syrians crossing the Syrian-Lebanese border without a visa, punishing such infraction with deportation to Syria. This decision could be a violation to the article 31 of the Lebanese *law regulating the entry and stay of foreigners in Lebanon and their exit from the country* (Hochberg, 2020), which, comparably to the non refoulement law, states that a foreigner cannot be deported to the territory of a state where his life or freedom are not secured. The Amnesty International has also reacted against this measure saying that *any attempts to forcibly return refugees is a clear violation of Lebanon's non-refoulement obligations* (Maalouf, 2019). After this decision and its consequent deportations of Syrians, Lebanon was considered as the first country to resume deportations of Syrians to their home country. According to the Human Rights Watch on the 2nd of September 2019, the Lebanese General Security admitted that

¹⁶ According to anera.org, these informal settlements are more than 2,000 with the largest concentration in Bekaa Valley.

between May 21 and August 28, 2019, 2,731 Syrians were deported and handed to the Syrian authorities (HRW, *Syrians Deported by Lebanon at Home*, 2019). Given the ongoing Syrian conflicts and the unsafety of its citizens, especially for those migrants who are known to have fled the country, deportations represent a real danger. They are likely to be confronted with punishments due to their act of trying to leave. As a support to this affirmation, according to the Human Rights Watch, *at least three Syrians deported by Lebanon's General Security back to Syria have been detained by the authorities upon their return* (HRW, *Syrians Deported by Lebanon at Home*, 2019).

(c) Turkey

The gateway to Europe by migrants leaving Central Asia and the Middle East (Reitano, 2018), Turkey hosts the largest refugee population in the world (Erdem, 2016) and the third refugee population per 1,000 habitants according to the graphic above. Turkey plays the role of transit country for many irregular migrants and refugees from Afghanistan, Iraq, Iran, Pakistan and Syria, using the old Ottoman Empire's routes, also used by traffickers and smugglers, to reach the EU (Shelley, 2014).

When Syrians first arrived in Turkey, they would choose to live in areas near the Syrian border. However, as soon as it became evident that the Syrian conflicts would not end soon, some refugees moved to cities in which they could easily find work and establish in a long term, or where they could easily transit to an European country (Erdem, 2016). Similarly to what happened in both Jordan and Lebanon, the long-term presence of Syrians created major economic and social issues in Turkey, for instance, it contributed to the increase of food and housing prices as well as property rents. This, allied to the new low-paid refugees' workforce, resulted in the worsening of the unemployment rate across the country (Erdem, 2016). Despite those initial negative consequences, over the years Syrians proved their positive impact in Turkey, by becoming an important economic actor, using their *entrepreneurial skills* (Erdem, 2016). The educational and literacy level of Syrians, as well as their purchasing power, are beneficial in different aspects of their refugee journey, compared to other nationalities. Previously we saw that when Syrians used the Central Mediterranean route, departing from Egypt to reach the EU, they received better travel conditions and supplies than other African nationalities. This is also valid in matters of inclusion in another country and restarting economically. According

to The Economic Policy Research Foundation of Turkey, since 2011 when Syrians started seeking refuge in Turkey, Syrians were able to establish *more than 10,000 companies where an average of 7 people are employed and of whom 60 percent are Syrians* (GÜVEN, 2018).

PART III

3. THE TRADITIONAL RESPONSE INSTRUMENTS

3.1. UNITED NATIONS

Immediately after the terminus of World War II, the need for a system of International Law led to the founding, on October 1945, of the Charter of the United Nations. The fifty founding countries¹⁷ engaged to establish peace and freedom for the future generations, to reaffirm fundamental human rights and to respect justice and obligations imposed by international law (United Nations, 1945). Following its foundation, the United Nations adopted the Universal Declaration of Human Rights (UDHR) on the General Assembly of December 10 1948 (un.org). The UDHR is the legally binding instrument that represents the ambition to ensure the respect for the fundamental rights of all human beings; the affirmation of the freedom of speech, belief and freedom from fear (United Nations, 1949); and a representation of the opposition towards the cruel violence committed during the Holocaust, aiming to avoid future similar atrocities. On this chapter, we will analyse the legal and non-legal binding frameworks that set out the references in matters of migration among the UN Member States.

Migration has become a defining feature of the 21st century and has been included since 2015 in the United Nations' 2030 Agenda for a Sustainable Development (THE 17 GOALS, 2021). This 2030 Agenda is not a legally binding agreement, but Member countries are expected to take measures in order to achieve all the 17 Goals by 2030. This

¹⁷ To find out more about the founding members of the UN go to:
<https://research.un.org/en/unmembers/founders>.

Agenda contains various goals related to equal fundamental rights and equal basic life conditions and accessibilities.

3.1.1. International Migration Framework

(a) The 1951 Geneva Convention relating to the status of Refugees

The 1951 United Nations' Convention, also known as the *Geneva Convention and Refugee Convention*, relating to the Status of Refugees¹⁸ resulted from a series of diplomatic meetings (Geneva Convention, 2017) held by the UN Member States. The first legally binding document on international law to recognize and protect refugees, the Geneva Convention introduced, for the first time, the definition of refugee, the concept of asylum and the principle of non-refoulement. This Convention stresses in article 1 that the term *refugee* must be applied to any person that, *owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion* (Convention and Protocol Relating to the status of Refugees), had to flee his /her home country and aims to obtain asylum. On article 33, the principle of non-refoulement¹⁹ is set forth as the prohibition for Contracting States, of expelling or returning *a refugee in any manner whatsoever to the frontiers of territories where their life or freedom would be threatened*. Yet it does not forbid countries of persecuting or expelling their citizens (MILLBANK, 2000). The Refugee Convention also provides refugees with the rights *to life, security, religious expression, primary education, free access to courts and equal treatment by taxing authorities* (Convention and Protocol Relating to the status of Refugees).

The post -World War context in which this Convention was adopted responded to the need of protection towards people who fled war, especially due to the massive movements of people fleeing the European Continent in the context of WWII, differing

¹⁸ Also known as the Geneva Convention or the Refugee Convention, accepted by 145 State parties of the UN on the 28th of July 1951.

¹⁹ Principle of prohibition of expulsion or return, 1951 Convention article 33.

from the current conjuncture where in opposition, a massive migration wave tries to enter the EU. This turnover was not foreseen prior to the refugee Convention and the extreme proportions that represent the current situation make it difficult to use the Convention as a reference. Today, the major inconsistency with the notion of *refugee* set forth by the 1951 United Nations Convention is the definition of the notion itself. Article 1 of the 1951 UN Convention declares that someone shall be considered a refugee if, due to the *events* that occurred before this Convention he/she fears persecution, due to the reasons we mentioned above and being outside of his/her country of nationality/residence is not willing to return to such country (1951). This notion does not protect victims of armed conflict, or other situations of violence or anarchy that may threaten the life and liberty of persons; it does not enshrine the right of refugees to be admitted to the territory of the contracting states, and it does not guarantee the right of asylum (OLIVEIRA, 2019). In addition, in order to benefit from asylum, the person in need of it must be present in the country where he/she wants to apply for asylum. Today, this is a big obstacle, especially in the case of applying for asylum in the EU, due to the Schengen obstacles for third country residents and the EU external border controls as well as the difficulties for people in need of international protection to arrive legally and safely to the desired country of destination (Gil, 40 anos de Direito Constitucional de Asilo- Origens e novos caminhos de um direito fundamental, 2016). The *events* that occurred prior to this Convention were the World conflicts, human rights violations and genocide – for instance the *Holocaust* – . However, today, the source of reasons that force people to flee and apply for the *refugee status* are more complex and varied. For that reason, changing the definition of *refugee* and including all of the current challenges, under the rule of International law, would be a major step forward to reduce the distress of so many human beings in the context of this humanitarian crisis. If economic displaced migrants could be given the status of *refugee*, whether they flee, war, hunger, poverty, natural disasters, or just because of the decrease of resources due to climate change, there would be less obstacles for finding refuge in a hosting country and it would allow them to install in a regular way. This would not only decrease the demands for migrant smuggling services – while decreasing the dangers for migrants –, which is one of the problems that we are analysing in this study, but it would also decrease irregular immigration inflow in several countries and its resulting risk of organized crime. However, as James Hathaway mentioned, according to the Refugee Convention Preamble, granting asylum may imply placing heavy burdens on certain

countries, therefore, the international protection shall be achieved through international co-operation (Hathaway, 2015).

(b) The Smuggling Protocol

The Protocol against the Smuggling of Migrants by Land, Sea and Air²⁰, is the first Protocol to define and criminalize the crime of smuggling of migrants, as *the procurement to obtain, directly or indirectly a financial or another material benefit of the illegal entry of a person into a state party of which the person is not a national or a permanent resident* (Protocol against the Smuggling of Migrants by Land, Sea and Air). One of the primary goals of the Protocol, is to prevent and suppress the crime of smuggling of migrants by sea²¹. To this end, it leans on the co-operation of States Parties as well as their employment of international law of the sea and exchange of information, for instance, concerning embarkations, routes, destinations, identities and organized crime practices. This conduct is key in supporting other States to prevent and fight the crime. The forge of identity and travel documents²², which is a major feature of the smuggling activity and contributes in a larger scale for successful irregular migration, is criminalized by the Protocol, which establishes the production and provision of fraudulent documents and its procurement and possession as a criminal offence²³.

The Smuggling Protocol has been adopted with the intention of protection towards migrants' rights; however, one of the major difficulties in implementing its objectives has been the non-acceptance of the ideals of protection towards smuggled migrants by some countries²⁴. The fact that it criminalizes the act of smuggling migrants and recognizes the smuggled migrants as victims allows misinterpretations of the Protocol and instigates false accusations of smuggling and persecutions towards humanitarian actors (McAuliffe, M. and M. Klein Solomon, 2017). In fact, the crime of migrant smuggling is neither easy

²⁰ Signed on the 12th December 2000, it complements the UN Convention against Transnational Organized Crime.

²¹ Protocol against the Smuggling of Migrants by Land, Sea and Air, article 7.

²² Protocol against the Smuggling of Migrants by Land, Sea and Air, article 6, 1. i; ii.

²³ Protocol against the Smuggling of Migrants by Land, Sea and Air, article 6, 1. i; ii.

²⁴ For instance the case of the Visegrad Four that we analyse further ahead.

to prove nor to distinguish from the act of aiding migrants, because often there is a very fine line separating both activities.

(c) The New York Declaration and the Resulting Global Compacts

In September 2016, shortly after the peak of the humanitarian crisis of 2015, the General Assembly of the United Nations adopted the New York Declaration for Refugees and Migrants²⁵. This Declaration introduced the idea of two non-legally binding Compacts, which would present the measures envisaged to reach a safer and orderly migration system for all actors involved. In a *comprehensive refugee response framework* (New York Declaration for Refugees and Migrants), this Resolution focuses on providing help and practical solutions not to only refugees and migrants, but also to the communities receiving them, as well as to ensure faster reception, better admission measures, protection, education, and health care for refugees and migrants.

As foreseen by the New York Resolution, the Global Compact on Refugees (Global Compact on refugees), asserted by the UN General Assembly on the 17th December 2018 comprehends a framework that requests the help of international cooperation to reach a sustainable solution for refugees and the communities hosting them. It comprises four main objectives, to *ease the pressure on host countries*, to *enhance refugee self-reliance*, to *expand access to third-country solutions* and to *support conditions in countries of origin for return in safety and dignity*. This Global Compact is a response plan to the urgent need of refugees for protection, in a time where *refugee's* flows were rising due to war, conflicts, and political instability, especially in the Middle East, in Central Asia and North Africa.

The Global Compact for Safe, Orderly and Regular Migration, adopted in December 2018, relying on the Purposes and Principles of the Charter of the United Nations and the Universal Declaration of Human Rights, refers to all international migrants. *A priori*, this Compact aims to fight the precarious travel conditions that put the lives of migrants at stake. Despite demanding cooperation between nations to share information and mutual help, and recalling their obligations to respect international law

²⁵ Accepted by all 193 Member States of the UN on the 19th Summit for Refugees and Migrants.

and human rights, this Migrants Compact affirms that every State's national sovereignty stays intact; therefore, each State remains sovereign to decide their national migration policy. This can be an obstacle to achieve the Compact's goals, because a country can always decide to create a non-immigration friendly policy, or to develop physical ways to prevent migrants from entering the country²⁶. These obstacles instigate migrants to follow dangerous routes and to request smugglers' services.

We find in the Migrants Compact, a cooperative framework based on the principle that regular migration can have a positive impact in the economic and social development of receiving countries and of all individuals involved, offering a new positive perspective on migration and abolishing the idea that migration represents a negative behaviour (Gil, 2019). It aims, among others: to *minimize the adverse drivers and structural factors that compel people to leave their country of origin*²⁷ – by understanding that the migration crisis is the symptom of greater problems –. To *ensure that all migrants have proof of legal identity and adequate documentation*²⁸ – crucial to create a regular migration process that benefits migrants and the receiving country –. And to *enhance availability and flexibility of pathways for regular migration*²⁹ – knowing that irregular migration is a major security and social problem in any hosting country, which endangers the lives of migrants who fall victims of such phenomenon and increases criminality in the country of destination.

Even though the Global Compact is not legally binding, it should favour the creation of international law instruments (Cusí, 2019) in order to regulate the implementation of these principles, otherwise it will remain as an idea and it will never encourage any solution for the problem³⁰.

²⁶ For instance, walls, fences or the use of violence.

²⁷ First objective on the Global Compact.

²⁸ 4th objective on the Global Compact.

²⁹ 5th objective on the Global Compact.

³⁰ To find out more about this, see: - Deva, S. (2006). Global Compact: A critique of the UN's 'public-private' partnership for promoting corporate citizenship. *Syracuse Journal of International Law and Communication*, 34, 107-151; - Fritsch, S. (2008). The UN Global Compact and the global governance of corporate social responsibility: Complex multilateralism for a more human globalization? *Global Society*, 22, 1-26; - United Nations Global Compact (2010). 2010 Annual Review. New York: United Nations Global Compact Office.

3.1.2. The United Nations Migration Agencies

One of the core principles of the United Nations is the protection of Human Rights. As we can observe in article 3 of the Charter of the United Nations, it upholds on the *respect for human rights and for fundamental freedoms for all without distinction* (United Nations, 1945).

Migration and Human Rights are two co-related matters, and they are both a focal point for the UN Agencies' activity. Human Rights are a major concern in various migration practices, especially among irregular migrants and asylum seekers, who are often highly vulnerable individuals, and who often fall victim of violations to their freedom and rights throughout their lives and who are easy to exploit during their migration journey.

The current migration crisis of migrants coming from the Middle East and Africa into the EU has been the cause of major humanitarian problems directly linked to Human Rights' matters. UNHCR and the IOM are the two UN agencies who have played a crucial role in assisting migrants in distress in various ways, especially by helping save migrants in the Mediterranean Sea and by acting in several migrant camps all over the affected zones in and out of the European Union.

(a) UNHCR

The United Nations Refugee Agency – UNHCR –, created in 1950, was initially an instrument to help Europeans who fled or lost their homes as a collateral damage of the Second World War (UNHCR). Nowadays, this United Nations' Agency aims to *ensure that everybody has the right to seek asylum and find safe refuge, having fled violence, persecution, war or disaster at home* (UNHCR).

Currently represented by the eleventh High Commissioner Filippo Grandi, with a mandate since January 1st, 2016 renewed on the 23rd of November 2020 for a two and a half years period, Filippo Grandi's mandate has been characterised by an active humanitarian approach towards migrants and by the appeal for the need of more refugee friendly policies. Grandi had to overcome the hardest times in the history of the UNHCR

in terms of humanitarian struggles and crisis. In fact, he faced the aftermath of the highest peak of deaths in the Mediterranean and of migrants fleeing Africa and the Middle East, and the worsening of the conditions in migrant camps and reception centres during the 2020 Coronavirus crisis.

The UNHCR acts in Humanitarian matters such as migration, Human Trafficking, protection of persons in distress at sea, people/migrant smuggling and the safe return of people who no longer need international protection to their home country (Asylum and Migration, 2021).

(b) IOM

The International Governmental Organization for migration (IOM), established in 1951 and supporter of the principle of the right to freedom of movement (About IOM), has been directly cooperating with governmental, intergovernmental and non-governmental entities and also migrants themselves to promote awareness on migration matters, providing information to governments and migrants and to assure humanitarian management of migration.

The IOM has been contributing to a more regular and lawful migration system worldwide, by implementing data resources aiming to track various types of international displacements. It is the case of the IOM's Displacement Tracking Matrix (DTM)³¹, the Migration Governance Framework (MiGOF)³², and the Migration Governance Indicators (MGI)³³, tools developed before the Global Compacts and the New York Resolution. However, the IOM also plays a major role on the implementation of the Global Compact on Migration, by issuing Data Bulletins through its Global Migration Data Analysis Centre (GMDAC). Since November 2017 until January 2019, the IOM counts 18 Data Bulletins addressing one issue each of them, for instance subjects such as, migration trends; migration governance; quantification of displacement; migration profiles; migrant

³¹ To gather and analyse data that provides information on mobility, vulnerabilities and needs of the displaced populations - <https://dtm.iom.int/>.

³² Developed in 2015, it comprehends three principles to achieve orderly, safe and regular migration: 1- Adherence to international standards; 2- Formulating policy; 3- Engagement with partners to address migration. - https://www.iom.int/sites/default/files/about-iom/migof_brochure_a4_en.pdf.

³³ Developed in 2016, based on policy inputs to guide countries on developing their migration governance - <https://gmdac.iom.int/migration-governance-indicators>.

children; gender; deaths and disappearances; irregular migration and human trafficking (GCM Development process, 2020).

Today, the IOM is also providing alternatives for migrants who want to return voluntarily and in dignity to their country of origin (IOM), in a time where many migrants regret fleeing their homes because of the equally bad life conditions, they find in the refugees camps or because it is safer to return.

3.2. EUROPEAN UNION

The idea of creating a project similar to the European Union had been mentioned long before the I World War. In 1693, William Penn defended the creation of a European parliament represented by the member states in order to prevent wars between the European states and to promote justice (PENN, 1693). Later, in 1713, Saint Pierre, advocated for a European federal project that would forbidden wars (Pierre, 1713 - 1717). Immanuel Kant was also an advocate for the European unity ideal and had spoken about the idea of a union between the states of Europe, highlighting the importance of the republican factor in order to reach peace (Kant, 1795). Victor Hugo's famous opening discourse of the peace congress of 1849 in Paris, mentioned the idea of a future union of the European nations in order to create a European fraternity ruled by democracy and peace (HUGO, 1849). A union or alliance between the European countries was long seen as a solution to end the common political, social and economic problems of the European continent. Yet, it was World War I that played as a crucial incentive for those who saw the creation of an European Union as the only path to avoid future conflicts between the countries of the European continent. However, when Adolf Hitler took over the German government – then Weimar Republic³⁴ – and created the Nazi dictatorship, nationalisms increased, which left the European ideals aside until the end of World War II. By the end of World War II, the need for long-term peace, re-establishing the economy and rebuilding Europe led to the idea of creating a Community based on unity and solidarity between the countries of Europe (MARTINS, 2017). Winston Churchill mentioned this idea during his discourse in the University of Zurich in 1946, by recalling the need to *build a kind of United States of Europe*, where the European countries would cooperate

³⁴ The Weimar Republic was the name of Germany's government from 1919 to 1933.

to reach common goals, share a common monetary currency, and respect similar political and social objectives. Idyllically, this project would remove the power of individual countries to create war and would encourage and regulate them to work towards their common goals.

The Hague Congress of May 1948, marked the first step for the creation of the EU, for it was where its project was approved by unanimity (Martins, 2017). This was a turning point for the European communities, where new social, economic and political contexts were legally implemented. The creation of the European Union's Institutions – also known as the European project – project is, today, the strongest achievement of the European countries on the aftermath of World War II. The two major changes implemented by the creation of the EU would be the implementation of a common currency – Euro – and the adoption of the Schengen Agreement in the Amsterdam Treaty of October 2nd 1997³⁵. The Schengen Agreement had been initially adopted in Schengen, Luxembourg, in 1985 (EU, Schengen Agreement, 2021) aiming to abolish the controls between the borders of the first signatory countries³⁶. When adopted by the EU it allowed the abolishment of controls between the EU internal borders. However, as we will analyse ahead, the control-free borders in the EU internal borders would cause various national security problems, as well as the increase of crimes such as human trafficking, drug trafficking and trafficking of weapons.

3.2.1. The European Union Migration Framework

(a) TFEU - the need of a common migration policy and a common asylum policy

The Treaty of the Functioning of the European Union – TFEU³⁷ – sets forth the legally binding laws and principles of the EU that guide its Member States, and condemns the non-respect of these rules. Article 79 of the TFEU determines the need for a *common immigration policy* for the European Union. For that end, the European Parliament and

³⁵ Implemented in 1999

³⁶ France, Germany, Belgium, Luxembourg, and the Netherlands.

³⁷ Signed in Rome on 25 March 1957.

the Council are required to adopt measures to fight organized crime such as irregular immigration to the EU and trafficking in human beings, activities that were a problem at the time of the founding of the EU and have worsened throughout the years, due to the lack of internal border controls. The TFEU's legal framework of migration was drafted to regulate and limit the entry of non-European nationals in the EU, so it is itself an obstacle to third country migrants and, in another hand, an encouragement for migrant smugglers.

The Schengen common visa policy is a conditioning factor that creates obstacles for third countries' residents to visit or move into the EU, however it is a crucial determining factor for the EU's internal security, for it regulates the legal entry of migrants and visitors (EC). The Schengen visa policy determines the need of fulfilment of some requirements for a visa attribution. These requirements encompass, for example, a valid passport, a round trip reservation, travel insurance policy, proof of accommodation and proof of financial means (info). Some migrants in distress are forced to flee as an urgent move and their crossing is oftentimes violent and precarious. These factors are one of the causes to the precarious life situations of many 1st, 2nd, and 3rd generation migrants that are today building a life in migrants' camps.

The third countries whose nationals need to be in possession of a visa in order to enter the EU are listed on the Regulation (EU) 2018/1806 of the European Parliament and of the Council³⁸. This Regulation also determines that *recognised refugees and stateless persons shall be required to be in possession of a visa when crossing the external borders of the Member States if the third country where they are resident and which has issued them with their travel document is a third country listed above* (Union, 2018).

Article 78 of the TFEU emphasizes the need of creating a common policy on asylum that offers a legal *status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement* (EU, 2012).

³⁸ Afghanistan; Armenia; Angola; Azerbaijan; Bangladesh; Burkina Faso; Bahrain; Burundi; Benin; Bolivia; Bhutan; Botswana; Belarus; Belize; Democratic Republic of the Congo; Central African Republic; Congo; Côte d'Ivoire; Cameroon; China; Cuba; Cape Verde; Djibouti; Dominican Republic; Algeria; Ecuador; Egypt; Eritrea; Eswatini; Ethiopia; Fiji; Gabon; Ghana; The Gambia; Guinea; Equatorial Guinea; Guinea-Bissau; Guyana; Haiti; Indonesia; India; Iraq; Iran; Jamaica; Jordan; Kenya; Kyrgyzstan; Cambodia; Comoros; North Korea; Kuwait; Kazakhstan; Laos; Lebanon; Sri Lanka; Liberia; Lesotho; Libya; Morocco; Madagascar; Mali; Myanmar/Burma; Mongolia; Mauritania; Maldives; Malawi; Mozambique; Namibia; Niger; Nigeria; Nepal; Oman; Papua New Guinea; Philippines; Pakistan; Qatar; Russia; Rwanda; Saudi Arabia; Sudan; Sierra Leone; Senegal; Somalia; Suriname; South Sudan; São Tomé and Príncipe; Syria; Chad; Togo; Thailand; Tajikistan; Turkmenistan; Tunisia; Turkey; Tanzania; Uganda; Uzbekistan; Vietnam; Yemen; South Africa; Zambia; Zimbabwe.

The *common European asylum system* (EU, 2012) was an urge in the newly formed EU, due to its loss of external border controls in a way that in case of need, people would still be able to reach a refuge and protection in the EU's territory, regularly. Such policy would have to be in alignment with the Refugee Convention of 1951, especially with its refugee notion. This right to asylum is also determined in Article 18 of the Charter of Fundamental Rights of the European Union³⁹, instrument that represents the EU's engagement to preserve and develop *human dignity, freedom, equality and solidarity* (EU, 2012), (...) *while respecting the diversity of the cultures and traditions of the peoples of Europe*⁴⁰, accepted on October 2nd 2000 by the EU member countries.

(b) The Dublin III Regulation

The Dublin system⁴¹, agreed on March 1995, establishes since 2013 the criteria and mechanisms to determine which EU Member State is responsible for examining an application for asylum of a third-country resident. Article three of this Regulation states that only a single EU country is responsible for examining one asylum application (Commission, 2020). The Dublin Regulation uses three criteria for establishing the responsible country for an asylum application; these are *family considerations, recent possession of visa or residence permit in a Member State and whether the applicant has entered the EU irregularly, or regularly* (Commission, 2020). According to the article thirteen of the Dublin Regulation, if these criteria cannot be applied and if a person travels to the EU in an irregular manner, *the Member State where the applicant entered the EU territory illegally will be responsible for examining the claim*. Logically, the numbers of irregular migrants being very high, and because they first arrive in Greece or Italy due to the location of such countries and due to the routes taken, these countries will face considerably more asylum applications than other EU countries. By preventing migrants from choosing the country where to apply for asylum,⁴² not only this mechanism imposes

³⁹ Proclaimed on the 7th of December 2000 by the European Parliament, the Council of Ministers and the European Commission.

⁴⁰ See the Charter of Charter of Fundamental Rights of the European Union.

⁴¹ Dublin III Regulation – (EU) 604/2013.

⁴² Unless they have family members in another Member State of the EU. In that case, they can choose to join their family. See article 9 "Where the applicant has a family member (...) who has been allowed to

obstacles for them, but it also creates more pressure in countries located in the external borders of the European Union.

Italy and Greece (continent and islands) have been affected by the Humanitarian crisis of the Mediterranean Sea like no other EU countries. Their strategical location, as the first coastal countries when leaving African and Middle Eastern shores by boat, puts both countries, under enormous pressure every day, being overloaded by migrants' inflow. This is a factor that causes more irregular migration, because, migrants who are informed of this policy, need an alternative plan to escape as soon as they step in the EU territory. These migrants become an easy target to Human Trafficking and Migrant Smugglers, because they are ready to risk their chances and invest any financial resources they have in any help offer they find in order to reach a more desired destination country.

The lack of a burden share law in the EU leads to an unfair distribution of asylum requests between its countries, which consequently causes distress and unrest in those countries, and it has been a source of disagreements and political crises in the EU⁴³. The most targeted countries are logically unable to treat all of the applications for protection that they receive, putting migrants in a *limbo*⁴⁴. The Dublin Regulation and the absence of legal paths for third country migrants to enter the EU are two reasons that cause migrants to choose irregular migration and not request asylum when first arriving in the EU.

3.2.2. The European Union Migration Agencies

(a) EASO

EASO is the expert European agency on asylum⁴⁵ contributing to the development of the common system of asylum. On April 2016, right in the middle of the Humanitarian crisis, the EASO received, from the Council of the European Union, the task of coordinating *the*

reside as a beneficiary of international protection in a Member State, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing”.

⁴³ See chapter 3.

⁴⁴ Precarious temporary to permanent situation.

⁴⁵ Set forth by Regulation (EU) 439/2010 OF THE European Parliament and of the Council. To see more about this, go to: <https://easo.europa.eu/about-us>.

*creation of a network of senior-level national policy officials, (...) to carry out a joint assessment and interpretation of the situation in main countries of origin*⁴⁶. This project provides us today with four guides about four countries with information about Afghanistan⁴⁷, Iraq⁴⁸, Nigeria⁴⁹ and Syria⁵⁰ as countries of origin for migrants, in which we can access strategic information about each of these countries' migrants' profiles, risk analysis and subsidiary protection. EASO has been supporting Cyprus, Italy, Greece and Malta by relieving the pressure in these receiving countries, providing information to the authorities and operational assistance. Bulgaria and Luxemburg also benefited from EASO's help on the asylum process. EASO is a crucial instrument on providing information related to migration; however, it does not have any decision-making responsibility.

(b) Frontex

According to article 77, 2. (b) and (d) of the TFEU the *European Parliament and the Council* are requested to *adopt measures concerning* the checks of persons entering external borders of the European Union.

For this purpose, Frontex was created by the Council Regulation (EC) No 2007/2004 of 26 October 2004 *establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union* (EU, 2004). This agency is currently ruled by Regulation (EU) 2019/1896 of the 13th November 2019 and it has on its core purposes the control of entries in the EU's external borders and the fight against organized crime that may affect the European Union's safety and security.

The Regulation (EU) 656/2014 establishes the rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by Frontex, where it stresses that the purpose of monitoring the borders is the prevention of unauthorized border crossings while protecting and saving lives⁵¹. Frontex is the

⁴⁶ See also: <https://easo.europa.eu/country-guidance>.

⁴⁷ <https://www.easo.europa.eu/country-guidance-afghanistan>.

⁴⁸ <https://www.easo.europa.eu/country-guidance-iraq>.

⁴⁹ <https://www.easo.europa.eu/country-guidance-nigeria>.

⁵⁰ <https://easo.europa.eu/country-guidance-syria>.

⁵¹ REGULATION (EU) No 656/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 May 2014, (1).

representative of the European Union's at sea. It executes patrols along the EU's external borders and it collects data and intelligence related to criminal networks of migrant smuggling and human trafficking (European Commission, 2021). It does this through a European Border Surveillance System (EUROSUR) that provides the framework for the exchange of information and cooperation between Frontex and the EU Member States⁵².

(c) Europol

The European Union's law enforcement agency (Europol) aims to help Member States' authorities fighting and preventing organized criminality that may affect the EU. This agency operates by sharing criminal information; cooperating in investigations with Member States, providing these with technical and financial support; evaluating possible threats; and elaborating strategic and operational analysis (European Commission, 2021). Europol cooperated with Eurojust in a cross-border Operation called *CESTIA* for almost two years, in which they investigated the smuggling of Afghan migrants, to which the Europol contributed mainly by providing technical expertise, operational support and intelligence reports, which consequently led to a total of twenty-six arrests in Italy, France and Germany⁵³.

The rescue of migrants in distress at sea is an activity where both the Europol and Frontex are often involved in, contributing enormously to the numbers of lives saved in the Mediterranean Sea.

3.2.3. The role of the EU agencies in migrants rescue at Sea

Along the last decade, various rescue operations were carried out as a response to the increase of distress in the Mediterranean Sea. Some of these operations were driven by the only goal of saving migrants in distress, others had the main goal of contribution

⁵² REGULATION (EU) No 1052/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 22 October 2013 - establishing the European Border Surveillance System (Eurosir).

⁵³ See the General report on Europol activities 7 may 2012.

to the fight against organized criminality that resulted from the increase of migrants' inflow in the Mediterranean Sea, but ended up playing an important role in saving lives when faced with events of human distress at Sea.

Operation *Mare Nostrum* was launched on the 18th of October 2013 and finished in October 2014. It intended to safeguard migrants at sea and bring to justice human traffickers and migrant smugglers. This operation, like others, included personnel of the Navy, Air Force, Financial Police, Coast Guard, and Red Cross, amongst others. The Operation was carried out with the help of different vessels, helicopters, and radar networks, mostly working around Lampedusa, a coast is situated on the line of a migration route where many migrants have arrived since the beginning of the refugee crisis. The cooperation applied in this operation, with the help of the Public Security Department and Border Police has contributed positively to improve the on-board system and procedures of migrant identification. With 32 ships, two submarines, drones, helicopters and radars, at least 150 000 migrants were saved, and 300 possible human traffickers have been arrested.

Operation Triton was launched by Frontex in November 2014 with the main priorities of border control, surveillance, search and rescue. Later this operation expanded its activity to combat crimes such as *drug smuggling, illegal fishing and maritime pollution*. (Frontex, 2016) This Operation was characterized by a constant cooperation with the Italian Coast Guard.

Operation *Sophia* was established by the article 42(4) and Article 43(2) of the Treaty of the European Union (TEU). It was launched in 2015 with the core goal of fighting the crimes of migrant smuggling and human trafficking in the Mediterranean Sea, as well as to prevent deaths at sea. It is believed that this operation contributed to the arrest of at least 143 potential smugglers. Operation *Sophia* finished its mandate on September 2019.

Operation *Themis* was launched in 2018, and replaced Operation Triton. This Operation continued rescuing people in distress at Sea and aimed to contribute to the fight against terrorism, by identifying possible threats, having a greater law enforcement focus⁵⁴.

⁵⁴ To find out more about Operation Themis, go to <https://www.cesi-italia.org/contents/Operation%20Themis%20impaginato%20Eng.pdf>.

There is a co-relation between migrant flows, rescue operations and migrant smugglers. Sea rescue operations only exist as a response to a humanitarian crisis at Sea, and migrant smugglers largely benefit from migrants and distress and from the opportunities that Sea rescue operations can provide to their businesses. With the certainty that the migrants will be rescued not long after departure from the Sea port, the difficulties and costs related to the boat acquisition decrease largely.

Even though rescue operations play a key role in saving people in distress at Sea, they can contribute to the growth of the business of migrant smuggling, because it offers an almost certainty of rescue.

4. The consequences of the Humanitarian Crisis of migrants and refugees – Migrant smuggling and the rise of nationalism and non-immigrant friendly policies

4.1. Migrant Smuggling – Practices and Consequences

4.1.1. Background

The activity of migrants' smuggling, as we have previously seen, is formally defined by the United Nations Transnational Organized Crime Convention⁵⁵, as *the procurement, in order to obtain directly or indirectly, a financial or other material benefit of the illegal entry of a person in a State Party of which the person is not a national or a permanent resident* (UN, 2000). One of the distinctions between the concept of migrants' smuggling and the concept of human trafficking is the fact that the first usually requires, from the migrant, an initial demand of a smuggler's, while the second implies a complete unwillingly exploitation relation from the person that is trafficked and the trafficker, where the victim completely loses her/his freedom. However, both crimes can equally exploit and deprive people from freedom. These are illegal businesses, and allow the

⁵⁵ UNTOC.

growth of organized crime networks. While migrant smuggling is a business that takes advantage of the obstacles to the entry of third country residents in the EU – mainly through its external borders – human trafficking is a business that benefits from the absence of border controls between the internal EU borders and uses the migrant crisis to easily insert the victims in the EU. In fact, both businesses are oftentimes parallel, for instance, some Sudanese smuggling networks use their resources to profit from human trafficking (Reitano, 2018, p. 130).

The business of migrant smuggling is a complex phenomenon that has a highly negative impact in the lives of millions of people. Migrant smuggling networks are becoming more and more professionalized, flexible and manipulative, and they use people's weaknesses to make them fall victim of this crime. The reason for this business' growth relies on the increasing demand from migrants and on the increase of people in distress. When there are no legal options (Reitano, 2018) to enter a certain region and the obstacles are high, a smuggler's service is crucial in order to succeed the trip. Due to the complexity and difficulty of the routes, a smuggler is sometimes required in order to flee and survive, especially when there is a need to go through the risks of African and Middle Eastern countries. Even though there are alternatives to hiring a smuggler, it usually implicates risking death, torture, being trafficked or having to return home. On the other hand, smugglers can be *exploitative, profit-driven criminals* (Reitano, 2018, p. 31), using to their advantage the desperation and weakness of people. Oftentimes, smuggler networks move side by side with trafficking networks.

The smuggling activity comprehends a variety of business models, networks and costs. It depends on factors such as the country of origin and nationality of the future migrants; the routes; how many borders they will have to cross; the type of crossing – land, sea or both –; if documents and other supplies are needed; the purchasing power of migrants and the demand's level. Smugglers reorganize often and their choice of routes changes constantly in order to avoid interventions by law enforcement patrols (Shelley, 2014). Due to the major role that the smuggling activity plays in the world as a service provider, it is incredibly difficult, if not impossible, to stop it. It is even questionable whether a world without this business would be any better. There are regions that are economically dependent on the smuggling activity, which is the case of the Sahara and Sahel, where trafficking and smuggling of licit and illicit goods forms the economic basis of its communities (Reitano, 2018, p. 145). Therefore, the absence of this business model would play a drastic economic impact in these regions whose communities are incredibly

poor and where the lack of resources is higher than elsewhere. We may take the example of Chad, which is a transit country for migrants coming from East Africa and the Horn of Africa, and is positioned between East and West Africa, as well as between North Africa and sub-Saharan Africa (Reitano, 2018, p. 151). Northern Chad lives entirely from traffic to and from Libya and the country depends highly on the traffic of illicit and licit goods (Reitano, 2018, p. 153).

4.1.2. Regions

Egypt, a highly controlled and powerful state with complex security structures, is also a port for boats leaving to Italy (Reitano, 2018, p. 127) and it was once one of the top chosen countries to connect migrants from Africa into Europe. A privileged location, between the countries where most smuggling networks come from and the EU, has allowed Egypt to professionalize in the smuggling business and build organized smuggling systems while not attracting international attention (Reitano, 2018, p. 127).

Turkey contains highly organized smuggling networks bringing people from all over the world to Europe (Reitano, 2018, p. 183) and is a hosting country for the largest refugee population in the world. These two factors along with the proximity to the EU, allowed Turkey to be the perfect point of transition into the EU, in the matters of migrants smuggling and other organized crime, such as human trafficking, trafficking of illicit goods and weaponry. Therefore, the EU fight against organized criminality or the intention to slower the entry of migrants, highly depends on the Turkish government.

Libya has been a smuggling hub for long, as well as a departure port for migrants coming from Africa. Libya is widely known for the violence, torture, forced labour and sexual exploitation that migrants commonly have to fall victim of, in order to cross and departure from Libya⁵⁶.

⁵⁶ Find out more about migrants' smuggling in Libya here:
<https://publications.iom.int/system/files/pdf/ch18-migrant-smuggling-in-the-libyan-context.pdf>.
<https://reliefweb.int/sites/reliefweb.int/files/resources/Reitano-McCormack-Trafficking-Smuggling-Nexus-in-Libya-July-2018.pdf>.

4.1.3. Patterns and Risks

Generally, smaller smuggling organizations are ethnically, geographically or linguistically linked to the migrants they smuggle (UNODC, 2018). It is crucial for smugglers to achieve a good reputation for their services among migrants, otherwise their business will lose clients. Therefore, smugglers often intend to establish a good relationship with their clients (UNODC, 2018), even though this is not the norm. There are many problems related to the growing business of migrants' smuggling all alone. This practice does not see migrants as humans, but as numbers and as a source of financial profit. Thus, the actors who work in the business do not take into account the dignity, needs, or human rights of their victims. Indeed, Migrants who are smuggled put their lives under various risks, such as violence, rape, and frequent accidents during the trip (UNODC, 2018). The main goal of the activity is to transport as many people as possible, by spending the least of resources. Victims of smuggling do not have any power against the powerful smugglers, and are sometimes willingly to suffer traumatic experiences in order to reach safety in the EU or other hosting communities, as a heavy price to pay for the possibility of a better life. Oftentimes, victims of smuggling face completely different travel conditions than those agreed, whether it is the duration of the trip or the type of vessel. Even though in the smuggler-migrant relation an initial agreement is needed, where usually the migrant demands the smugglers' service, they shall still be considered victims of the crime, because smugglers take advantage of their desperation, and migrants, only choose to accept the contract because they are deeply distressed.

As a transnational crime that originates billions of dollars in profits, migrant smuggling uses a global economic criminal infrastructure⁵⁷. The Hawala system is one of the most important schemes to move money in the smuggling business, as well as in other crimes, such as trafficking of illicit goods and persons. Hawala is a similar system to Western Union and MoneyGram and it is effective because of the relations of trust between its agents (di Nicola & Musumeci, 2014). It allows moving money fast and unnoticed from any part of the world. This is one of the reasons why it is so difficult to dismantle organized criminal networks, because they move money from hand to hand,

⁵⁷ Escrow holders, money launderers, intermediaries.

between many intermediaries in different regions. Because there is such a strong economic profit from this activity, the smuggling industry is expanding and professionalizing (Kingsley, 2016, p. 17).

There is no proof that the existence of rescue missions has any influence in migrants' decisions to cross the Mediterranean. Oftentimes migrants are not even aware that there are rescue operations in the Mediterranean Sea, however, the existence of such operations affect the way smugglers run their business, using the knowledge they possess about the laws of the Sea into their advantage (2016, p. 128). In the case of *Mare Nostrum*, the rescue operation designed to combat migrants smuggling, launched by the Italian navy, changed significantly the way smugglers operated (Reitano, 2018, p. 119). With the Italian ships patrolling the sea, migrant's smugglers no longer needed to plan for long sea crossings reaching Italian waters; they only needed to operate into a certain distance from the launching point. Accordingly, there was an immediate increase of boats that were found without crews or enough fuel, and boats that were not adequate for the entire Mediterranean crossing (Reitano, 2018). This operational style by smugglers were based on their knowledge of the sea laws, where they were aware that if they sent boats into international waters, and if those boats called for help, according to the 1982 United Nations Convention of the Law of the Sea, any merchant ship in the region should rescue them (Kingsley, 2016, p. 128).

According to the UNODC's 2018 Global Study on Smuggling of Migrants, thousands of migrants die every year due to smuggling activities.

4.2. The impact of the Humanitarian crisis in the EU

The EU common migration system, as we have analysed, is a protection system for the EU but it can be an obstacle for several nationalities who are currently victim of serious economic, political, social and security problems⁵⁸ and cannot apply for asylum or require a visa in the EU. The absence of legal paths to enter the EU, as we have observed in the last decade, does not prevent people in distress from entering the EU, for, as we will analyse further ahead on chapter 4, there are irregular alternatives that migrants

⁵⁸ Problems we analysed on Chapter 2.

use in order to successfully enter European external borders. Due to the Humanitarian Crisis of the last decade, the increase of inflow of migrants into the EU came with an increase of irregular migrants in the EU, which causes several security and social problems for these immigrants and for the receiving countries. One of the reasons for the increase of irregular migrants is the fact that after applying for asylum and having the application denied, many immigrants stay in the EU or they move out from the country where they requested asylum while the request is being processed (Orrenius & Zavodny, 2016). The difficulties of processing the arrival of massive numbers of people hardens the process of controlling and tracking irregular migrants.

As an attempt to control the transit of irregular migrants inside the EU, some countries temporarily introduced checks in some of the EU's internal borders. For instance, on the aftermath of the terrorism events inside the EU in 2015 and 2016⁵⁹, the Council's Decision of the 12th of May 2016 (Decision 2016/894) established a recommendation for the introduction of exceptional *temporary internal border controls*. This decision recommended Austria, Germany, Denmark, Sweden, and Norway to maintain controls on its borders temporarily⁶⁰.

The reintroduction of Temporary internal border controls is determined by Article 25, Chapter II of the Regulation (EU) 2016/399 of the European Parliament and of the Council on the Union Code on the rules governing the movement of persons across the Schengen borders, of 9 March 2016. This Regulation determines that these controls can be implemented temporarily when there *a serious threat to public policy or internal security in a Member State*, where *the duration of the temporary reintroduction of border control at internal borders shall not exceed what is strictly necessary to respond to the serious threat*. According to article 27, these temporary controls of any internal border of the EU have to be communicated to and accepted by the European Commission.

Irregular migration is a factor that causes several security and social issues. It is a condition that enables problems such Human Trafficking, Sexual exploitation, forced labour, street criminalization and violence, poverty among the victims, lack of access to education, drug abuse, drug and weaponry trafficking. Each of these issues have negative consequences on its victims and on the countries where it happens, causing discontentment among the citizens and leading to protests, racism, xenophobia and acts

⁵⁹ Paris, November 2015, Brussels, March 2016.

⁶⁰ Initially for a maximal period of six months, having later a prorogation of three months.

of hatred against the immigrant population. Combatting Irregular Migration is a major goal for the European Union's communities.

The terrorist attacks that have taken place in the EU over the last decade and its link to extremist groups like ISIS, that are somehow related to the Arab Spring⁶¹ have taken place in a critical period that coincides with the events of the entry of massive flows of migrants in the EU. Even though Europol has acknowledged in a report that some terrorists have entered the EU pretending to be refugees⁶², there is no evidence that these terrorist attacks were directly linked to these groups or if the actors involved entered the EU among refugees. The overlap on the timing of the terrorist attacks in the EU and the debates on whether the EU countries should or should not receive refugees, has originated more unrest among the EU citizens towards third country migrants, refugees and the Arab communities. The unrest of the EU citizens has made it easier for politicians to implement no-refugee friendly policies.

One of the major problems of this Humanitarian crisis affecting the EU is the ineffective reception of migrants, especially in Italy and Greece that have been receiving the largest flows of people. The absence of a burden share policy forces Greece and Italy to process the entry of high numbers of migrants at a great speed, which is strongly difficult for these two countries. Italy and Greece are two countries whose economic situation is very precarious and whose biggest source of revenue is tourism. The reception of such flows of refugees and migrants in distress has caused a negative impact on its Tourism market and drained their economic resources, which, again, leads to the unrest of their citizens and loss of belief in the EU. The absence of resources to support and host migrants upon their arrival has been the source for their precarious and inhuman life conditions lives and in migrants' camps.

⁶¹ Phenomenon analysed on Chapter 2.

⁶²In an European parliament news:

<https://www.europarl.europa.eu/news/en/headlines/security/20180703STO07125/terrorism-in-the-eu-terror-attacks-deaths-and-arrests>.

4.2.1. The rise of nationalism

The Western World has suffered a rise of Nationalist ideals during the peak of the Humanitarian crisis. The discontentment of politicians and populations led to their disbelief in the EU and UN values and, in some cases, it caused disbelief in democratic policies. In the EU, since the beginning of the humanitarian crisis, the dilemma of the acceptance or non-acceptance of refugees caused many debates with opposite opinions from politicians and citizens. The complex diversity of opinions towards this matter made it difficult for the EU to create migration legislation in order to approach the humanitarian crisis in a way that every country would have equal obligations in addressing this matter.

One of the greatest opponents to the refugees' cause has been the Visegrad Four⁶³, – a political alliance of Poland, Czech Republic, Hungary, and Slovakia, founded on the 15th February 1991 with the intention of creating a strong unity while joining the European integration, and accomplish, together, social transformation (Visegrad Group, 2021) – . Two Europe-friendly countries – Slovakia and Czech Republic – and two countries that are sceptic about the European project – Hungary and Poland, represent this group. However, the four countries agree on the refugee matter, defending a non-refugee friendly approach. The Visegrad 4's position on the migration matter has been an obstacle for the EU migration law-making process. All four countries that represent this alliance had been against the idea of an equal distribution quota of migrants since 2015, claiming that this policy would expose the EU to the problem of Islamic terrorism (López-Dóriga, 2018), that migrants should not leave their homes and defending that irregular migrants should be returned to their home country (Reuters, 2020).

Since Prime Minister Viktor Orban joined the Hungarian government in 2010, he has been actively supporting anti-immigration ideals and has created very strict anti-immigration laws. On June 20, 2018, the Hungarian government ministered by Orban created a legal proceeding – bill T/333 – that would criminalize as facilitation to illegal immigration, the acts of assisting asylum seekers. Orban has also led the creation of a barbed wire fence along the southern Hungarian border with Serbia and Croatia to stop immigrants from stepping in Hungarian sole (Goździak, 2019). Such extreme decisions

⁶³ Also known as the V4.

from Hungary and the other V4 countries were widely criticized by the EU and do not match the European values of promoting democracy, unity, integration and cooperation between its members (López-Dóriga, 2018). Consequently, in June 2017, right after the Czech Republic announced it would not accept any more migrants based on the refugee distribution quotas across the EU, the European Commission threatened to sanction any Member State that did not follow the quota rules for asylum applicants. In 2018 the EU Parliament has voted to punish Hungary for sabotaging democratic values, a decision that was condemned by Orban's supporters, like the Hungarian Foreign Minister Peter Szijjarto, and British pro-Brexit MEP Nigel Farage.

Since the UK joined the EU it has been resistant towards one complete EU integration, never having adopted the euro currency (2017). In 2016, after David Cameron's referendum resulted in a positive result (52.5 percent of the votes) for the option of leaving the EU, this process known as Brexit started taking place. After four years of negotiations and well aware of the risks and irreversibility of leaving the EU, the UK officially left the EU on the 31st of January 2020. After Brexit, the UK obtained more restrictions on the freedom of movement of EU citizens in the UK while keeping an open trade and low fees to settle commitments with the EU (2017).

The United States also experimented a rise of nationalist values proved by Donald Trump's election on November 2016. Seen as a political revolution, the election of someone as nationalist as Donald Trump would show the discontentment of the US citizens towards democratic and migrant friendly governments such as Obama's. Donald Trump's anti-immigration ideals were known and affirmed during his political electoral campaign, and proved as extreme while he governed the US. The world was shocked with Trump's approach to immigrants, especially when he decided to create a wall along the Mexican border.

Italy has the main EU land entry for migrants who cross the Mediterranean from the north of Africa, being one of the most affected EU countries by the flows of third countries migrants and refugees. Since the beginning of the mandate of interior minister Matteo Salvini, he has incited anti-immigration values and has refused docking rights for rescuing ships.

On October 4th, 2018, Salvini's government issued a decree-law on migration, putting forward measures for the Italian Government to abolish key forms for protecting migrants. Malta and Italy had already turned away humanitarian ship SOS Mediterranée

in June 2018⁶⁴, having to disembark in Spain with 630 migrants. On June 2019, Carola Rackete, captain of the Sea-Watch 3 mission, defied Salvini's decision of closing the ports for humanitarian rescue ships, by disembarking in the Italian island Lampedusa, forcing the port barriers, after being at sea with 42 migrants aboard for more than two weeks in conditions that were no longer bearable⁶⁵. After impeding another ship loaded with at least 130 migrants on board from disembarking in Italy on the 26th of July 2019, Salvini finally demanded help to the EU, negotiating to receive the concerned migrants, if the EU engaged to distribute them. In July 22nd, Emmanuel Macron proposed a solidarity mechanism on distributing migrants saved in the Mediterranean Sea. This proposal was accepted by fourteen countries and refused by Italy's Interior Minister who did not agree with the fact that such ships would disembark in Italy.

4.3. **Sea Rescue and Facilitation of Irregular Migration**

Migrants' sea rescue is the phenomenon of rescuing migrants that are in distress in a maritime area. Rescuing people in distress at sea is a humanitarian act and it is an obligation to any ship that faces such situations. Facilitation of irregular migration is a crime that represents the act of smuggling or cooperating with smugglers on the illegal transportation of migrants to a country they are not allowed to enter, while obtaining some kind of revenue from that act. Even though both activities are distinct from one another, due to the nature of the intentions of its actors, there is a common category of people that falls victim of both activities, migrants in distress.

At sea, it is highly difficult to distinguish smugglers from migrants, and because of that, it is not very clear if humanitarian rescuers are only saving people in distress or cooperating with smuggling networks. The acts of saving people in distress at sea is not only moral, it is also set forth as an obligation by International Law regardless of the nationality, status or circumstances in which people are found (SAR Convention , 1979).

⁶⁴ See more about this: <https://sosmediterranee.com/aquarius-instructed-to-sail-to-spain-to-reach-a-port-of-safety-629-people-rescued-in-the-mediterranean-to-be-disembarked-in-valencia/>.

⁶⁵ See for more information on this matter here: <https://www.dw.com/en/what-drives-sea-watch-captain-carola-rackete-to-rescue-migrants/a-49415737>.

The first legal binding instrument to refer to Sea rescue is the International Convention on Maritime Search and Rescue, adopted in 1979, establishing that its Parties are to *ensure that necessary arrangements are made for the provision of adequate search and rescue services for persons in distress at sea around their coasts*⁶⁶. This Convention supported the adoption of United Nations' Convention on the Law of the Sea by introducing that, *on receiving information that a person is in distress at sea in an area within which Party provides for the overall coordination of search and rescue operations, the responsible authorities of that Party shall take urgent steps to provide the most appropriate assistance available*⁶⁷.

The United Nations' Convention on the Law of the Sea (United Nations, 1994), establishes on article ninety-eight the *duty to render assistance*, where it stresses that a master of a ship has to *render assistance to any person found at sea in danger of being lost, and proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance (...)*. On article 2, it is set forth that *every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements cooperate with neighbouring states for this purpose*. This means that it is every country's duty to save lives when faced with such emergencies.

The major issue related to the increase of migrants and refugees' flows, is the increase of criminal practices, such as human trafficking and migrant smuggling towards these individuals. These networks benefit from the obstacles to the entry of third country nationals in the EU, and due to the growing level professionalization of such criminal networks, it gets more and more difficult to distinguish humanitarian actors from smugglers or traffickers. Resolution A.867(20) 1997, entitled *Combatting unsafe Practices associated with the Trafficking or Transport of Migrants by Sea*, demands that Governments cooperate to increase their efforts on suppressing and preventing unsafe practices that lead to the *trafficking or transport of migrants by sea and by ensuring to take actions against these unsafe practices*.

The existent legal framework that sets out the differences between the crime of smuggling and the act of helping migrants is the Council Directive 2002/90 /EC and the Framework Decision 2002/946 /JHA. This legislation integrate the Facilitator's Package,

⁶⁶ Chapter 2.1.1 (SAR Convention , 1979).

⁶⁷ 2.1.9 (SAR Convention , 1979).

however this latter is not clear on separating both concepts. There are some inconsistencies and need for clarification which is cause that innocent people who just want to provide help and save lives to be accused and threatened to prison, consequently spreading the fear between help providers and preventing people from joining these missions in the future.

The Council Directive 2002/90/EC, aiming to combat illegal immigration, as foreseen by the Treaty of the European Union, presents measures to combat the facilitation of illegal immigration. In its article 1°, it suggests that every State should apply sanctions on 1(a) *any person who intentionally assists a person who is not a national of a Member State to enter, or transit across, the territory of a Member State in breach of the laws of the State concerned on the entry or transit of aliens*. This may cause some confusion because it does not distinguish humanitarian help providers from smugglers, even though it says on 1.2. that they should not impose sanctions if the behaviour aims to provide humanitarian assistance.

It suggests the adoption of sanctions in the case of smuggling of migrants, on 1(b) distinguishing this behaviour as any person who helps a third-country national to enter a Member State illegally, just for financial profit.

The Council Framework Decision 2002/946/JHA who also aims to combat illegal immigration to the EU and provide citizens with safety inside the EU, completes the Council Directive by supporting the punishment of the infringements defined in Articles 1 and 2 and consequently suggesting the confiscation of the ship or transport used to commit the crime, a prohibition of continuing the practise and deportation.

The sanctions for the crime of smuggling shall be, according to article 1.3 custodial sentences of at least a maximal sentence of 8 years, if committed by a criminal organization or putting in danger the lives of the migrants.

The Facilitator's Package is not clear in setting out the specificities of *humanitarian reasons*. The lack of a clear definition of what conditions are inherent to rescuing migrants in distress is an obstacle for the humanitarian activity because they also need a protection and to be sure, that they won't be dragged into criminal processes because of providing help. There is a clear definition of the crime of smuggling of migrants, so the same concept for rescuing people is needed.

Since 2018, there has been an increase on the charges attempts of the crime of facilitation of irregular migration and cooperation with migrant smugglers towards humanitarian actors. is link between sea rescue and criminal activity has been held

especially by the Italian Government, and happens despite the existing cooperation between the Italian maritime rescue coordination centre and these humanitarian agents, where most of the times it is the Italian authorities that report to the rescuers the emergencies with migrants at sea. Humanitarian actors have been on the Mediterranean Sea, providing help to migrants in distress since the beginning of the humanitarian crisis, a situation that is not always appreciated by all, especially if it means more migrants will succeed on their trip and contribute to the inflow on a specific region, as it is the case of the Italian coast.

Iuventa⁶⁸ was an humanitarian rescue mission that was operating on the Mediterranean Sea in 2016 and 2017. In July 2018, the Iuventa crew had its ship detained by the Italian authorities, under the pretext, that such detention was a preventive measure for migrant smuggling, a crime that the crewmembers of the mission would be threatened to be charged with. After having saved fourteen thousand lives, ten members of this rescue operation were investigated, while considered suspects of cooperating with migrants' smugglers. Their missions were in accordance with international maritime law⁶⁹ and humanitarian principles. The lack of proof led to the inexistence of a formal accusation towards the members of this mission.

⁶⁸ Iuventa was a mission being held by the German Non-Governmental Organization Jugend Rettet.

⁶⁹ <https://jugendrettet.org/en/>.

PART IV

5. CONCLUSION

This study aimed to analyse the humanitarian crisis of refugees of the last decade, focusing on understanding its causes, symptoms and consequences for all the actors involved, in order to reach some possible solutions for this problem.

On the aftermath of the insurgence of the Arab Spring among Arab communities in the Middle East and Africa as well as the increase of Climate Change due to the Global Warming, the largest wave of migrants and refugees coming into the European Union took place since the beginning of the last decade and continues to take place in 2021. This wave of migrants and refugees is the cause of the problem we analysed in this study, the Humanitarian crisis of migrants and refugees coming through the Mediterranean Sea into the European Union. This humanitarian crisis was and is inevitable due to the causing factors of this exodus of migrants and refugees coming from Africa and the Middle East.

As we have analysed, the creation of physical and legal barriers for these migrants and refugees from entering the European Union will not only not offer a viable solution for this migration wave, it will increase the incidence of the crime of migrants smuggling, irregular migration and Human Trafficking. Such barriers will also inevitably worsen the distress of these migrants during their crossing and upon their arrival in the country of destination. In order to achieve a resolution for this humanitarian crisis, there is an urgency for a global effort to focus on easing and resolving the factors that force people to flee. Only by decreasing the conflicts, corruption, violence and extreme poverty, the reasons for people to flee their home country will decrease.

By analysing the European Union and the United Nations legal binding and non-legally binding frameworks, we have come to conclude that, even though these two organizations provide migrants and refugees with rights, some of the existing legal frameworks no longer respond to the current humanitarian context. This is the case of the notion of refugees set forth by the Geneva Convention of 1951, also known as the refugee Convention. The notion of refugees provided by this Convention is quite restrictive because it only considers that a migrant is worthy of the status of refugee, and therefore

receiving international asylum, if this person has fled his/her home country because of conflicts and persecution.

This notion fails to respond to the current challenges where the factors that make migrants flee their home country are more diverse than ever. Among these factors, we find the lack of resources due to the worsening of Global Warming, lack of education opportunities, lack of a health care system, lack of infrastructures because of war, corruption resulting in the impoverishment of their home country, lack of job opportunities, and others. People that flee due to these mentioned factors are easily considered as economic migrants and according to the notion of the 1951 Convention, they do not fulfil the requirements to apply for asylum. Economic migrants are increasing year by year; therefore, it is urgent to reform the legally binding refugee notion and definitions aiming to include economic migrants in this category.

A more inclusive legal notion of refugees would also be one-step ahead to fight migrants' smuggling and irregular migration into the EU and the world. By enlarging the categories of migrants that can apply for asylum, we reduce the obstacles for people to flee and integrate in a host country, therefore the demand for migrants' smugglers decreases and so does the number of irregular migrants.

In this study we have seen that the incidence of the crime of migrants' smuggling and of the phenomenon of irregular migration have increased at a great rate during this Humanitarian crisis of migrants and refugees. Both of these phenomena have a negative impact in both migrants and refugees and the EU as a receiving nation. Migrant smuggling is a crime that takes advantage of the migrants' weaknesses, and puts them in great dangers that are oftentimes fatal. This crime represents a business composed by networks that originate millions of profits, and is often linked to Human trafficking networks. Migrant smuggling is a criminal activity that is almost impossible to fight by focusing on the phenomenon itself, because the smugglers that are on top of these networks are always private and do not contribute directly to the practical activity of smuggling migrants. Migrant smugglers arrests, often result on the arrest of the less crucial actor of the hierarchy of that network, therefore, the tactic of arresting possible smugglers that are found moving migrants is rarely a solution to stop that particular network and it is not a solution to the problem as a whole. In my opinion, the combat to migrants' smuggling happens through the reform of migration laws and through the creation of agreements of cooperation between various governments and nations in order to fight this problem,

focusing on helping migrants and reducing the odds of them requesting a smuggler's service.

In order to address and improve the life conditions of migrants and refugees during their crossing it is urgent to create more legal paths to enter the EU, as well as it is urgent for hosting nations to cooperate with each other by sharing information, supplies and quotas of migrants. I believe that an alliance of cooperation between the EU, Turkey, Lebanon and Jordan would be beneficial for each of these most affected hosting nations, which would also be beneficial for migrants.

As a long-term solution for this situation, we need to, globally, make efforts to address the causes of migration such as war, conflicts, corruption, dictatorships, lack of human rights, and lack of resources. The only path to achieve these goals and reach a solution for humanitarian problems is through education, cooperation between nations in creating more human rights focused laws and implementation of such laws in as many places as possible. To change mentalities and to implement human rights based tradition and culture takes time and effort from everyone, which is why education plays a key factor towards this goal. Information, cooperation, global effort and solidarity are the main factors to fight this humanitarian crisis and to reach a higher level of global peace.

In 2020, even though the numbers of migrants crossing the Mediterranean Sea had decreased, according to the UNHCR Special Envoy for the Central Mediterranean, people continued to fall victim of smuggling by traffickers and smugglers who falsely promise a safe crossing into Europe, even now during the Coronavirus crisis (UN, IOM, UNHCR Mourn Death of 27 People off West African Coast, 2020). In 2020, this was still one of the major causes of distress and human loss in the Mediterranean Sea.

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