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What is the reason for the divergent responses of Member States to the Refugee Crisis?
A critique of the Common European Asylum System during the 2015 Refugee Crisis.

Master Dissertation

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"Everyone you meet is fighting a battle you
know nothing about. Be kind. Always."

- Brad Meltzer

Abbreviations and acronyms

AFD	Alternative für Deutschland
CDU	Christlich Demokratrische Union Deutschland
CEAS	The Common European Asylum System
CIVEX	Committee on Citizenship, Governance and Intitutional and External Affairs
CJEU	Court of Justice of the European Union
CSDP	Common Security and Defense Policy
CSU	Christian Social Union
EU	European Union
EAEC	European Atomic Energy Community
EASO	European Asylum Support Office
EC	European Commission
ECRIS-TCN	The European Criminal Records Information System- Third Country Nationals
ECSC	European Coal and Steel Community
EES	Entry/Exit System
EESC	European Economic and Social Committee
EP	European Parliament
ETIAS	The European Travel Information Authorisation System
EU-LISA	EU Agency for the Operational Management of Information System
EUAA	European Agency for Asylum
EUROPOL	European Police Office
Europol	European Union Agency for Law Enforcement Cooperation
FRA	The European Union Agency for Fundamental Rights
FRONTEX	European Border and Coast Guard Agency
GDP	Global Detention Project
IMI	Thematic Study Group for immigration and Integration
IOM	International Organization for Migration
ISIS	Islamic State of Iraq and Syria

M5S	Five Star Movement
MS	Member States
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organization
OAU	Organization of African Unity
OCHA	The U.N office for the Coordination of Humanitarian Affairs
REX	Section for External Relations
SIS II	Second-generation Schengen Information System
SOC	Social Affairs and Citizenship
U.S.A	United States of America
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	UN High Commissioner for Refugees
Unicef	United Nations Children Fund
VIS	Visa Information System

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Resumo

Este estudo procura reflectir um exercício analítico para descobrir, em pormenor, a razão das respostas divergentes dos Estados-Membros à crise dos refugiados durante os anos de 2015 a 2017. Além disso, tinha objectivos secundários: i) investigar os meios de comunicação que podem e podem prevenir crises futuras; ii) investigar as razões para a diferenciação da estratégia entre os estados membros por razões de política interna e externa. O trabalho pretende analisar em pormenor os diferentes comportamentos dos Estados-Membros face à Crise dos Refugiados, a fim de desenvolver uma proposta futura para evitar uma tal lacuna no sistema de asilo europeu e evitar uma resposta divergente dos Estados-Membros face à Crise Humanitária em breve.

Nesta dissertação de mestrado, fizemos uma combinação de métodos e técnicas utilizadas nas ciências sociais. O procedimento de recolha e tratamento de dados baseou-se em: i) análise bibliográfica, documental e jornalística; ii) análise dos dados estatísticos disponíveis sobre migração na União Europeia, e mais aprofundada para os seguintes Estados Membros: Alemanha, Itália e Hungria; iii) entrevistas directas com um actor individual.

Em consequência da guerra na Síria e no Iraque, da guerra civil no Afeganistão, do regime ditatorial na Eritreia ou em resultado das pressões políticas, religiosas e de violação dos direitos humanos realizadas pelo autoproclamado Estado Islâmico, a instabilidade vivida no Médio Oriente produziu um dos maiores movimentos migratórios registados em direção à Europa. No ano de 2015 deram entrada em território europeu, via Grécia e Itália, por mar e terra, mais de 1.300.000 requerentes de asilo e estima-se que tenham morrido na travessia no Mar Mediterrâneo mais de 3.700 pessoas. Este movimento migratório provocou dois tipos de reação. De um lado, aqueles que se sentiram ameaçados e encontraram respostas nos crescentes movimentos extremistas e populistas. E por outro, aqueles que pediram aos líderes europeus um maior compromisso pelo respeito pelos Direitos Humanos e pelas nossas obrigações internacionais na proteção daqueles que procuram refúgio na Europa.

Palavras-chave: União Europeia; Refugiados; Crise migratória; Políticas migratórias; Sistema Comum Europeu de Asilo.

Abstract

This study seeks to reflect an analytical exercise to find out, in detail, the reason for the divergent responses of Member States to the Refugee crisis during the years 2015 to 2017. Furthermore, it had secondary objectives: i) to Investigate the means of communication that can and might prevent future crises; ii) To investigate the reasons for the differentiation in strategy between member states for internal and foreign policy reasons. The work intends to analyse in detail the different behaviours of Member States towards the Refugee Crisis to develop a future proposal to avoid such a gap in the European asylum system and avoid a divergent response of Member States towards the Humanitarian Crisis shortly.

In this Master's dissertation, we made a combination of methods and techniques used in social sciences. The procedure for the collection and processing of data was based on: i) bibliographic, documentary and news analysis; ii) analysis of available statistical data on migration in the European Union, and more in-depth for the following Member States: Germany, Italy and Hungary; iii) direct interviews with an individual actor.

As a result of the war in Syria and Iraq, the civil war in Afghanistan, the dictatorial regime in Eritrea or as a result of the political, religious and human rights violations pressures carried out by the self-proclaimed Islamic State, the instability experienced in the Middle East has produced one of the most significant migratory movements recorded towards Europe. In 2015 more than 1,300,000 asylum seekers entered European territory via Greece and Italy, by sea and land, and it is estimated that more than 3,700 people died at the Mediterranean Sea crossing.

This migratory movement has provoked two types of reactions. On the one hand, those who felt threatened found answers in the growing extremist and populist movements. And on the other, those who have asked European leaders for a more outstanding commitment to respect human rights and our international obligations in protecting those seeking refuge in Europe.

Keywords: European Union; Refugee; Migration Crisis; Migration Policies; Common European Asylum System.

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1   Introduction

Every day, hundreds of migrants try to reach the West with the dream of a better future, fleeing from war, misery, hunger, corruption and death. According to Amnesty International data, of the more than 50 million existing refugees, most are Syrians, Afghans, Iraqis and Kosovars who pay thousands of dollars to make the crossing to a safe place, not knowing that they will be dropped by traffickers in an unknown city, without support or documents, or sometimes even at sea, where many of them end up losing their lives (Amnistia, 2015). In April 2015, almost 900 deaths had already been recorded in the Mediterranean Sea, which is 50 times more than in the previous year. This is what happened, for example, on April 16 2016, when a boat trying to reach Europe from Libya sank, causing the death of around 500 people (Nations, 2016).

Now, the leading cause of this migratory movement which is difficult to compare in human history has its origin in the conflict in Syria, as well as in the constant violence in Afghanistan and Eritrea, as well as in poverty in Kosovo. These situations lead thousands of people from these regions to seek asylum in other countries. More than 300,000 people seeking asylum in the European Union member countries come from Syria, with an enormous advantage over those from Afghanistan, Kosovo, Eritrea, Serbia, Pakistan, Iraq and Iran, from where thousands of refugees also flee in search of asylum. It should also be noted that asylum applications made in the European Union multiplied in 2015: Eurostat recorded 1,255,600 asylum applications in 2015, more than double that in 2014 (Parliament, Uma europa acolhedora? , 2020). Among the countries sought, Germany leads the preference of migrants, having received more than 441,000 applications in the year 2015, which constitutes 35% of the EU total. After Germany, the countries of choice are Hungary at 14%, Sweden at 12%, Austria at 7%, Italy at 7% and France at 6%. In

Portugal, the number of new asylum seekers increased by 89% to 830 applications, a figure that represents 0.1% of the EU total, with most applicants coming from Ukraine (45% of the national total), Mali (10%) and Pakistan (8%) (Oliveira, 2021). To help migrants who leave their countries of origin in precarious situations, the President of the European Commission, Jean-Claude Juncker, proposed on September 9, 2015, in Strasbourg, the distribution by member states of more than 120,000 refugees who are in Italy, Greece and Hungary, on an urgent and mandatory basis (Oliveira, 2021). Germany led the list of refugee relocation as the country receiving the most refugees, 31,443, followed by France, 24,031, and Spain, 14,931 (BBC, "Refugiados na Europa: a crise em mapas e gráficos", 2015).

This proposal by the European Commission to define refugee quotas for each member state was rejected in the first instance.

1.1   Objectives

It is necessary to highlight that this work had as its primary objective in detail to find out (find answers /try to explain) what is the reason for the divergent responses of Member States to the Refugee crisis during the years 2015 to 2017.

Furthermore, it had secondary objectives:

- Investigate the means of communication that can and might prevent future crises;

- To investigate the reasons for the differentiation in strategy between member states for internal and foreign policy reasons.

1.2   Methodology

It should be pointed out here that an analysis of the problems in the European asylum system will be a fundamental analysis for the development of this work. With this, I also mention the necessity to analyse and study the European reforms concerning the asylum system.

As I have attended secondary school in German schools, I intend to use sources written in Portuguese, German and English.

In short, the work intends to analyse in detail the different behaviours of Member States towards the Refugee Crisis to develop a future proposal to avoid such a gap in the European asylum system and avoid a divergent response of Member States towards the Humanitarian Crisis shortly.

The starting question of this research is, "What is the reason for the divergent responses of Member States to the Refugee Crisis?" Given the starting question, a set of secondary questions arise. These questions articulate various aspects of the research and will lead to the answer to the original question. The first questions concern the EU's pre-Refugee Crisis migration policies: "What is and how does the Common European Asylum System work?" and "How has the EU responded to the wave of migration?". This question enables the understanding of the policies advocated by the EU and the Member States before the Refugee Crisis and against which the policies supported the 2015 Refugee Crisis will be contrasted. Next, we will seek to answer the question "What is the Refugee Crisis?" allowing us to situate the research in time (between 2015 and 2017) and space.

With the next question, "What measures have been taken by the EU as a response to the Refugee Crisis?" we pave the way to analyse the different approaches that Member States have adopted internally and advocated at the European level, emerging the question "What

are the different approaches to the Refugee Crisis?" This question lets us, through the consolidation of already existing academic knowledge, build a dichotomy between States that advocated more significant aid to refugees - Open Border Policies - and those that supported a more substantial closure of the European Union and the Member States themselves in the face of the migratory wave - Closed Border Policies. The construction of this dichotomy - explored through the derived questions "What are and how are Open Border and Closed Border Policies?" and "Which countries have advocated each of these approaches?" - leads us directly to the starting question and the core of the research: the reason behind the choice of one or another approach by the Member States in the face of the Refugee Crisis. Furthermore, it will lead us to the problematisation of the concept of Crisis and Refugee, which will allow us to relate security and securitisation with the Refugee Crisis, contrasting with the humanitarian vision of the same event.

This research is based on a comparative Case Studies approach, chosen to ensure broad representativeness of strategies, geographies, communication and situations concerning the Refugee Crisis. Therefore, three Member States, each with different characteristics, are selected as Case Studies: Germany, as a defender of Open Border Policies with a sizeable migratory flow in its direction; Hungary, as a representative of the States that have defended Closed Border Policies; and Italy, as the epicentre of the Crisis.

Each member state's positions will be analysed on two distinct but intrinsically linked levels. First, we will analyse which policies they have adopted domestically in the face of the Refugee Crisis. This analysis will be based on the assessment and problematisation of the policies advocated and adopted by national governments and parliaments. Next, the positions adopted by these States in the European decision-making process will be analysed, mainly in meetings of the European Council and the Council of the European

Union. To this end, we will examine the decisions taken by the Council, the proposals made by each of these States and their votes at these meetings. This methodology will allow us to answer the question "What are the different approaches to the Refugee Crisis?" and "What are Open Border and Closed Border Policies, and how are they processed?" opening the way to answering the original question. Having analysed the "how?" and "in what way?", it is now vital to investigate the "why?" - the core of the research. It is assumed that public policies are publicly justified through discursive acts. Using an approach based on the notion that Discourse and Power are intrinsically linked - being mutually constitutive - and that - according to the theory of Securitization advanced by the Copenhagen School - security threats and crises are constructed through discursive acts, the methodology will be based on critical discourse analysis. In this type of analysis, it is essential not only to analyse the rambling text literally but to go far beyond this, taking into account the political context of the discourses, their underlying goals and the way certain concepts and terms are used in different ways.

Attention will be paid to the discursive acts of the political leaders of the Case Studies, mainly in a European context.

As well as an interview was conducted to seek a more internal review of the topic. For this dissertation, a diplomat was contacted to answer under confidentiality.
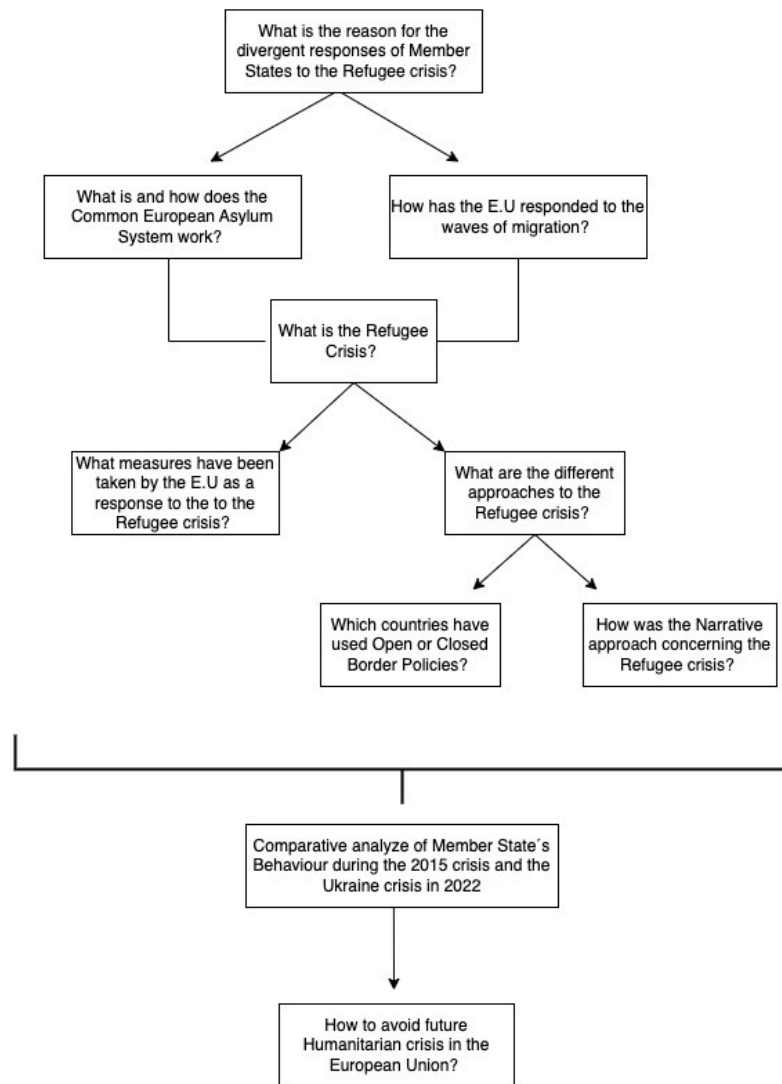
Figura 1. Analyse structure.

2   Theoretical chapter

This chapter aims to define the concepts used throughout this research, which will allow for a framework for analysis in the scientific area of international relations, European studies and, in particular, its application to European policies and their development.

The concepts defined are migrant; economic migrant versus refugee and internally displaced people; security, and human security. We will also assess how they relate to each other to understand how they are applied at international and regional levels.

2.1   Migrant definition

Several essential concepts are identified for refugee policies based on the concepts established by the International Organization for Migration (IOM) (Kupiszewski, 2009) in the 2006 document. The explanation of these concepts even requires some examples to understand how these concepts are embedded and applied in political contexts.

This concept is overall and largely depends on the interpretation of the context in which it is used. According to IOM, the definition of a migrant is not established in a general and uniform way in each country. Thus, this concept is broader and depends on the context. However, more specific definitions emerge from their origin, making establishing criteria possible. The concept is more overall and depends mainly on interpreting the context in which it is used.

-Migrant: At the international level, there is no universally accepted definition of a migrant. Universally acknowledged definition of a migrant. The term migrant generally includes all cases in which the decision to migrate is freely taken by the individual in question, for reasons of "personal convenience" and without the intervention of external factors forcing them to do so. Consequently, this term

applies to persons and family members who move to another country or region to improve their material and social conditions and possibilities and those of their families. (Kupiszewski, 2009, p. 43).

In itself, the concept of 'migrant' is commonly used to identify a person who is relocated elsewhere, either within or outside their country of origin, to improve their standard of living. Richmond (Richmond, 1988) proposes, "A theory of societal systems [that] was applied by Hoffman-Nowotny (Hoffmann-nowotny, 1981) to generate a general theory of migration based on the relation between power and prestige in society. It emphasised the importance of 'structural tensions' derived from inequalities and status inconsistencies in the sending country, which generated anomic tendencies. The tensions may be resolved by emigration to a country where status aspirations can be attained". This conceptualisation applies, for example, when a person goes to a city or another country for a better job, education or other personal reasons.

2.2 Definition of "economic migrant", "refugee", "political refugee", "asylum seeker."

From the concept of 'migrant' derive other ideas from understanding what migration is, which applies to more specific differentiators. This analysis observes two of these concepts: economic migrant and refugee. It is essential to differentiate them, starting from identifying the characteristics proper to each status.

- Economic Migrant: A person who leaves their habitual residence to settle outside their country of origin to improve their quality of life. This term can be used to distinguish persecution refugees and refers to people who attempt to enter a country without permission. This term may be used to determine refugees fleeing persecution and refers to those who tried to enter a country without authorisation and by using asylum procedures in bad faith. It also applies to people who settle

outside their country of origin for the duration of a harvest season, more appropriately called seasonal workers (Kupiszewski, 2009, p. 44).

The concept of the economic migrant is different from the concept of refugees. On the one hand, economic migrant leaves their precedence to improve their quality of life. On the other hand, the refugee leaves. On the other hand, the concept of a refugee goes to their country of origin because of a well-founded fear of persecution by the State where they were residing or for reasons of conflict.

> -*Refugee (recognised): a person who "justifiably fears being persecuted because of his race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, in the ethnicity and is unable or, owing to such fear, is unwilling to (Art. 1 (A) (2) of the 1951 Convention relating to the Status of Refugees, as amended by the 1967 Protocol)* (refugees, Convention and protocol relating to the status of refugees , 1951).

Thus, the recognised refugees are included as an example, those who flee from problems within their country of origin, considering themselves persecuted for "race, religion, nationality, membership of a certain social group or to a certain social group or their political opinions". From a broader perspective, refugees need a place comprehensive vie; refugees need a place where they can perceive their safety as guaranteed and go about their daily activities without fear. For example, the EU has taken in refugees from Syria, Iraq, Afghanistan and Pakistan, among others.

> Political refugee - "someone unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for race, religion, nationality, membership of a particular social group, or political opinion." (Convention T. G., 1951)

Another concept is considered necessary given the context of the European space: the asylum seeker.

> - Asylum seeker: a person who requests admission to a country as a refugee and is awaiting a decision to obtain this status by the applicable national and international instruments. If the decision is adverse and they must leave the country, they may be expelled like any other foreigner in an irregular situation unless they are allowed. Suppose the decision is unfavourable, and they must leave the country. In that case, they may be expelled like any other illegal alien unless they are allowed to stay for humanitarian or other reasons (UNHCR, UNHCR Master Glossary of Terms).

In this sense, it is essential to note that not all asylum seekers acquire refugee status at a later stage. However, they may be entitled to other forms of protection, as guaranteed by international law and depending on the specific norms applied in the State to which the request is directed.

In addition to the definitions presented, there are those established by the Organization of African Unity (OAU) in the 1969 Convention of African Organizations and the 1984 Cartagena Declaration of 1984.

In the Convention of African Organizations, the definition of a refugee" also applies to any person who, owing to aggression, foreign domination or events alarming public order in part or public order in part or whole of his country of origin or the country of his nationality, is forced to leave their place of habitual residence to seek refuge in another place outside his country of origin or country of nationality" (AFRICA, 1969). Building on this complement to the definition of refugee, this statute alludes to a disturbance in public order which confronts a person with forced displacement, leading them to seek a place other than their country of origin to obtain refuge.

Following this idea also requests to consider the definition of 'refugee' "persons who have fled their countries because their life, safety or freedom has been threatened by generalised

violence, foreign aggression, internal conflicts, massive human rights violations the mass violation of human rights or other circumstances that have seriously disturbed "public order" (Refugees, 1984). Thus, this definition includes the violation of human rights and the threat of generalised violence that endangers the individual's life.

According to Feller (Feller, 2001), refugees have existed throughout history, although the term "refugee" has not always been acknowledged since this only happens from the moment.

The League of Nations created the Office of the High Commissioner for the Protection of Refugees in 1921 (Britannica, Nansen International Office for Refugees, 2008). "Refugees have existed as long as history, but an awareness of the responsibility of the international community to provide protection and find solutions for refugees dates only from the time of the League of Nations and the election of Dr Fridtjof Nansen as the first High Commissioner for Russian refugees in 1921" (Feller, 2001, p. 130).

This High Commissioner's Office created an opportunity to create an international normative framework and global governance that would enable a new concept of 'refugee' to be developed in the future, which culminated in today's recognised status.

However, this idea is contradicted by Lippert, who considers that" Europeans may not have 'understood our modern preoccupation' with the refugee condition. There may not have been a 'need for precise categories' during or before this period; there is a sense in which there was no refugee condition and no such distinction to be made" (Lippert, 1999, p. 4). This argument stems from the fact that during the century, multiple peoples were colonised by other nations, to whom there was no possibility to opt for 'refugee' status.

Thus, at the time of the creation of the first High Commission mentioned above, the first High Commissioner's Office, there was an openness to the recognition of people who fled

their places of origin because of a fear of persecution. It is important to note that this fear is the basis the refugee status since the security provided by the countries of origin is not perceived as sufficient for the people who request it; in this sense, it is essential to highlight the importance of the to identify the concept of security to understand why States feel their 'security' threatened by refugees arriving in their societies.

2.3   Security Concept

The concept of security is closely intertwined with threats and risks that can create instability in a society. According to Murillo, "in a global context in which security as an expression of the legitimate interests of states influences the definition and adoption of public policies, states must strike a balance between their legitimate national security interests and their national security interests and their international obligations to protect human rights" (Murillo, 2009, p. 124). States thus seek to ensure that their interests are not overridden by phenomena arising from the international community since, according to traditional theorisations (e.g., the realist school of international relations), each State's interests should always prevail over any other. Alluding to the question of refugees, this can be considered a priority understanding in the agenda setting and policymaking in host states; it should be noted that this understanding may differ from one State to another.

According to Couto (1988), a *threat* can be defined as "any event or action (ongoing or foreseeable) of various kinds (military, economic, environmental (military, economic, environmental, and so on) which contradicts the attainment of an objective and which, typically, causes material or moral. In the context of strategy, it is mainly considered the threats from a conscious will (Couto, 1988/9) quoted in (Garcia, p. 9).

Thus, it is understood that a threat can be considered as an existing and possible situation existing and potential situation that can create a social imbalance or concern by posing an imposition, limit or difficulty to the State. Faced with the perception of a threat, the State must analyse the necessary response to protect its community since this threat is presented as contrary to the objectives of the State as an organisation.

On the other hand, there is also the perception of risks. The UN considers these in the context of the International Strategy for Disasters (UN, 2019) as the probability (as a measurement) of something or, as a consequence, as the possible (measurable) losses that are found about a cause at a particular place and time. This means that risks are quantifiable as the likelihood that some situation or consequence will occur.

Therefore, a possible vulnerability occurs. Thus a potential exposure of the subject, in this case, the State, to danger.

In the context of the European Union, a rapid adaptation of community policies and good communication between the Member States is expected to combat the challenges they present, arising from internal and external forces, which may become risk factors. Adamson points out, "If migration pressures on states increase without the state adapting, then the capacity of states is indeed under threat" (Adamson, 2006, p. 178). It is considered that, when faced with situations of threat, the EU Member States, in the last five years, have been the trafficking of people, drugs, weapons and the terrorist phenomenon, while at the same time, they have facilitated the entry of thousands of people into the European area, mainly from countries that have signed the Schengen Agreement.

By analysing the association between risks and threats faced by the State and national security strategies, one must foresee how the State will react to circumstances that endanger national objectives and its population. Thus, security is directly linked to the

interaction between external and internal factors and the possibility that these may endanger or make the State insecure, so the State must develop strategic strategies (even in political-military discourses) and adequate plans to combat the threats and risks it identifies.

Security, once linked to the risks and threats that can be the State, with the end of the Cold War, security is no longer seen and analysed. This conception of security begins to contemplate different issues and now includes environmental, economic, political, social and health factors. As Morillas highlights:

> "(…) the end of the Cold War meant the disappearance of traditional threats in purely military terms. International security today contemplates the presence of new soft threats, such as economic vulnerability, environmental degradation or large-scale terrorist attacks against civilian populations.[1]" (Bassedas, 2006, p. 2).

In this way, a more comprehensive understanding of security emerges, of the dangers the State and individuals may face, assuming these, other natures and perspectives. However, protecting each State's territory remains a priority as an objective of national security.

States, as an objective of national security, and in this mattermatter, it relates to the migratory flows. In the recent context, this issue has been related with the phenomenon of terrorism, assuming some relevance in the public debate. Since it is considered that no State is exempt from the threats of subversive or extremist subversive or extremist groups.

According to Anna Triandafyllidou:

> "The concern of several member state governments is to reduce and externalise costs and to keep perceived "threats" outside EU borders, rather than to ensure the protection of asylum seekers. [2]" (Triandafyllidou, 2005, p. 47).

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[1] Translation from –(...) "el fin de la Guerra Fría supuso la desaparición de las amenazas tradicionales en términos puramente militares. La seguridad internacional contempla hoy la presencia de nuevas amenazas blandas, como pueden ser la vulnerabilidad económica, la degradación ambiental o los ataques terroristas a gran escala contra la población civil." (Bassedas, 2006, p. 2)

[2] Translation from - "La preocupación de los gobiernos de diversos Estados miembros es reducir y externalizar los costes, ademas de mantener las presuntas "amenazas" fuera de las fronteras de la UE, en lugar de garantizar la protección de los solicitantes de asilo" (Triandafyllidou, 2005, p. 47)

In this sense, it is essential to establish a relationship between security and the protection of individuals, namely refugees, for which we resort to human safety.

2.4   Humanitarian security concept

Sadako Ogata, High Commissioner for Refugees, was the first to mention what might now be known as 'human security through the concept of 'preventive protection. "More positively, safeguarding human rights is the best way to prevent conditions that force people to become refugees; respect for human rights is a key element in the protection of refugees in their country of asylum; and improved observance of human rights standards is often critical for the solution of refugee problems by enabling refugees to return safely home 'preventive activities can help to contain human catastrophe by creating time and space for the political process" (Ogata, 1993).

Ogata connects preventive activities and rights to prevent the flow of refugees from increasing. He indicates that if the most basic human rights, which the international community has already recognised, are not respected, the flow of people displaced by violations of these rights will continue.

Later, and for the first time within the international institution, the concept of 'human security was in the 1994 Human Development Report by the Development Report 1994 by the United Nations Development Programme (UNDP).

"This concept (human security) includes among the issues to be considered: the economy, food, health, politics, the environment and the protection of individuals and the communities in which they live.[3] *(cited in* (Iglesias, 2011, p. 3)*".*

Thus, it is understood that the concept of human security intends to promote a departure from the traditional concept of security and place it within the essential foundations for understanding the minimum needs of the human being.

Leaving the traditional concept of security, which mainly refers to the tradition definitive other areas that can be considered as that can be regarded as l military power, this concept of 'human security' allows for more openness to understanding to consider other areas that can be considered as that can be regarded security situations.

Thus, human security goes beyond military power since this new concept considers other aspects that allow a more direct elaboration and focus on what surrounds the man and his protection. According to UNDP, human security "means (human security), first, safety from such chronic threats as hunger, disease and repression. Moreover, second, it means protection from sudden and hurtful disruptions in daily life patterns- whether in homes, jobs or communities. Such threats can exist at all levels of national income and development" (Programme, 1994, p. 23).Thus, it can be understood that "safety", in this context, has two main characteristics: a survival component, creating an atmosphere which allows the individual to be safe from issues which produce insecurity; a component of "protection", where the individual must be protected from controllable situations in their daily context, for example about issues affecting employment/obtaining survival resources. In other words, human security aims at a comprehensive understanding of the

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[3] Translation from- "Este concepto (seguridad humana) incluye entre las cuestiones a considerar: la economía, la alimentación, la sanidad, la política, el medio ambiente y la protección individual de las personas, así como a las comunidades en las que estas viven" *(cited in* (Iglesias, 2011, p. 3)

individual's stability in the face of political, economic and social issues. It involves, among others, social circumstances that may put the individual at risk and, as a result, may provide or trigger situations of instability in the broader context of society.

In addition, risks can add a sense of vulnerability in different aspects of people's lives, regardless of their social or economic status.

In synthesis, the concept of *human security*, developed since the 1990s, adds new debates to the traditional concept of security established in the main theories of international relations, oriented towards protection and the State's role. The individual is now seen as the main subject of security.

So, this new terminology focuses on key societal aspects, such as economic and societal, financial, food, health, environmental, personal community and political security (Programme, 1994, pp. 24-25). In addition, according to UNDP (Programme, 1994, p. 8), human security focuses on the indivisibility of individuals' right to protection.

As such, it should be understood comprehensively and based on the guarantee of the basic needs for personal survival, implying that it does not constitute a unique state attribute.

In addition, human security takes into account considers the "freedom from want" and the "freedom from fear" (Programme, 1994, p. 24) components necessary for the development of the individual.

The first, "freedom from want", establishes a relationship between freedom and personal will, stating that each individual everyone must have the freedom to express and develop their choice. The second, "freedom from fear", establishes a relationship between space and the perception of fear based on the existence of minimum conditions for individual survival in terms of personal, social-emotional, and social stability. In other words, these two liberties sought to promote physical strength in conflict and violence. On the other

hand, they also guide moral freedoms, a sense of security, of losing the worry of being attacked from both a psychological/emotional (as a threat) and a physical (as a threat) point of view, which might be a threat) and physical (as might be a terrorist attack).

2.5   Relation between migrations, refugees and security

Faist (Faist, 2004, p. 3) proposes a relationship between perceptions, security and migration. The author explains that there is a nexus between these three elements, which can be perceived through the fundamentals of the migratory process since when we talk about 'migrations', one identifies the migrant as the 'other' or 'unknown'. Thus, this subject is often perceived as the source of "threat" to "our" jobs, lives and borders.

This nexus, which emerged increasingly with the end of the Cold War, develops in parallel as new sources of threat occur. Military forces are no longer the only threat in a new global order. In this context, the concept of security is encompassed, relating it to economic, social and environmental vulnerability, among others (Bassedas, 2006, p. 2). Therefore, the nexus of perceptions, security and migration' is created even whenever identified an 'unknown' within an area of comfort and risks increase for people in a given locality.

On the other hand, Faist (Faist, 2004, p. 4) indicates that international migrations have been a source of reference to substantiate unexplained fears of communities, political institutions, or governments. These put migration in a strategic perspective to sustain political responses to defend the borders, either in the sense of closing them or increasing their control at access points by those who intend to enter a territory.

In the same sense, Biondi identifies the obligations of the State, taking a realist/state-centric approach: "It is the state's role to define its community of citizens and then to protect its economic, social and cultural welfare with a state-centric conception of security

based on an inclusion/exclusion dichotomy where identity is premised on the sharing of common values" (Biondi, 2016). In this way, the State seeks security, defining who can or cannot enter its territory without being a threat to its interests.

Despite this, Faist (Faist, 2004, p. 8) makes it clear that there is a constant desire to establish a relationship between migration and security, even though these concepts only share the fact that people cross borders.

Thus, the intention to combat immigration to avoid security problems through more controlled borders only aims to establish politically a margin of "power" of the State vis-à-vis the flows directed to it.

They faced the growing influx of refugees and the creation of the concept of 'human security the idea of 'human security, more receptive approaches to the arrival of people with to be protected, while states continued to defend their borders and interests. Borders and their interests. According to Biondi, "while human security tries to overcome the gaps and limitations in the legal protection framework of refugee law represented by the lack of open borders and obligation to grant asylum, it is constricted by states that try to mitigate their obligations by interpreting its content and doctrine in a state-centric and responsibility-limiting fashion" (Biondi, 2016). Thus, human security seeks to overcome the limitations of the legal framework adopted by states while simultaneously seeking to maintain limited access to their state security.

In short, the link between security, migrations and refugees is based on the perspective adopted by each State about this matter, either in what concerns the vision of the State regardings role and obligations or about what the State understands to be able to receive. The State may close borders and limit the access of refugees and migrants to its territory because of the threats and risks they may bring to exercising power. For their part,

migrants and refugees seek to maintain and guarantee that these rights are recognised internationally.

As regards the European context, and according to Van Selm, "the security concerns in Europe that have influenced the rhetoric around the refugee protection system have been myriad, including the concern about armed, violent conflict spilling across the continent and the so-called 'societal security concerns of the impact of immigration on cultures and identities" (Selm, 2003, p. 86). This rhetoric of insecurity related to insecurity, such as armed conflict and violence, has been verified in the political context of Europe and reflected in the reception of refugees.

Thus, positions have emerged which argue that the possible way to succeed in limiting access and entry into the EU is by strengthening borders.

2.6   European integration theory

In the theoretical production on European integration, the first set of so-called classical theories correspond to the initial theorisation about the nascent supranational phenomenon and are concomitant with the beginning and the first developments of the community project. Functionalism, as an inspiring current and Functionalism, as an inspirational current, and subsequently neo-functionalism, as a specific theory of regional integration; federalism, as a doctrine and political model for supranational constructions; and transactionalism inspired by Karl Deutsch's theorisation - these are the general lines of thought set out in specialist literature (Rosamond, 2000).

Functionalist theories, which began in the interwar period, addressed the transnational dimension of world relations, in a search for peaceful solutions in the context of international society, as in the work of David Mitrany, A Working Peace System (Taylor,

1994, p. 125). These theories assumed the primacy of the economic and, consequently, a utilitarian and materialist conception of political constructions (Rosamond, 2000, p. 132). In this view, the primordial objective of international organisation would be well-being, arguing that It was argued that the economy had been able to generate it within the national framework, which had, in the meantime, become narrow and been superseded by an international dimension. On the other hand, change, In this sense, insofar as the political level is concerned, needs to be more precisely explored by Functionalism. This is why, as far as European integration is concerned, it is assumed that As regards European integration, it is assumed that the central problem is not the transfer of sovereignty from structures typical of the nation-state to an international structure but rather the actual loss of pertinence of sovereignty within the national framework (Taylor, 1994, p. 132). Based on the functionalist parameter that "form is sequential to function", political change was interpreted as a functional consequence of more significant changes in core sectors of society. The community, launched as The community, launched as a community of interests, would subsequently transform itself into a community of interests.

The community, launched as a community of interests, would subsequently become a community of feelings. Of feelings, and the political changes that had occurred in the meantime were adjustments to the new functional requirements.

In short, there would be no need for any intentional political action to shape new political forms (i.e., beyond the conventional State) adjusted to international society. The functionalist emphasis on an economic-based causality and on the available and automatic adjustment of political forms to material needs leaves out, or at least underestimates, the ideational structures of political communities. It removes the debate on supranational integration from the sphere of the political to focus it on a factor it considers a priority,

the economic, which here assumes a dynamic of first cause. For Taylor (Taylor, 1994, p. 136), this explanatory logic had the advantage of deviating the discussion of integration from a realist approach, from the perspective of power politics to a functional vision of power institutions and the study of their (dis)functionality vis-à-vis the economic.

As a revision of the original Functionalism, the neo-functionalism approach accepts the substantial weight of the changes occurring at the economic level but also affirms that changes at the social and political levels are not to be underestimated and that their materialisation requires The initial neo-functionalism approach introduced Early neo-functionalism introduced the concept of spillover, which translates the idea of implication (Sande, 2020, p. 26) between the different levels of social life.

Lindberg wrote:

> "Spillover refers to a situation in which a given action, related to a specific goal, creates a situation such that the initial goal can only be secured by taking subsequent action and so on." (Lindberg, 1963, p. 10)

From this perspective, at the social level, the supranational community information is not, from its earliest stages, a community of the masses. It first mobilises certain interest groups and the political and bureaucratic elites, whose relationship to the supranational construction is most immediate. Haas theorised the transfer of loyalties from national to supranational bodies, the bearers of the new range of interests (Haas, The Uniting of Europe: Political, Social and Economic Forces, 1968, p. 5). He admitted that the advantages of integration could be different for different groups within groups within the national society, competition being inherent to the logic of the social, and therefore, dynamic. The inevitable accumulation of these changes (automatism) would lead in the medium term to substantial political changes, leading to the strengthening of external (or supranational) institutions (Harrison, 1968, pp. 75-94).

Federalist theories, whose immediate tradition also dates back to the interwar period, provide a political and supranational reading of European construction, breaking with the state-centred paradigm of the realist tradition, as Functionalism had already done. Unlike the former, however, they emphasise political dynamics; they reject the primacy or sufficiency of the material. Federalism is seen, first and foremost, as a political solution to governance. Federalism is seen first and foremost as a political solution for governing unity within diversity; thus, the difference is not an obstacle but an opportunity for political solutions other than the classic state solutions (Neill, 1996, p. 123). The need to create a supranational centre, with powers constitutionally enshrined and separated national level, for matters of relevant regional-supranational scope (Sande, 2020, pp. 31-33).

This does not mean the disappearance of national states; it means the reconversion of their powers, within a variety of constitutional prescriptions, with varying degrees of independence of the collectivities concerned' (Harrison, 1968, p. 46).

Burgess identifies the secular roots of federalism in Western Europe with "personalism, subsidiarity, corporatism, pluralism and solidarity" and considers it to be "organic and societal" in European societies, understanding its contemporary emergence as a consequence of this shared past (Burgess, 1986, p. 26). From this point of view, federalism can assume ideological and prescriptive dimensions, but the emphasis on the dimension reinforces an interpretation of the causality underlying the building of Europe European construction centred on political choice and not on the automatism of material causes.

In turn, Karl Deutsch is a classic reference in integration studies and is therefore relevant for the interpretation of the political construction of Europe in the context of what is conventionally called transactional (Russett, 1981, pp. 7-9) (Rosamond, 2000, p. 42). He

highlighted the importance of building "communities" for the creation of adequate conditions for peace and security at national and international levels, which led him to emphasise community features in integration processes. His explanatory model for the construction of security communities involves the consideration of communication flows between parties, or "transactions", within the framework of the international system (Deutsch, 1957). He has thus drawn attention to less familiar areas of political science, such as the socio-psychological dynamics in the formation of human communities that are fundamental to political constructions (Puchala, 1981, pp. 153-154; 156-158) (Rosamond, 2000, pp. 47-48), dynamics that recent theorising on European integration has sought to recapture.

In common, the initial theorisation on European integration made possible prescriptive interpretations, as it reflected on a phenomenon under construction and sought to predict the steps of subsequent developments. However, the reality of the 1960s and 1970s did not fully confirm the expectations generated by this initial theorisation, so later theses were generally based on a more piecemeal analysis of the European integration phenomenon. On the other hand, there was some revision of the previous theses, namely in the scope of neo-functionalism and by the hand of its scholars (Haas, «Turbulent fields and the theory of regional integration», 1976, pp. 173-212). In the meantime, another great debate was foreshadowed, this time between the logic of intergovernmentalism and supranationalism.

2.7   Intergovernmentalism versus supranational governance

For the main theories of integration, the object of study is the dynamism of the European integration process, with essential contributions emerging that fix the meaning of the EU

as an entity. In this methodological approach, various theories and partial explanations can be found. In the present section, we will retain two theories that appear as matrices of opposite signs: "intergovernmental" and supranational governance. These theories are inspired by original contributions to the understanding of the phenomenon of European integration, which has since been overtaken by developments respectively, intergovernmental theory, with a strong influence of realism, and neo-functionalism (Rosamond, 2000, pp. 50-54 & 130-141).

Neo-functionalism is the main theoretical foundation of the theory of supranational governance (Sandholtz A. S., 1998, pp. 5-6). For neo-functionalism theory, the process of European integration was founded on successive steps, which, in turn, paved the way for more deep integration. European integration was the motive for reinforcing the transfer of powers from the member states to the supranational entity, taking steps to accentuate the dimension of European integration (Mattli, 1999, pp. 11-12). This is a continuous and causal process which placed European integration on an irreversible path: once a specific competence was added to the catalogue of attributions of the supranational body, a window of opportunity was opened for other competencies to be added to the catalogue of attributions of the supranational body. This is a continuous and causal process which placed European integration on an irreversible path: once a specific competence was added to the supranational entity's catalogue of attributions, a window of opportunity was opened for other attributions to be delegated by the member states. Future transfers were indispensable in order to ensure that previously transferred. According to the theorisers of neo-nationalism, this was a window of opportunity to delegate additional powers to the member states.

According to the theoreticians of neo-functionalism, European integration had an It was independent of the will of national governments. The supranational entity was consolidating its autonomy, anchored in the logic of spillover. The subsequent steps are independent of the member states' initiative (Pollack, 1998).

Supranational institutions are recognised as having a leading role that makes them dominant in the development of European integration (Sandholtz W. , 1996, pp. 403-408). The difference between supranational governance theory and neo-functionalism theory lies in the perception (of the former) that some moments in the evolution of European integration are determined by the influence of national governments - but never as the sole source of inspiration (Dinan, 1999, p. 292). For the theory of supranational governance, European integration is a bascule that oscillates between the limits of the supranational and the intergovernmental. At each moment, the EU is somewhere on a continuum that has its limits marked by the opposite poles of the supranational and the intergovernmental. The EU is somewhere on a continuum, with its limits marked by the opposite poles of the supranational and the intergovernmental.

Each moment in the evolution of European integration moves the bascule, like a pendulum, along the continuum. It is a retractable movement: it may illustrate a supranational advance in order to record then an intergovernmental conquest or the opposite (Laura Cram, 1999).

Intergovernmentalism analyses European integration in an antagonistic way (Moravcsik, Preferences and power in the European Community: a liberal intergovernmental approach, 1993, pp. 473-524). It is national preferences and the power struggle between member states that explain the dynamics of European integration. The dynamics of European integration. Only member states, at the level of government, are able to influence the

evolution of European integration, as they were the instigators of the creation of the European Communities. They were the instigators of the creation of European Communities.

If, at a particular moment, there is a deepening of European integration, this development is only possible because national governments have recognised a structural phenomenon that they are unable to control - the growing global economic interdependence that undermines national sovereignty (in its traditional concept).

Instead of member states resigning themselves to the dilution of national sovereignty, they have accepted the birth and subsequent evolution of the supranational entity, controlling its development. The supranational entity was created at the instigation of the member states, having concluded that this would be the appropriate way to preserve national sovereignty in a protective shell, immune to the destructive forces of globalisation (Milward, 1992). Supranational institutions do not have the autonomy suggested by the theory of supranational governance. They are, directly or indirectly, influenced by the political will of national governments. They are at the service of the interests of the supreme EU's supreme masters, which are the member states (Moravcsik, Preferences and power in the European Community: a liberal intergovernmentalist approach. , 1993).

The intergovernmental conferences deserve the attention of theory because it is there that the steps are taken which authorise advances in European integration. These constitutional moments are the most relevant in the life of the EU because the action of the supranational entity depends on them until another great constitutional moment provides new coordinates that limit the action of supranational institutions. The theory demonstrates how national governments are the forces that set the course of European integration (Pinder, 1998, p. 47).

The theory of supranational governance does not devalue the leading role of the member states nor the importance of intergovernmental conferences as moments of the constitutional re-founding of the EU (Dinan, 1999, p. 292). What distinguishes it from intergovernmental is the attention paid to events between two intergovernmental conferences: the developments that take place in this interval condition the behaviour and strategic interests of national the behaviour and strategic interests of national governments when their representatives meet again in an intergovernmental conference—an intergovernmental conference (Shaw, 2000, p. 291). Thus, intergovernmentalism is a theory that is static in time, appreciating the extraordinary constitutional moments as if nothing happened between them. Nothing happens in between. On the other hand, the theory of supranational governance incorporates a dynamic view, suggesting that the analysis of European integration should be made over time rather than at a particular moment in time. In the latter case, the term is not used to refer to a specific moment in time.

While scholars of European integration accept the logic of confrontation between the two theories, it makes sense to ask whether the antithesis is a given or whether, on the contrary, the theories are complementary. The fact that the two approaches are anchored in The fact that they are anchored in different temporal conceptions is the key to answering the question. If the proponents of intergovernmental were to look beyond static time, not considering the years between two intergovernmental conferences as arid, the rapprochement between the two theories would already be visible. The rapprochement between the two theories would already be visible. If the theory of supranational governance admits that, over time, there are moments that receive the inspiration of the

representatives of the member states, the first trace of complementarity between the two theories becomes clear.

The key lies in the decision-making process in the EU; the key is the nature of EU decision-making, in particular, the cooperation between the Commission, the Council of Ministers and the European Parliament. These institutions represent different interests. Formally, the EU, the Council of Ministers, and the European Parliament. This could prove the advocates of supranational governance right. Behind the cloak of formalism lie the interests that are protected in each institution (Shackleton, 2000, p. 291): the Commission and the European Parliament (the former more than the latter) defend supranational interests; the Council, The Council is thought to embody the interests of the member states, given its religious composition and the fact that each minister is accountable to his or her national electorate. Therefore, the dynamics of the decision-making process show the combination of elements from both theories, taking a first step to dispelling the idea that they are opposing theories.

The idea of complementarity of the two theories is reinforced through a careful appreciation of the actions of the Council of Ministers. At the outset, each member of the Council seeks an outcome that maximises their respective national interests (Ginsberg, 2007).

Given that, in practice, it is this institution that has the last word in the decision-making process, both aspects play into the hands of the prescriptive capacity of the theory of intergovernmentalism: even outside the great constitutional moments, it would be the It is not, however, the case that this analysis is a prescriptive one.

However, the analysis thus made is partial. According to studies that examine the functioning of the Council of Ministers, they do not only obey national interests (Wallace,

2006). Through the logic of package deals, a member state that is currently reluctant to approve a proposal for a decision is persuaded to contribute to the consensus against the guarantee that another dossier that is particularly sensitive to it will receive the Council's rapid approval. Although it is debatable whether this procedure can be reconciled with genuine adherence to supranational interests (because offsets are also motivated by the estimation of national interests), this institution embodies supranational interests. The ministers are aware that unfavourable votes or the use of the veto lead to the paralysis of European integration.

Its contribution to avoiding EU stagnation, through the negotiating gymnastics described above, is symptomatic of the supranational feeling that This is also close to the theory of supranational governance. This also brings it close to the theory of supranational governance.

This theory shows some flexibility in admitting that, over time, European integration oscillates between supranational and intergovernmental influences. In this context, it is essential to note that, in the first place, the European Union is not a supranational state. In this context, it is essential to note that the theory of intergovernmentalism is now approaching the nesting ground of the Council of Ministers. The nesting ground of supranational governance theory. The result of this reciprocal rapprochement is complementarity, rather than opposition, between the two theories.

3   The European Union approach to the refugee crisis

Not since World War II has the world faced such a significant crisis regarding the forced displacement of people. More than seventy million people have been displaced due to violent conflicts and natural disasters (UNHCR, Global Trends forced displacement in 2020, 2021). In 2015 more than one million people (including refugees and migrants) arrived on European Union (EU) territory, fleeing conflict in their home countries or in search of a better economic situation (UNHCR, Over one million sea arrivals reach Europe in 2015, 2015). In October 2015, there were more irregular entries into the EU than in 2014. In 2016, these numbers seemed to be declining, but in the first four months alone, some 200,000 people arrived in the Union.
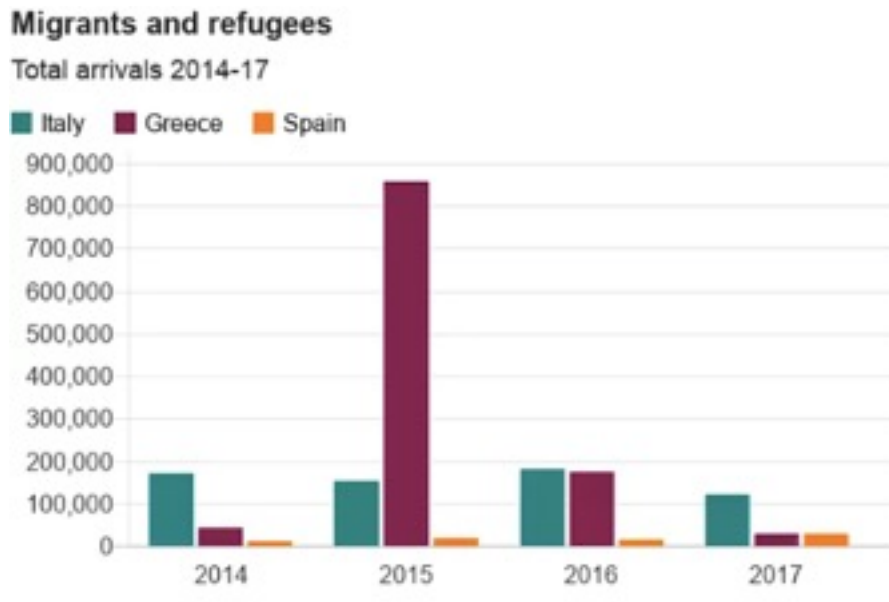
Source: (BBC, "Refugiados na Europa: a crise em mapas e gráficos", 2015)

Figura 2. Migrants and refugees in Italy, Greece and Spain.

Most originate from countries such as Syria and Afghanistan, and their destination of choice in Europe is mainly Germany (UNHCR, Over one million sea arrivals reached Europe in 2015 2015). Many arrive in the EU after a dangerous journey by sea (Mediterranean Route) or land (Balkan Route) and need immediate humanitarian assistance, including food, clothing, healthcare, shelter, and legal support[4]. A significant number are children, requiring special protection. More than ten thousand people have lost their lives on these dangerous journeys since 2014, with the deadliest crossing being the one from Libya to Italy. According to data from the United Nations High Commissioner for Refugees (UNHCR), about 80% of the Mediterranean crossing is made by the Aegean Sea from Turkey.

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[4] *"Everybody was traumatized and shaken up from being at sea for so long," said Shirlene Afshar, a UNHCR field protection officer working on Lesvos. "As I was helping people off the boat they were crying but also thankful to have arrived safely."*- (UNHCR, Over one million sea arrivals reach Europe in 2015, 2015)
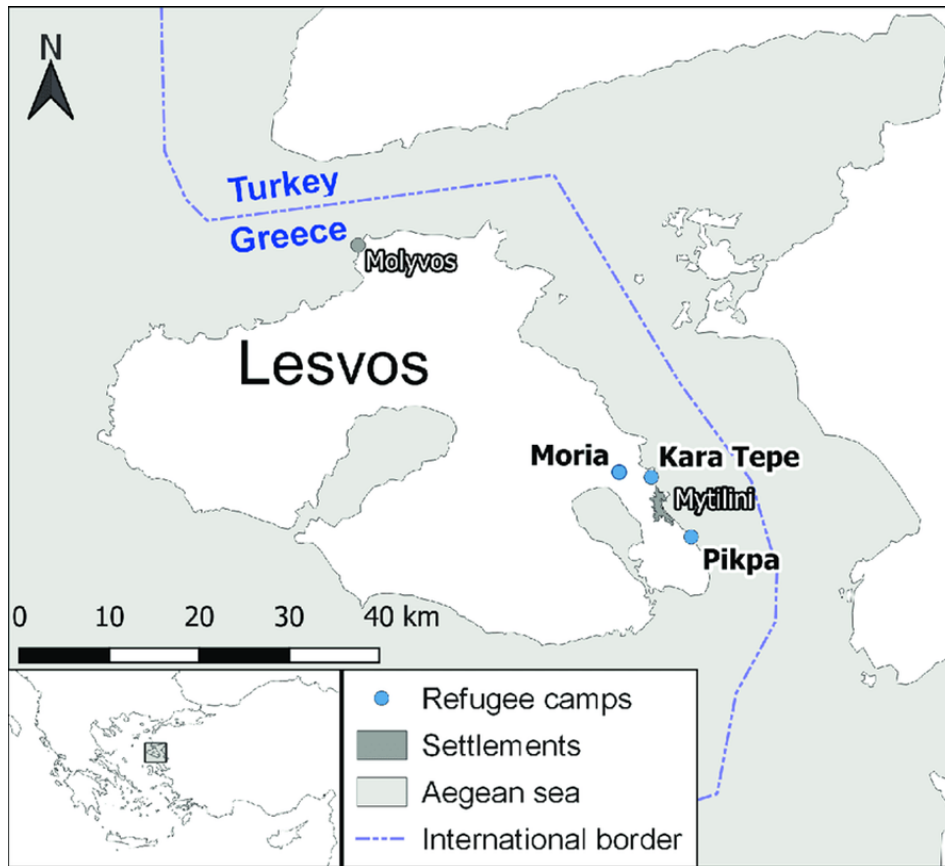
Figura 3. Aegean sea.

In 2015, 3,771 people died or went missing. Syrians made one in two of the corners. Afghans account for 20%, and Iraqis 7%. Large numbers, such as those we lived with during the Refugee crisis of 2014, can feel cold, distant, and even comforting because they do not feel like people. I believe that is one of the reasons that a large part of the world could ignore, and to some point still is, the years-old Syrian refugee crisis until 2014.

For the past four and half years, there has been a horrific civil war in Syria, which began with the hope of the 2011 spring protest (Britannica T. E., Arab Spring summary, 2021). Several dictatorships were toppled during the Arab spring, although some ended up with new dictators (Britannica T. E., Arab Spring, 2021).

In Syria, long-reigning dictator Bashar al-Assad has refused to relinquish power and battled the rebellion with astonishing violence, including torturing children and gassing his people with chemical weapons (Britannica T. E., Syrian Civil War, 2020). So back in 2011, Syria had a population of 22.4 million people. That number changed drastically in 2015: More than 250,000 people have been killed, about 10.6 million Syrians, less than half the population, still live in their homes, and 7.6 million people have been forced to flee within Syria (Lucy Rodgers, 2016).
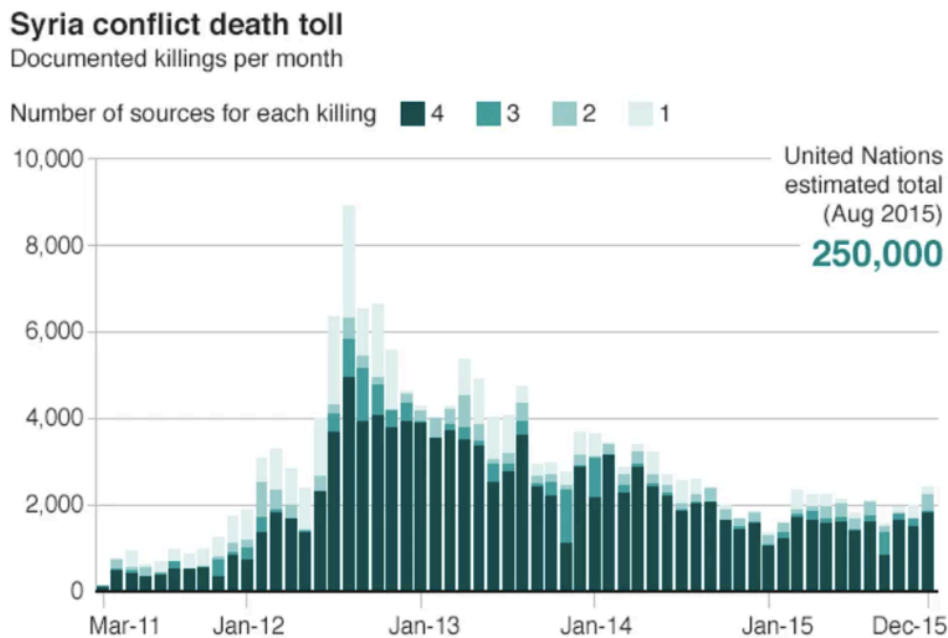
Source: (Lucy Rodgers, 2016)

Figura 4. Syria conflict death toll.

Either they are moving to refugee camps or areas that are safer for that moment. Furthermore, another 4 million Syrians have left the country entirely. Of those people, about 1.6 million moved to Turkey, a hundred thousand more each to Lebanon and Jordan, and a few hundred thousand more to Iraq and Egypt (Reid, 2021).

Ninety-five per cent of Syrian refugees live in those countries, and they have been stretched incredibly thin by this refugee crisis.

Moreover, everything is utterly underfunded because the U.N.'s Refugee Agency does not have enough money to deal with this number of refugees. Moreover, in Turkey, most refugees live in a kind of legal limbo outside of camps because Turkey does not expel them, but they also are not allowed to work. So even though many Syrians have good educations and labour skills, they cannot make a living, so in search of lasting refuge, thousands have turned to Europe.

Furthermore, they pay smugglers thousands of Euros to get them via boat from Turkey, Morocco, or Egypt, to Malta, southern Italy, or Greece's southern Islands. Those smugglers are the only people benefiting from Europe's inconsistent, inhumane, and disorganized response to the refugee crisis.

To quote the U.N.'s High Commissioner, António Guterres, on the Refugee crisis in Europe, "More effective international cooperation is required to crack down on smugglers, including those operating inside the EU, but in ways that allow for the victims to be protected." Nevertheless, these efforts will only be effective in opening up more opportunities for people to come legally to Europe and find safety upon arrival. (Fleming, 2015) Moreover, that leads us to a crucial distinction between migrant and refugee and temporary protection status in more recent events. In 2014, this event was often called a migrant crisis, but it is not. Because migrants leave their homes in search of better education or employment opportunities. Refugees, quoting the UNHCR, "are persons fleeing armed conflict or persecution. These are people for whom the denial of asylum has potentially deadly consequences." (UNHCR, What is a refugee? 2022). Not everyone who

makes it to Europe can be granted refugee status, for which several conditions are required under the 1951 Geneva Convention[5].

Furthermore, since the 1951 Refugee Commission (UNHCR, Convention and Protocol relating to the Status of Refugees, 1995), refugees have had certain rights under international law. These include the right only to be returned to their country of origin if their safety is assured. The right not to be penalized for entering a country illegally if they request asylum, the right to life, security, religious expression, primary education, free access to court, and equal treatment by taxing authorities.

If a migrant arrives illegally in the European Union, they can be turned around and, in most countries, sent home reasonably quickly. However, most people coming to Europe between 2014 and 2016 are refugees. They have certain rights under international law that Europe and the world have agreed to for the last 65 years. In short, European countries have no obligation to refugees until those refugees arrive in Europe. Nevertheless, once a refugee is in our countries, we have specific legal responsibilities to them, so boat smuggling is an ongoing occurrence. (UNHCR, Convention and Protocol relating to the Status of Refugees, 1995).

European governments want to make it difficult for refugees to get to Europe. They benefit when the trip is dangerous. If it were made safe or easy, far more refugees would come to Europe.

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[5] Art. 1, as amended by the 1967 Protocol, considers a refugee to be any person who "*justifiably fears being persecuted for reasons of race, the religion of race, religion, nationality, membership of a particular social group, or political of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such and is unable or, owing to such fear, is unwilling to the protection of that country; or who, if he has no nationality and is outside the country of his former habitual residence and, after such events, is unable or, owing to such fear, is unwilling to return to it. does not wish to return to it.*"

The real solution is to dramatically increase the number of refugees legally accepted through non-smuggling routes, like a quota system; well, it is politically unpopular. Nevertheless, until legal opportunities are available, smuggling and death will continue. Again, quoting the UNHCR, "Thousands of refugee parents are risking the lives of their children on unsafe smuggling boats primarily because they have no other choice. (Guterres, 2015)"
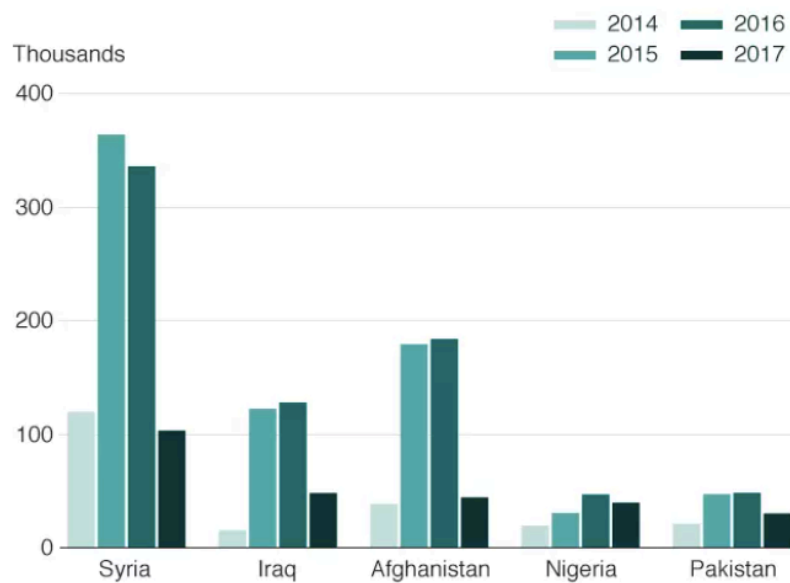
Source: (BBC, Migration to Europe in charts, 2018)

Figura 5. Asylum applications by country of origin.

Moreover, this is true not only for Syrians because only about half the people seeking asylum through these sea routes are from Syria. Another 12% are from Afghanistan, the world's leading producer of refugees, for 30 years until Syria came along. Another 8% are from the northeast African nation of Eritrea, which has one of the worst human rights records on Earth. The U.N. has sighted its government for executions, torture, forced labour, and systemic rape by government officials.

About 70% of the people trying to get to Europe are from those three countries.

Of course, there are also many migrants trying to get to Europe via these dangerous overwater routes. Nevertheless, most people in the headlines are refugees, and the distinction is crucial.

However, this analysis can only be made on a case-by-case basis and with legal support. It is tough, if not impossible, to distinguish, at the moment of entry into European territory, between a political refugee[6] and an economic migrant[7].

3.1 Refugees and their rights

In general, refugees are forced to leave their country of origin for various reasons defined in the 1951 Convention and Art. 1, I of Law 9.474/97, heading to other states. Thus, under that article:

Art. 1 will be recognized as a refugee for every individual who:

I - due to well-founded fears of persecution for reasons of race, religion, nationality, social group or political opinion is outside his country of nationality and of nationality. It is unable or unwilling to avail itself of the protection of that country (UNHCR, Law Number 9,474 of July 22, 1997, 1997).

To better understand the issue, it is essential to differentiate refugees from asylum seekers and immigrants. Even though these groups have some although these groups have some

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[6] Political refugee - "someone unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion." (Convention T. G., 1951)

[7] Economic migrant – "A person who leaves their country of origin purely for economic reasons that are not in any way related to the refugee definition, to seek material improvements in their livelihood." (Europeia, 2020)

similarities, that is, they all cannot or do not want to live in their country; there are also differences between them, which are the reasons why they decided to relocate or seek asylum and refuge.

Thus, immigrants are people who move, in general, voluntarily from their country, receiving this name when they enter another country to settle to establish themselves. The reason for such displacement is, in particular, for economic reasons. Asylum seekers, on the other hand, are people who are suffering persecution in their national territory and ask for shelter - protection - from other countries.

3.2 Historical context

The world was experiencing the most severe refugee crisis since the end of World War Second World War 73 years ago. Millions of people have been forced to leave their homes. Most have left Africa and the Middle East, with the Syrian war primarily responsible for this mass displacement. After the Syrians, the largest nationality groups are Afghans, South Sudanese and Somalis.

According to the United Nations High Commissioner for Refugees (UNHCR), today, we have the most significant number of displacements ever recorded: "Some 89.3 million people worldwide have been forced to leave their homes. Among them are almost 27.1 million refugees, more than half under 18" (UNHCR, figures at a glance).
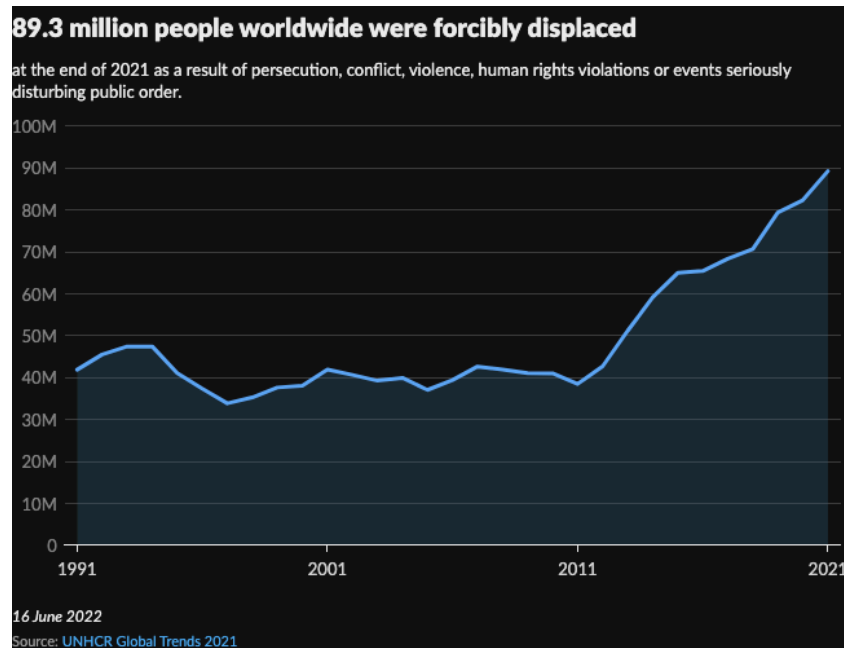
Figura 6. Number of people forcible displaced

There are also 10 million stateless people who have been denied nationality and access to fundamental rights such as education, health, employment and freedom of movement (UNHCR, figures at a glance).

In this context, Europe was the continent that received the most refugees, Greece and Italy being the two main ports of entry and searching for a more dignified life; refugees subject themselves to precarious in precarious situations, risking their lives in unhealthy and overcrowded unhealthy and overcrowded boats. This causes thousands to die or disappear causes thousands to die or disappear during their crossings.

Despite the suffering in their homeland and the poor conditions when refugees try to disembark in other countries, they have often received countries in a xenophobic and racist way. These countries' populations fear overcrowding in the labour market; these countries

fear the overcrowding of the labour market, the extension of public services to refugees and that benefit systems will also apply to them.
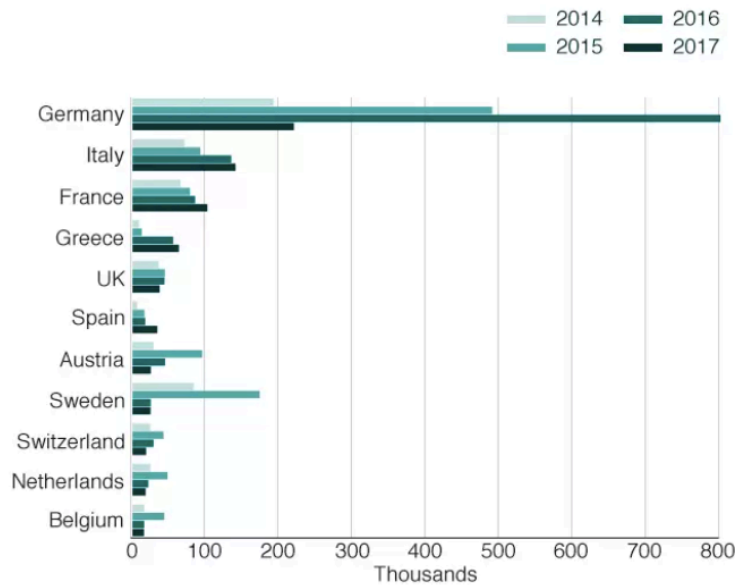
Figura 7. Top 10 EU countries for an asylum application.

Although some governments accept to receive these people in a vulnerable situation, such as Germany and Portugal, others, such as Italy, do not allow refugees to enter their countries. Given this, a very delicate situation is generated for such individuals since they are either drifting at sea or returning to their countries of origin, from which they left because they lacked primary living conditions.

3.3   Guaranteeing instruments and refugee rights

Regarding the international sphere, no complex of rights has more relevance and is more relevant and far-reaching than human rights. The contemporary conception of these rights was introduced by the Universal Declaration of 1948 and reiterated by the 1993 Vienna Declaration of Human Rights.

This conception results from the internationalization of human rights, a recent movement that arose in the post-war period.

Thus, since the 1948 Declaration, International Human Rights Law began to develop. This occurred with the adoption of various international instruments for the protection of human beings. Among these instruments are the 1951 Convention and the 1967 Protocol, which deal with refugees' rights.

Besides the international instruments, there are also regional ones, especially in Africa, America and Europe, which seek to internationalize human rights at the regional level. In this way, international instruments, such as the United Nations (U.N.) and regional such as the Inter-American Commission on Human Rights and the European Convention on European Convention on Human Rights, come to live together, complementing each other and acting in favour of the protection of human beings. In this context, after the end of World War II, the United Nations was created in 1950 by a resolution of the General Assembly of the United Nations; the Office of the United Nations High Commissioner for Refugees (UNHCR) was established in 1950 to help millions of Europeans who had fled or lost their homes (UNHCR, History of UNHCR). The UNHCR operates alongside two international instruments, namely the 1951 Convention and the 1967 Protocol about the 1951 Convention - the Convention relating to the Status of Refugees - this document was updated in 1967 by an Additional Protocol (UNHCR, the 1951 Refugee Convention).

This Protocol extended the incidence of the requirements for refugee status and guaranteed a more significant number of people the rights outlined in the Convention. According to UNHCR, refugees can seek refuge in a safe place. In addition, they should enjoy the same rights and essential assistance as a foreigner living in that country. They must enjoy the fundamental rights inherent to all individuals, such as the to all individuals, such as

fundamental civil, economic and social rights. Adult refugees have the right to work, and children have the right to attend school.

Among the rights of refugees, one gains even more relevance in the current refugee crisis in Europe, in which some countries, such as Italy certain countries, such as Italy, are refusing to receive refugees. This is the article alluding to the prohibition of expulsion or return/refoulement, see: Art. 33 - Prohibition of expulsion or refoulement:

> 1. No Contracting State shall expel or return in any manner whatsoever a refugee or turn back in any manner whatsoever a refugee to the frontiers of territories where his life or freedom or his freedom is threatened on account of his race, religion, nationality, social group to which he belongs or political views (Rights, Convention relating to the Status of Refugees, 1951).

Thus, in the absence of available resources in the host countries, UNHCR will provide the necessary assistance to refugees to enable them to meet their basic needs. Such service can be in the form of financial donations, food, miscellaneous materials or through the establishment of schools or health centres for those living in camps or other communities.

> "Everybody was traumatized and shaken up from being at sea for so long," said Shirlene Afshar, a UNHCR field protection officer working in Lesvos. "As I was helping people off the boat, they were crying but also thankful to have arrived safely."- (UNHCR, Over one million sea arrivals reach Europe in 2015, 2015)

Art. 1, as amended by the 1967 Protocol, considers a refugee to be any person who "justifiably fears being persecuted for reasons of race, the religion of race, religion, nationality, membership of a particular social group, or political of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such and is unable or, owing to such fear, is unwilling to the protection of that country; or who, if he has no nationality and is outside the country of his former habitual residence

and, after such events, is unable or, owing to such fear, is unwilling to return to it. Does not wish to return to it."

4 Syrian civil war – No end near

Nine years ago, a pacific uprising against Syria's president sparked a civil war of proportions never before foreseen. The Syrian conflict is estimated to have caused more than 400.000 deaths since it began in 2011.

This war has left a trail of destruction and increased the number of stolen childhoods. 8 out of 10 people in Syria who live below the poverty require Humanitarian assistance. The conflict has forced more than half of the inhabitants to flee their homes. Some 5.6 million have already left the country, and another 6 million live as internally displaced persons. The number of children killed reached a tragic record high in 2018. In addition to the countless lives lost, Syria has seen its historical and cultural heritage reduced to ashes.

4.1 The beginning of the conflict

The remnants of the Syrian conflict date back to the widespread discontent of the Syrian population, who, even before the conflict, protested against high unemployment rates, corruption, and a lack of political freedom. The Arab Spring in March 2011 brought to the surface the fragile state of Syria, led since 2000 by a single president (Britannica, Arab Spring , 2022).

The first pro-democracy demonstrations, inspired by the Arab revolt, demanded the deposition of President Bashar al-Assad, who succeeded his father in 2000. Assad's violent opposition to the peaceful demonstrations caused protests to erupt across the country and

officially started the Syrian Civil War – one of the deadliest ongoing conflicts in the world (Britannica, Arab Spring , 2022).

In July 2011, the world witnessed the formation of the Free Syrian Army (SLA), composed of citizens and military personnel who defected from the Syrian Army. An estimated 40,000 soldiers defected from the national Army to form what is now one of the main opposition factions to Bashar al-Assad's government (Britannica T. E., Syrian Civil War , 2020).

The Syrian conflict opposes the Sunni Muslim majority, backed by the Gulf states, and the Shiite Alawite forces loyal to the Syrian president, supported by Iran and Russia - Assad's most important allies. The conflict begins to take on new contours after fundamentalist factions from around the world emerge and consolidate their power in the country[8]. It is around this time that Syria becomes a proxy war (Britannica T. E., Syrian Civil War , 2020).

The Syrian conflict has triggered one of the world's most significant human rights violations with severe regional and international repercussions. The first was the use of chemical weapons indiscriminately against civilians by the government of Bashar al-Assad, and the second was the attack on populations by non-state armed groups. The obstruction of access to humanitarian aid, political oppression, and the practice of torture inside state prisons are part of the bloody legacy of a war with no end in sight.

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[8] In January 2012 al-Qaeda forms a new jihadist group called Jabhat Fateh al-Sham, formerly called Al-Nusra Front. Around the same time, Syrian-Kurdish groups, which had long sought autonomy, rebelled and separate from Assad's forces in the north of the country. In February 2014 there is an event that forever transforms the war in Syria: the creation of the Islamic State of Iraq, Syria, and the Levant (ISIS), a splinter group from Al Qaeda, based in Iraq that creates a mini-state it calls a caliphate. ISIS does not fight directly against Assad but against other rebel and Kurdish groups. In September 2014, the US begins bombing ISIS, making it the US's number one enemy. Turkey, in turn, starts bombing Kurdish groups fighting ISIS in Syria. This leads to one of the biggest problems in the conflict in Syria: the US wants to fight ISIS but its Turkish and Middle Eastern allies have other domestic priorities.

4.2   The big numbers

As the crisis in Syria enters its ninth year, humanitarian needs are profoundly increasing. The complexity of internal conflicts, the political struggle between influential regional states, the cluster of displacement, and the erosion of local communities make Syria one of the world's largest and most complex crises.

More than 5.6 million Syrian refugees are registered in other countries, and more than 6.7 million are internally displaced persons, according to United Nations High Commissioner for Refugees (UNHCR) data. More than half of the Syrian population has been forced to flee violence, representing one-third of the world's total refugee population (Commission, Ten years into the conflict: Syrian integration in Europe, 2021).

The United Nations Children's Fund (UNICEF) reported that 2018 was the deadliest year for children, with more than 1,000 killed in combat - the highest annual number of victims since the war began in 2011. United Nations data shows that from 2011 until April 2014, some 8,803 children were killed. Data from the Syrian Observatory for Human Rights (SOHR), meanwhile, reports 21,000 children were killed during the conflict.

The U.N. Office for the Coordination of Humanitarian Affairs (OCHA) estimates that 11.7 million people in Syria need urgent humanitarian assistance, joined by 5 million children. Around 8 in 10 people in Syria live below the poverty line. Syria also has 6.2 million internally displaced persons, 5.6 million registered refugees, and 2.5 million children (UNICEF, 2019).

4.3   Neighbouring countries

Increased violence and extreme vulnerability have forced millions of Syrians to flee and take refuge in neighbouring countries. Turkey is the neighbouring country with the most

significant number of Syrian refugees (3.7 million), followed by Lebanon (924,000), Jordan (657,000), Iraq (228,000), and Egypt (130,000), advances the UNHCR. Worldwide there are 5.6 million registered Syrian refugees. 33% of these refugees are men, and 20% are women aged between 18 and 59 (UNHCR, Registered Syrian Refugees in Host Countries, 2022).

The number of refugees peaked in 2015, with a sharp increase in the number of people fleeing the conflict. The trend from that year onwards will continue until 2022.

Turkey	Iraq	Egypt	Lebanon	Jordan
3,762,686 registered Syrian refugees	257,974 registered Syrian refugees	141,303 registered Syrian refugees	839,086 registered Syrian refugees	674,458 registered Syrian refugees

TOTAL
5,717,249 *
registered Syrian refugees as of 30 April 2022
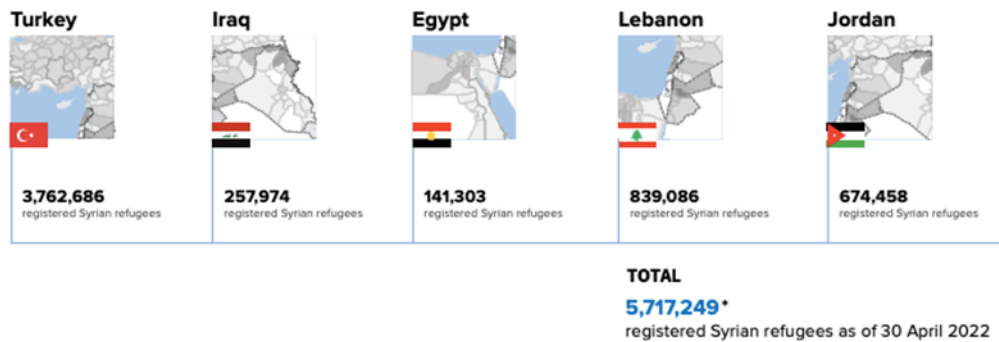
Source: (UNHCR, Registered Syrian Refugees in Host Countries, 2022).

Figura 8. Number of Registered Syrian Refugees in Host Countries.

The widespread destruction of civilian infrastructure and limited economic opportunities place many Syrians in extreme vulnerability. Children, pregnant and lactating women, persons with disabilities, the elderly, and others with specific needs face excessive exposure.

In January 2012, al-Qaeda formed a new jihadist group called Jabhat Fateh al-Sham, formerly Al-Nusra Front. Around the same time, Syrian-Kurdish groups, which had long sought autonomy, rebelled and separated from Assad's forces in the north of the country. In February 2014, an event forever transformed the war in Syria: the creation of the

Islamic State of Iraq, Syria, and the Levant (ISIS), a splinter group from Al Qaeda based in Iraq that created a mini-state it calls a caliphate. ISIS does not fight directly against Assad but against other rebel and Kurdish groups. In September 2014, the U.S. began bombing ISIS, making it the U.S.'s number one enemy. Turkey, in turn, starts bombing Kurdish groups fighting ISIS in Syria. This leads to one of the biggest problems in the conflict in Syria: the U.S. wants to fight ISIS, but its Turkish and Middle Eastern allies have other domestic priorities (Thorp, 2016).
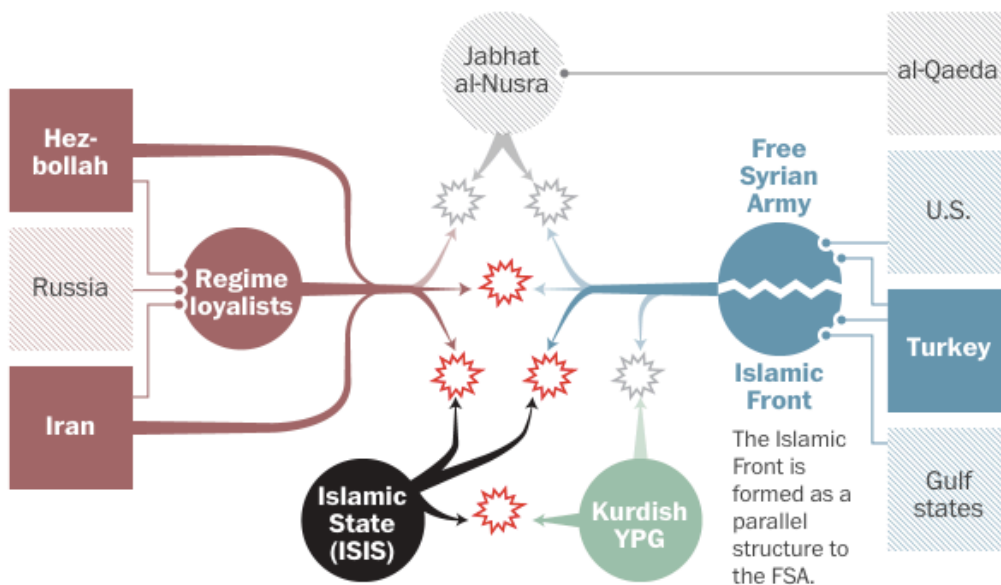
Source: (Thorp, How the growing web of conflict in Syria became a global problem, 2015)

Figura 9. Syrian conflict**.**

5   The common European asylum system in 2014

Twenty years ago, the Schengen agreement abolished border controls within Europe (Commission, Schengen Area, 1995); at the same time, they established standard rules for protecting and managing the share outer border. For the first time, shared borders

demanded the development of common standards of designating one EU member state responsible for the asylum process. The EU member states introduced this with the Dublin convention and later regulation (Commission, Dublin Regulation, 2016). According to the Dublin Regulation, the country allowing asylum seekers entry is responsible for processing their applications. Dublin is not a very distributed system for asylum seekers but a system of responsibility - one state only. Dublin needs to include common European standards for the asylum process or accommodation.

It was in 1997 that the head of state and the government in the EU decided to work the asylum policies more closely under the Amsterdam Treaty (Parliament, Treaty of Amsterdam, 1996). A common European asylum system is established for standards protection in all member states. The guidelines with EU standards, for example, on admission and recognition of asylum seekers, were only updated in 2013, they should be implemented in national law by 2015, and not all EU member states have done it so far. The European Commission is pushing for the implementation of the EU protection standard; it also wants to strengthen the security of the EU outer board and redistribute asylum seekers fairly within the EU. Furthermore, open legal routes to Europe. The right to asylum is embedded in the EU through the chatter of fundamental rights and national agreements, such as the Geneva agreement convention - It is a right with no upper limit. The EU, its member states, and its citizens are all faced with the question – how can we secure the area of freedom, security, and justice within the EU as well as the human dignity of those who seek protection in the future?

To understand how the policy works, we have to go back to 1995, the EU was just two years old, and Austria and Sweden had just joined. Furthermore, Yugoslavia fell apart in a violent conflict; in that area, the Schengen agreement was open, opening the borders

with new countries and creating free movement across countries. However, there was a catch, while it facilitated the movement of European citizens, it also made it easier for people coming outside of the area to move around. To explain the problem, we first have to discuss the different types of migration. With Schengen, there are three types: the first is migration from people coming from member states of Schengen, which can move around freely. The second is for people coming outside the EU but having documents to stay, like a visa or work permit residency. Those two categories fall into regular migration (Migration, 2022).

Furthermore, the third is irregular migration (Commission, Irregular Migration, 2022), for people entering the EU without documents to do so. It is sometimes called illegal migration. This last category is what poses the challenge. How to manage irregular migrants when they enter the EU?

Under international law, these irregular migrants have certain rights. The Geneva Convention (Convention G., 1949) grants migrants with a well-founded fear of being persecuted for race, religion, nationality, or membership of a particular social group the status of refugees. They are eligible to ask for protection or asylum in a country. However, there is another category, economic migrants, who come looking for jobs or opportunities. Furthermore, importantly, they are not eligible for asylum.

So, if we go back to 1995, one of the main features of Schengen was that borders between countries lost their importance, and this caused a problem.

Yugoslavia's collapse led to Europe's largest refugee crisis since World War II. Because of the EU's open internal borders led to a phenomenon called "migration shopping" (SAGE, 2022). Instead of going to a single country and asking for protection, migrants

would visit several, sometimes applying for asylum in several of them simultaneously, and choose the best one to live in.

To fix this problem, the European Union set up rules for who would handle migration under the standard European asylum system. The critical element of this package was the Dublin Convention (European Parliament, 2013), which has been revamped twice and is now known as Dublin III for short. The critical article of this legislation is called Article 13. What it says is that irregular migrants, including both refugees and economic migrants, would be responsible for the country they first arrive in. Let us say a migrant came into the European Union through the Netherlands, wanting asylum under the Dublin System; he would have to be housed and have an asylum application. Even If he wanted to go to another country, he would be sent back to the Netherlands. Nevertheless, in 2015, the system's flaws came to light during the migration crisis.

During this time, Dublin III showcased that it had three main flaws: the first is about solidarity, the system ignores geography, and the fact that nearly all migration comes from across the Mediterranean or from the East. That means that the countries of the south received almost all the migrants and, under article 13, are responsible for handling them (European Parliament, 2013). These are financial costs and political implications that those countries bear responsibility for. The second is that of returning migrants. Only about four out of every ten people that apply for asylum in the EU get their request granted. Nevertheless, out of those six that are not, only one is returned to their country of origin. That is because returning migrants often means cooperating with their country of origin, something that's easier said than done. It means that even when migrants know they cannot claim refugee status, they can still take the chance that they will not be deported. These two aspects lead to a third problem – Following the rules – since the migrants are

responsible for the first country they enter. Even when their asylum application is rejected, they are likely to stay. Governments are incentivised to bend the rules to eliminate migrants and the 2015 migrant crisis. During the Humanitarian crisis, this meant letting migrants through to the following country without registering them.

To take some of the pressure off its migrant system, the EU struck a series of deals with countries along the main migration routes, like Libya, Turkey, and Morocco, to stop migration (Malik, 2015). Moreover, while those deals have succeeded at calling back migration, they have come with problems.

It has been the cause of human rights abuses in Libya, and Morocco and Turkey have used them to blackmail the EU. While all the EU leaders recognise that the situation is unsustainable, they have been too divided to devise a solution. On the question of migration, the EU can be roughly divided into three fractions: the first is the pro-migration side. Despite the label, they are not for migration but rather do not oppose it. They believe the EU has a moral obligation to help refugees fleeing war persecution, and they also mentioned that migration could be an economic opportunity for Europe. There is also the anti-migration side. They mainly question the ability to integrate migrants who speak different languages and have different cultures. They highlight high-profile events like the mass sexual assaults in Cologne or the terrorist attacks in Franc to show that migrants coming mainly from the Middle East or Africa are incompatible with European Values. The debate between these two sides is complicated by the disagreement on who has the right to ask for protection in Europe. That is because the difference between economic migrants and refugees has been blurred. The anti-migration position states that most migrants come from countries that do not border the EU and could have applied for asylum in safe countries along the way. They argue that refugees, when they come to Europe, are

also economic migrants. And then there is the third fraction, the border countries, which want support for dealing with the costs involved with migration, both financially also in the housing and processing of migrants.

So with those three sides, what does a working migration policy for Europe look like?

One area of consensus has been the reinforcement of Frontex. That use Border Guard Agency has seen its budget quadruple since 2015. Despite reports of abuses, the agency has seen its mandate to police Europe's border reinforced. Another option for the European Union's migration policy can be found in the aborted 2020 migration pact, which pushed for mandatory solidarity as it brings together.

It would allow countries to choose how they contribute to Europe's migration efforts. Governments would have had the choice between either organising returns or housing migrants, but since organising returns is so tricky, opponents to the plan called for outside hotspots. This would create migrant processing centres outside of the EU. Advocates of the idea say that migrants should first apply for asylum before being let into the EU. While the move is legal under the Geneva Convention, NGOs voiced concerns about potential abuses in migrant centres far away from Europe. Nevertheless, one EU country is pushing ahead with the idea.

Denmark, which has an opt-out from the EU's migration policy, is looking to open such centres in Rwanda. In another development, Greece has unveiled closed-off migration centres to process migrants more efficiently. Furthermore, despite hints at the successful integration of migrants in Germany since the 2015 migrant crisis, sentiments on migration in Europe are changing. Moreover, a stance on migration to harden potential solutions like those explored in Greece and Denmark is becoming more accepted. However, what is clear is that as long as there is no working system for receiving, processing admitting, and

returning migrants for the whole of the European Union, migrants, including those with a right to asylum, will continue to suffer. The issue will continue to divide EU politics, and migration will continue to be used to threaten the European Union.

6 Europe's short-term responses

The European Union's response has been, first and foremost, protection and humanitarian aid, as stated in the European Agenda on Migration, adopted by the European Commission in May 2015 (Commission, 2015). This humanitarian aid has been concentrated in transit countries, such as Turkey or Libya, and the frontline countries of arrival, namely Greece and Italy.

At the same time, steps have begun to be taken to dismantle the criminal networks that exploit migrant routes and better patrol the Mediterranean, notably through operations by FRONTEX[9] (European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union) operations, such as Triton[10] (Frontex, Operation Triton, 2017) and Poseidon[11] (Frontex, Operations Poseidon (Greece), 2015), also with the contribution of the EUAA (European Agency for Asylum)

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[9] 6 https://frontex.europa.eu/we-know/migratory-map/ - The data presented refer to detections of illegal border-crossing rather than the number of persons, as the same person may cross the external border several times.

[10] Operation Triton (Italy) - https://frontex.europa.eu/media-centre/multimedia/videos/operation-triton-uroUiS

[11]11 Operation Poseidon (Greece) – "Operation Poseidon supports Greece with border surveillance, saving lives at sea, registration and identification capacities, and combatting cross-border crime. The operational area covers the Greek sea borders with Turkey and the Greek islands." - (Frontex, Operations Poseidon (greece), 2015)

(EUAA, 2022), which supports the identification and registration of migrants in critical locations, the hotspots, and EUROPOL.

To combat illegal migration and smuggling of migrants, an operation has also been set up under the Common Security and Defence Policy (CSDP).

Common Security and Defense Policy (CSDP), initially called EUNAVFORMED and later renamed Operation SOPHIA, on the high seas of the southern Mediterranean (Europarl, 2015). The Commission also proposed creating an EU Common Coast Guard (Commission, European Border and Coast Guard agreed, 2016).

Following the European Council of June 2015, a temporary emergency relocation scheme was also decided (Decision, 2015) - Relocation allows for the transfer of persons between EU member states, while resettlement concerns to persons coming directly from third countries, based on a request from the third countries, based on a request from the United Nations High Commissioner for Refugees of the United.

Nations High Commissioner for Refugees (UNHCR). This European scheme is complementary to existing national mechanisms, under which several European countries and other countries, such as Switzerland or Norway, have been receiving refugees.

It should be noted that the distribution key for the temporary relocation system, which transfers from the country of entry to another Member State responsible for examining the asylum request, is based on new criteria compared to the Dublin system, such as GDP, population, and unemployment rates.

Under the temporary emergency scheme, Member States have committed to relocating from Greece and Italy (and possibly from other Member States), about one hundred

thousand people (Commission, Relocation and Resettlement: EU Member States urgently need to deliver, 2016).

As for resettlement, Member States have committed to resettle about eighteen thousand in clear need of international protection (Commission, Relocation and Resettlement: Positive trend continues, but more efforts needed 2016).

An agreement between the EU and Turkey of March 18 2016, further provides that all irregular migrants arriving in Greece from Turkey after March 20 will be returned to Turkey (Council, 2016). For every Syrian returned to Turkey from the Greek Islands, another Syrian will be resettled in the EU, with priority thus being given to migrants who have not entered or attempted to enter the territory of the Union irregularly[12].

There is some progress on relocations from Greece and Italy and resettlement from third countries. Still, much remains to be done in the face of migratory pressure, which is now considered the "new normal", and the commitments made by Member States and European institutions.

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[12] The main objective of this Agreement is "to break the business model of the smugglers and to offer migrants an alternative to putting their lives at risk." (Parliament, Review of the european neighbourhood policy the eu global strategy the commission´s contribution to the eu-western balkans summit after march 2020 taskforce to facilitate information exchange among eu armed forces a european magnitsky act EUNAVFOR MED OPE, 2019)
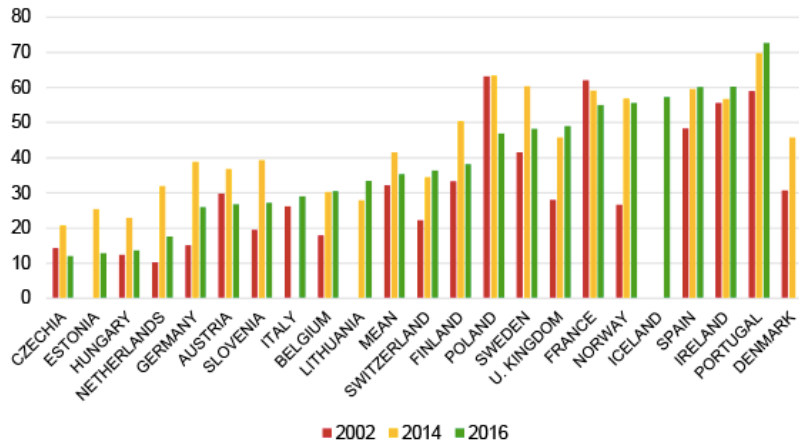
Figura 10. The government shoul be generous when judging applications for refugee stratus, 2002, 2014 and 2016 (%).

The reaction of public opinion and the unprecedented levels of political and press attention to the dramatic experiences and images of the arrival of refugees and migrants in the E. put immense pressure on the European Institutions and the Member States to rise to the occasion to resolve this crisis and for the Union to demonstrate that it has an added value in developing a migration policy that obeys the principles and values that were at the basis of its creation.

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[13] "Provided by the European Social Survey Studies, ESS 1 (2002), ESS7 (2014) and ESS8 (2016), as they contain questions that reveal the support for refugees and asylum-seekers across Europe. Figure 1 shows the percentage of those who agree and strongly agree with the statement that the 'government should be generous with judging applications for refugee status' for the three waves. It is interesting to have the figures for 2014 and 2016, since although 2015 was the turning point for the refugee crisis, the became relevant earlier, some authors pointing to 2012. By 2014 there had been a slight increase in the inflow of refugees but it was not until mid-2015 that the numbers dramatically increased and that the EU member states faced a collapse in providing a solution. Thus, 2014 and 2016 can serve to show how European opinion changed before and after the refugee crisis. Furthermore, the 2002 study provides a baseline year to know what the opinion was on the refugee issue untainted by the 2008 economic crises or other immigration factors." (Bermúdez, 2020)

It cannot be said often enough that a refugee crisis plagued the continent of Europe during World War II, the main factor of influence for the adoption, as early as 1951, of an International Convention on the Status of Refugees.

7   Europe's medium- and long-term responses Europe

In addition to the short-term measures identified above, other longer-term measures are being considered identified in the 2015 European Agenda on Migration (Commission, 2015), based on four pillars:

1) Reducing the incentives for illegal migration: define an action plan to strengthen investigation and prosecution to dismantle migrant smuggling networks, prosecute those responsibly and seize their assets, and adopt a handbook to harmonise practices. Adopt a directory to adjust the return practices of the different Member States; strengthen partnerships with third countries on clandestine introduction of migrants on and return of migrants; more significant involvement of EU delegations in most countries; strengthen the role of FRONTEX in migrant return operations.

2) Saving lives and securing external borders: review the proposals on "Smart Borders "[14] proposals; finance initiatives to strengthen the capacity of North

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[14] "A new phase would come with the "Smart Borders" initiative to increase the efficiency of border crossings, facilitating crossings for the large majority of 'bona fide' third country travelers, whilst at the same time strengthening the fight against irregular migration by creating a record of all cross-border movements by third-country nationals, fully respecting proportionality. Following initial discussions on the first proposal and to take into account concerns raised by the co-legislators, the Commission intends to present a revised proposal on Smart Borders by the beginning of 2016." (Commission, 2015)

African countries to intervene and rescue migrants in dangerous situations; reflect on the creation of a European system of border guards.

3) A firm asylum policy: fully implement the Common European Asylum System through a new monitoring mechanism[15]; evaluate the Dublin system by mid2016 with a view to its review; take decisive initiatives to prevent abuse of the asylum system; reflect on the creation of a European system of border guards asylum system; reflect on the creation of a single asylum to ensure the fair treatment of asylum seekers across Europe.

4) A new policy on legal migration: review the Blue Card Directive[16] aimed at highly skilled migrants; create a dedicated platform for collaboration between - Member States, businesses, and trade unions on economic migration and trade unions on economic migration; ensure remittances of funds are cheaper, faster, and safer; reflect on creating an "expression of interest" system, using verifiable criteria to make an initial selection of potential migrants automatically; maximise the use of the "Blue Card" for migrants automatically; maximise development aid to countries of origin.

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[15] "This allows the EU to take preventive action in partnership with the countries of origin, developing targeted information campaigns and reinforcing cooperation in border management and the fight against smugglers." (Commission, Communication from the commission to the european parliament, the council, the european economic and social committee and the committee of the regions a european agenda on migration communication from the commission to the european parliament, the council, 2015)

[16] Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for highly qualified employment, OJ L 155, 18.6.2009, p. 17–29. The United Kingdom and Ireland did not "opt in" to this Directive and are not bound by or subject to its application. (Commission, Communication from the commission to the european parliament, the council, the european economic and social committee and the committee of the regions a european agenda on migration communication from the commission to the european parliament, the council, 2015)

The European Commission in March 2016 also adopted the "Resetting Schengen - A Roadmap" (Commission, Back to Schengen: Commission proposes Roadmap for restoring fully functioning Schengen system, 2016) to counter the actions of some member states that have suspended the application of the Schengen Agreement, as a way of preventing or controlling new entries of foreigners. As Commission First VicePresident Frans Timmermans said at the time of the Communication's adoption:

"Schengen is one of the most important achievements of European integration, and the costs of its disappearance would be immense. We aim to remove all internal border controls as soon as possible, and no later than December 2016. To do this, we need a coordinated European approach to temporary border controls within the framework of Schengen rules instead of the current "patchwork" of unilateral decisions. In the meantime, we must fully implement the measures foreseen in the Roadmap to strengthen the control of our external borders and improve the functioning of our asylum system. In addition, we need to continue to work with Turkey to implement the joint action plan and substantially reduce the flow of arrivals." (Commission, Back to Schengen: Commission proposes Roadmap for restoring fully functioning Schengen system, 2016).

The United Kingdom and Ireland did not "opt-in" to this Directive and are not bound by or subject to its application. (Commission, 2015)

In June 2016, it adopted a New Partnership Framework for Migration (Commission, eur-lex-europa.eu, 2016), proposing enhanced cooperation between EU Member States and third countries to manage migration flows better. Through this New Framework, partnerships will be established with key countries of origin and transit to manage

migration flows better, save lives at sea, increase returns, enable migrants and refugees to stay closer to closer to their country of origin and, in the long term, help third countries address the root causes of irregular migration.

The European Commission also adopted, in June 2016 (Commission, Action Plan on the integration of third country nationals, 2016), a Plan of Action Plan to support Member States in the integration of third-country nationals. This Action Plan includes pre-arrival and departure support measures in education, employment, vocational training, access to essential services, and social inclusion.

7.1   Presentation of member states' responses to the crisis

7.1.1   The case of Germany

"Wir Schaffen das" [17] ("we can do it ") – Federal Chancellor Angela Merkel classified August 31 2015, the flux of refugees as one "of the biggest national tasks".

Germany's Federal Statistics Office (Destatis) stated that Germany welcomed a record number of immigrants in 2015, up 49% compared to 2014 (Sanders, 2016).

According to the body, the net immigration of foreigners reached 1.14 million last year.

"This is the highest rate ever recorded in the history of the Federal Republic of Germany," Destatis said in a statement (Destatis, Immigration and net immigration peaked in 2015, 2016).

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[17]   "Wir   Schaffen   das!"- Chanceler   Angela   Merkel   im   Kontext   - https://www.swr.de/swr2/wissen/archivradio/angela-merkel-wir-schaffen-das-pressekonferenz-august-2015-100.html

Thousands

— Syria   — Afghanistan   — Iraq   — West Balkan Countries   — Iran   — Turkey

Some of the people seeking protection who came to Germany in 2015 were only registered during 2016. For that reason, the figures of people seeking protection as at 31 December 2015 are likely to be too low. West Balkan Countries: Albania, Bosnia and Herzegovina, Kosovo, Montenegro, Northern Macedonia and Serbia. Source: Central Register of Foreigners

© Statistisches Bundesamt (Destatis), 2023

Source: (Destatis, Migration and integration, 2022)

Figura 11. People seeking protection by selected citizenships.

Destatis recorded around 2 million immigrants arriving in Germany in 2015. In the same year, 860,000 foreigners left the country, with a "balance" of 1.14 million (Destatis, Immigration and net immigration peaked in 2015, 2016).

In 2014, 1.343 million people arrived in Germany, and 766,000 foreigners left the country, resulting in net immigration of 577,000. Calculation [18] uses consolidated data from January to August last year and estimates for the remaining four months (Destatis, Net immigration of foreigners in 2015 amounted to 1.1 million, 2016).

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[18] Methodological notes – *" The net migration of 1.14 million foreigners determined for 2015 within the scope of migration statistics are the result of a flash estimation performed for the first time. It is based on verified figures available for January to August 2015 and estimated data on the migration of foreigners (arrivals and departures) for September to December 2015. For this period, the raw data have been counted. The differences between these counts and the verified monthly results have been modelled based on previous months and, using this model, have been transferred to September to December 2015."* (Destatis, Net immigration of foreigners in 2015 amounted to 1.1 million, 2016)

German authorities face difficulties dealing with the large influx of migrants, with some 400,000 asylum applications still pending.

Destatis had previously counted the arrival of 1.1 million refugees in the country in 2015. That figure does not consider that many migrants may have registered multiple times in different places.

The data released on Monday also reveals that in 2015 there were 9.11 million foreigners registered in the country, a 12 per cent increase from the previous year (Destatis, Net immigration of foreigners in 2015 amounted to 1.1 million, 2016).

It is no longer only the other EU nations criticising the German Government. However, German civil society is beginning to question the legitimacy of such a situation. Given this fact, it is necessary to understand the reasons that have led Germany to this delicate condition.

Against a backdrop of walls and barbed wire fences, Europe is facing severe turbulence. The project of a federation of European states, coordinated by the European Parliament, is beginning to crumble.

Since its inception, the European confederation coordination has been stabilised as a single bloc between the United States and the Soviet Union, which characterised the Cold War. In the face of the race for international hegemony between the two powers, the European states as the only way out, the Union of all states in a single bloc. This would make possible a gathering of forces to restructure the Old World, both in its economy and international status. This political Union thus made possible, in the mid-1950s, the European economic community with the enactment of the Treaty of Rome.

At first, the European Coal and Steel Community (ECSC) was established in 1953.

Subsequently, the European Atomic Energy Community (EAEC) in 1958, and finally, the European Union (EU) was founded in 1993 (LEVI, 1998).

The European Union, since its consolidation, has faced several challenges. One of these is to bring the various interests of its member nations under a common umbrella. How to set up a "homeland" Europe if the countries belonging to the bloc do not yield to the normative legitimacy for the construction of just one European civil society?

Despite these particularities, in Beck's (2015: 32) terms, Europe is a second skin to use. This articulation between allied nations enables transit between countries, an experience of economic and cultural integration.

According to Levi (1998), the EU tunes two dialectical elements that place at one pole the governments and, at the other, the federalist centre. This process reaches its optimum point in the economic conjuncture, causing the bloc to attain worldwide financial importance, as much as the U.S.A. On the other hand, the political relations of the bloc, even with the consolidation of the European Parliament and the European Court to consolidate a tremendous European democracy, have not yet fully materialised. This can be measured by the "immigration crisis", in which some member countries vehemently disagree about formulating an immigrant quota for each nation. This fact corroborated the English Brexit, also serving as a motive for the Hungarian Prime Minister to build a wall on the borders of Serbia, 175 km long.

Looking closely, Victor Oban's fence has raised the population's sense of security. If the Hungarian accumulated 68% of widespread approval, this number would jump to 87% in three months (BAUMAN, 2017). While Angela Merkel's party, *ChristlichDemokratische Union Deutschlands* (CDU) - Christian Democratic Union - is overtaken by the rightwing party Alternative für Deutschland (AFD) - Alternative for Germany (AFD) in the elections

in Mecklenburg-Western Pomerania. It is a boost for French ultraconservative, Marine Le Pen, to congratulate the Euro-sceptic patriots of the party.

A. How did Germany turn into a refugee paradise?

The milestone of victory for social democracy occurred after the fall of the Berlin Wall, with the triumph of capitalism over socialism, leading social democracy to ascend the political spectrum (SEGRILLO, 2004). Germany was the stage of this storyline. If until 1989, this nation was divided between socialists and capitalists, in the 2010s, we see another division between civil society and the state. The central object of this event is the creation and consolidation of the AFD party (Alternative for Germany).

The consensus reached by Angela Merkel, president of the CDU (Christian Democratic Union), with the CSU (Christian Social Union) and the SPD (Social Democratic Party of Germany), promoted a hegemonic coalition in the country, which led to her becoming Chancellor in 2005. The reasonability of the state machine held great popularity among civil society until the Euro rescue policy in 2008 provoked the anger of the liberal wings, along with the abandonment of the nuclear policy and the no longer compulsory military service, according to German broadcaster D.W. In addition to the criticism of these actions, there was a massive influx of Arab immigrants into the country. This behaviour destabilises the government coalition, such as the CSU, captained by the Bavarian leader Host Seehofer, a current German government opponent he helped catapult.

Given such a scenario, the AFD party was founded in 2013 by liberal economist Bernd Lucke. As the immigration crisis in the country intensified in 2015 and moral panic against Islam, the reactionary arguments of AFD party leader Frauke Petry gained greater

capillarity. Soon, the initial objective of creating a liberal economic alternative was put aside in favour of ideas related to security and the fight against it. This culminated in Lucke's defection. Interestingly, the founding of the AFD has, a priori, the economy as its motto, but right-wing xenophobic arguments suffocate this. Rightwing xenophobic arguments. Interestingly, the foundation of the AFD has, a priori, economics as its motto, but right-wing xenophobic arguments stifle this. European Patriots against the Islamisation of the West (PEGIDA).

The Eurobarometer data from 2016 helps us to understand the fear experienced by Europe and how this relates to immigrants. Thus, the arrival of Muslim immigrants in the country has triggered the astronomical rise of the AFD. The party has two deputies in the European Parliament and 104 in the German states. All this is due to its Islamophobic discourse, in which the closing of mosques and borders must become a reason for statehood. In this way, we see the emergence of an exacerbated nationalism, in which the conservative part of German society petitions for the closure of the country's borders.

Dublin Regulation demands that the refugees require asylum in the first country they enter the continent (Commission, Dublin Regulation, 2016). However, in August 2015, Germany opened an exception; Syrians looking for asylum can register in Germany regardless of where they enter the EU. Territory. So, most try to go straight to Germany, refusing to write in any other country (Jeevan Vasagar, 2015).

This massive number of refugees created great tension and diversion within the Member States. Hungary's Prime Minister criticised Germany as "*Germany is the problem since its destiny of most"[19]* (Nelson, 2015)*.

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[19] *Viktor Orban – " The problem is not a European problem. The problem is a German problem. Nobody would like to stay in Hungary. All of them would like to go to Germany. Our job is only to register them"* (Nelson, 2015)

Other right-hand politicians say that allowing entrance to so many refugees sends the wrong message and can incentivise more people to try and risk their life is in an opportunity to live in the European Territory.

Angela Merkel responded that Germany has enough capacity to deal with the immigrant flux but has faced pressure within her coalition.

As exposed, the denial of the Islamic religion becomes the motto of Pegida and AFD discourse. Arab immigrants and refugees change the order of things and provide a new arena of possibilities. If the responsibility to break with the hermetic individuality that modernity has created and the construction of human identity is based on exchanging ethical languages, genuinely human thought is possible. The human idea is viable. This is illustrated by the words of the chief director of Deutsche Welle, Verica Spasovska (2016, s/p):

> "They, [the refugees] then, will contribute positively to society. The money refugees send home alone is already above what Germany spends on development aid.
> If Germans stop seeing refugees as a problem and look at things realistically, if they realise that solidarity with people in need is a good thing, then they will, in the market can, strengthen a community. We can say: how good that Germany has changed."

This sentence by Spasovska sounded like a prophecy, in the sense that if one evaluated the D.W.'s data in 2017, Muslims are the religious group that provides the most voluntary service to refugees. This echoes for us as a message that, amidst all the details, solidarity can break through any border. Angela Merkel even asked the new members of society to

show curiosity for German tradition and so that community and foreigners could begin a process of harmonisation.

Throughout history, we can see that reactionary and xenophobic movement. However, the other side of the coin is that another side of the narrative needs to be evaluated and considered for the horizon of democratic life.

7.1.2   The case of Hungary

In September 2015, Hungary announced that it would temporarily reinstall the control of its borders with Slovenia (Reuters, 2015). Even though both countries are part of the free circulation under Schengen, to try to ease the entrance of refugees that arrive through Slovenian territory.

This decision was communicated one day after the Hungarian authorities decided to close their borders with Croatia (Welle, Hungary closes its Croatian border to migrants, 2015). In addition, since September, the entrance from Serbia has been suspended (Dunai, 2015).

The new measures from the conservative Government of Viktor Orbán[20], to avoid the passage of people seeking asylum marks the reinforcement of the armouring of its borders - where wire fences have been installed on the walls with Croatia and Serbia (Office/MTI, 2015).

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[20] *Viktor Orban* "*Regarding the fence to be built on some sections of the Croatian border, the Prime Minister added that he had already spoken to the Interior Minister about this, and "there are plans for this project". The newspaper raised the issue that this would take time. The Prime Minister said in response that Hungary now has experience. At the same time, Mr Orbán added that the fence would not represent the real force. "We have new laws which foresee stringent punishment for illegal migrants. We have sent the police and the army to the border. This must make it clear that while migrants may submit asylum applications, they must observe the rules", he stated.*"- (Office/MTI, 2015)

Orbán's Government stated that the decision was adopted since Slovenia transported the refugees that would arrive at its territory to Hungary's borders. With these border controls even more challenging, refugees from conflict countries like Syria, Afghanistan, and Iraq, trying to come to the European Union through the Balkan route[21], were varying their path.

Figura 12. Western Balkan route.

This route would pass through Turkey, Greece, Macedonia, and Serbia to cross Hungary to arrive in Germany, or Austria would have deviated to Croatia and Slovenia (Dockery, 2017).

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[21] The Western Balkan route has been one of the main migratory paths into Europe, reflecting the influx on the Eastern Mediterranean route. After the record number of arrivals in the European Union in 2015, the number of irregular migrants choosing this route fell steadily for a few years. It started to pick up again from 2019 onwards. (Frontex, Migratory Routes , 2017)

Slovenia Government decided in October 2015 (Times, 2015) to suspend train traffic with passengers from Croatia, preventing the measure implemented by from Hungary would reinforce the new trajectory to its own country, from where asylum seekers could A

also, reach Austria to enter Germany. Due to its better economic situation, Germany is the most typical destiny for the refugees (Welle, Slovenia halts trains to stop immigrants, 2015).

On March 2016, Hungary Government declared an "emergency crisis" in the whole country due to the migration crisis and pretended to strengthen the security of its southern borders.

Hungary interior minister Sandor Pinter reminded that Slovenia, Serbia, and Croatia, started this month to apply more challenging border restrictions to restore its Schengen Space norms, which would mean that the migration Balkan route is practically closed for asylum seekers (Iva Plašilová, 2019).

Sandor Pinter reaffirmed the Hungary Government's intention to raise a fence at its border with Romania if the migrants opt to cross the Romanian territory to enter Hungary and the Schengen space.

Hungarian authorities mobilised hundreds of soldiers and policemen to border zones, and the "responsiveness" of this operation will be reinforced with more vehicles.

In a state of crisis scenario, which initially could last up to six months and be extended later, the condition can reinforce the border controls, and the security forces (police officers and army) can register the asylum seekers.

In September 2015, the Hungarian Government declared a "state of crisis" in the country's southern provinces after they closed the borders with Serbia and Croatia with fences (Iva Plašilová, 2019).

A. Hungary Versus European Commission

Hungary violated the European Union rule while not allowing the request of asylum where the applicants arrived from a third country considered safe, and also by using organisations that assist these asylum seekers, the Court of Justice of the European Union (CJEU) ruled on November 2021 (Commission, Migration: Commission refers HUNGARY to the Court of Justice of the European Union over its failure to comply with Court judgment, 2021).

During a Judgment quoted in a press release, the CJEU sustains that:

> "Hungary has failed to fulfil its obligations under the Procedures Directive[22] by allowing an application for international protection to be rejected as inadmissible on the ground that the applicant arrived on its territory via a State in which that person was not exposed to persecution or a risk of serious harm, or in which a sufficient degree of protection is guaranteed" (Union, Commission v Hungary (Criminalisation of assistance to asylum seekers), 2021).

The CJEU decided, in favour of the process C821/19 of the European Commission, underlining that it "welcomes the substance of the action [23]" interposed by Brussels (Union, Commission v Hungary (Criminalisation of assistance to asylum seekers), 2021). This is the most recent, from the case[24], that Budapest lost in court on

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[22] Procedures Directives- Article 33(2) of the Procedures Directive lists the situations in which Member States may consider an application for international protection to be inadmissible./ See judgment of 14 May 2020, Országos Idegenrendészeti Főigazgatóság Dél-alföldi Regionális Igazgatóság.

[23] See Article 260 (ex Article 228 TEC) – Institutional Provisions/section 5 -The court of justice of the European Union (EUR-Lex, 2016)

[24] Judgment of the Court (Grand Chamber) of 17 December 2020. - Failure of a Member State to fulfill obligations – Area of freedom, security, and justice – Policies on border checks, asylum, and immigration – Directives 2008/115/EC, 2013/32/EU and 2013/33/EU – Procedure for granting international protection – Effective access – Border procedure – Procedural safeguards – Compulsory placement in transit zones – Detention – Return of illegally staying third-country nationals – Appeals brought against administrative decisions rejecting the application for international protection – Right to remain in the territory.
Case C-808/18. (EUR-lex, 2020).

account of its migration policy since its prime minister, Viktor Orbán, opposed the influx of refugees following the increase of arrivals in 2015.

The court held that:

13 Procedures Directives: Article 33(2) of the Procedures Directive lists the situations in which Member States may consider an international protection application inadmissible[25].

> "Hungary has failed to comply with the requirement that an application for international protection be declared inadmissible on the ground that the applicant has arrived in the territory through a State in which he is not subject to persecution or a risk of serious harm, or in which an adequate degree of protection is ensured". the abovementioned directive lists several situations in which an application for international protection may not be considered admissible by a member state. But "the ground that Hungary introduced in its legislation does not correspond to any of them", says the court. (Union, Commission v Hungary (Criminalisation of assistance to asylum seekers), 2021).

The judgment also states that:

> "Hungary has failed to fulfil its obligations under the procedures of Land ¢Reception¢ Directives by punishing as a criminal offence (...) the conduct of any person who, in the course of organisational activity, assists in formulating or presenting an application for asylum in its territory" even if he knows that the application will be rejected. (Union, Commission v Hungary (Criminalisation of assistance to asylum seekers), 2021).

With this measure, the asylum seekers may be deprived of assistance, enabling them to challenge, at a later stage, the decision of the Hungarian authorities. This means they are denied opportunities to those with rights under European laws.

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[25] See judgment of 14 May 2020, Országos Idegenrendészeti Főigazgatóság Dél-alföldi Regionális Igazgatóság.

The law "prevents actions which do not can be seen fraudulent nor as abusive proactive", according to the court (Union, Commission v Hungary (Criminalisation of assistance to asylum seekers), 2021).

In 2018, Hungary changed specific laws[26] on measures against irregular immigration. It adopted provisions which, on the one hand, introduced a new ground for the inadmissibility of asylum applications and, on the other hand, provided for the criminalisation of the activities of organisations that facilitate the lodging of asylum applications by persons who are not entitled to asylum under Hungarian law and placed restrictions on the freedom of movement of persons suspected of committing such an offence (Rights, 2018).

Considering that Hungary has not complied with its obligations, it is required to comply under European rules; The European Commission appealed for failure to fulfil obligations to the CJEU (Union, Hungary has failed to fulfil its obligations under EU law in the area of procedures for granting international protection and returning illegally staying third-country nationals, 2020).

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[26] On 1 July 2018, a new law – Called "Stop Soros" by the Government and "starve and strangle" by civil society – was adopted, imposing further restrictions on the right to seek asylum, rendering it practically impossible for asylum seekers to submit asylum claims and regularise their migratory status in Hungary. The law, among other things, also criminalises "supporting and facilitating illegal immigration", a new offence punishable with one year of imprisonment for individuals or organisations. Subsequently, other laws have been adopted, introducing a special 25 per cent tax on financing "immigration activities" and imposing restrictions on assembly (Rights, UN experts decry Hungary's tough new measures against migrants and civil society, 2018).
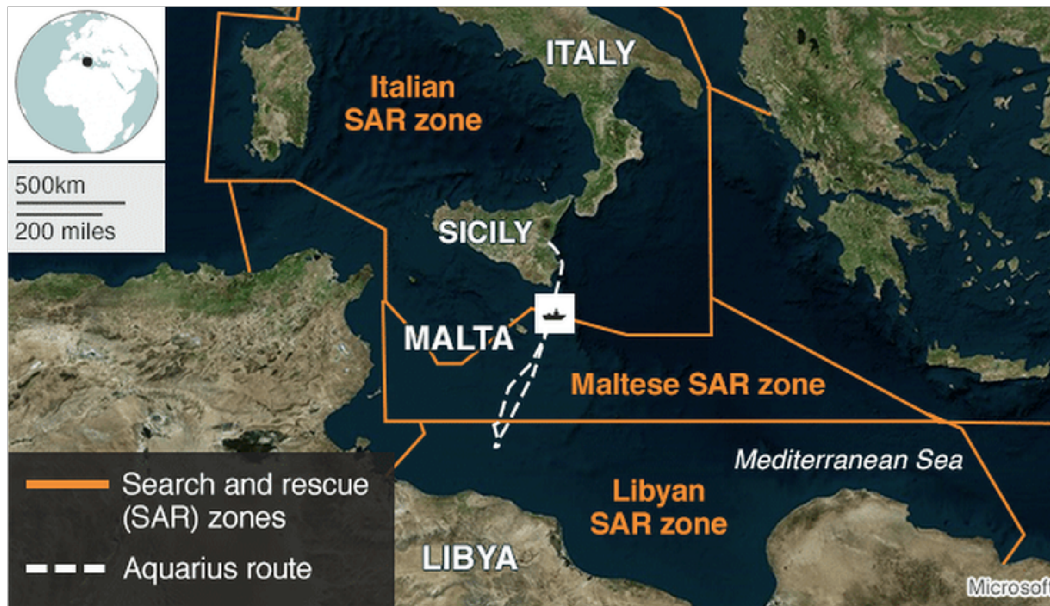
7.1.3 Italy's case

Italy being a coast country, tens of thousands of refugees reached its territory, causing political consequences.

The General elections campaign in March 2018 was dominated by only one topic: Migration. When the Ballots opened, the conservative coalition, composed of the League and Force Italy parties, who favoured more control of the entrance of refugees, achieved a higher percentage of votes (Europp, 2018).

The independent Giuseppe Conte became prime minister. The leader of the Luga, Matteo Salvini, assumed the position of justice minister and Vice-*premiê* (Jones, 2018).

Seek asylum, rendering it practically impossible for asylum seekers to submit asylum claims and regularise their migratory status in Hungary. The law, among other things, also criminalises "supporting and facilitating illegal immigration", a new offence punishable with one year of imprisonment for individuals or organisations. Subsequently, other laws have been adopted, introducing a remarkable 25 per cent tax on financing "immigration activities" and imposing restrictions on assembly (Rights, 2018).

Days after the new Government formation, it was clear that Italy's posture had changed. In June 2018, minister Salvini decided not to allow the rescue ship MS Aquarius, which was taking 629 immigrants, most from sub-Saharan Africa, to dock in the country camp (BBC, 2018).

Figura 13. Aquarius Route.

The MS Aquarius was operated by a French ONG, *SOS Mediterranee*, and had rescued a group near the coast of Libya. Dozens on that ship were children (BBC, 2018). International law governs the regulations for disembarking and aiding rescue ships such as Aquarius. The international Convention for the Safety of Life at Sea[27] requires any boat known of distress at sea, whatever the circumstances, it has to assist.

It states that the country in charge of operations in that area is to remove any person safely (SOLAS, 1974).

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[27] The SOLAS Convention in its successive forms is generally regarded as the most important of all international treaties concerning the safety of merchant ships. The first version was adopted in 1914, in response to the Titanic disaster, the second in 1929, the third in 1948, and the fourth in 1960. The 1974 version includes the tacit acceptance procedure - which provides that an amendment shall enter into force on a specified date unless, before that date, objections to the amendment are received from an agreed number of Parties. As a result the 1974 Convention has been updated and amended on numerous occasions. The Convention in force today is sometimes referred to as SOLAS, 1974, as amended.

It also states unequivocally that the relevant government "shall arrange for such disembarkation to occur as soon as reasonably practicable."

Considering that the migrants have been rescued off the shoreline of Libya, the nearest port is likely to be in Sicily, Italy or Malta, which is why the two countries are at odds (SOLAS, 1974).

The European Union, together with the United Nations, have asked for a rapid response to the scene so that the migrants can be as fast as possible in safety.
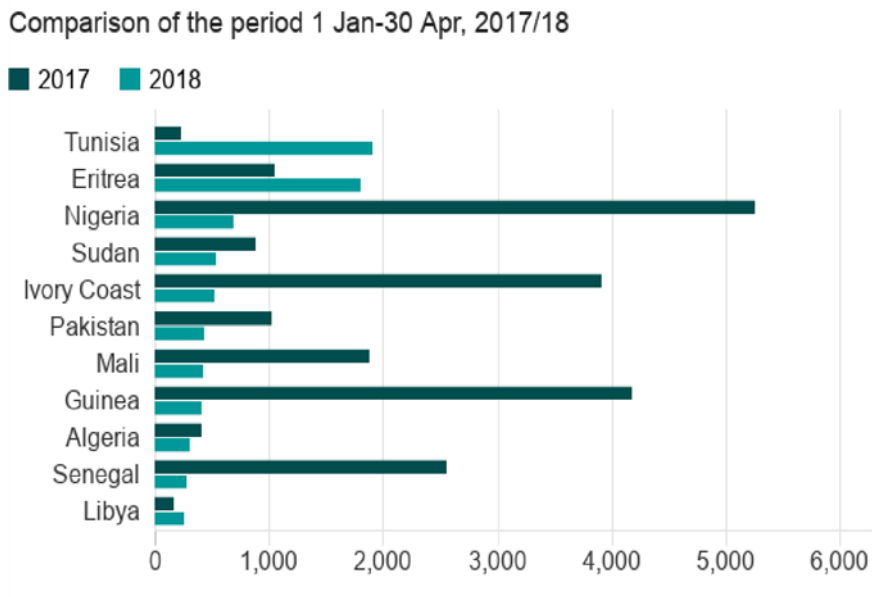
Source: (BBC, Migrant ship row: Italy-France ministers´meeting postponed, 2018)

Figura 14. Main Nationalities arriving in Italy by sea.

Mr Salvini, as interior minister, is a prominent player in Italy's new populist administration, and he has vowed to be hard on migration (BBC, 2018).

This same government has comprised the anti-establishment Five Star Movement (M5S) and the *Lega*, both staunchly anti-immigrant (Bremmer, 2018).

All parties claim that 500,000 undocumented migrants in Italy be evacuated and "pack your bags.[28]" (Ellyatt, 2018)

23 On July 2nd, 2018, Salvini:

> "It is not enough to reduce the numbers of people arriving. We need to increase deportations," he said. Visiting a migrant detention centre in the Sicilian port of Pozzallo, where he was greeted both by supporters and proDuring a visit to Sicily, Mr Salvini stated that the country must stop being "Europe's refugee camp." (Ellyatt, 2018)

He also claims to be considering legal action against organisations that rescue migrants at sea. He has previously accused them of working with people smugglers.

Weeks after Salvini commemorated his victory, Italy´s government announced that they would no longer aid ships at sea who would call for help—transferring the responsibility to the Libyan authorities (Watch, 2018). This radical political change changed the dynamic of the migration routes in the Mediterranean. Quoting the research made by *Pew Research Center,* in 2018, the road between Marroco and Spain surpassed the ways

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[28] On July 2nd, 2018, Salvini - "It is not enough to reduce the numbers of people arriving. We need to increase deportations," he said. Visiting a migrant detention centre in the Sicilian port of Pozzallo, where he was greeted both by supporters and pro-migrant protesters, Salvini said his government's stance on migrants was one of "common sense." "These are emergency centres; my interest is to work to reduce the number of people arriving and increase the number of deportations. This is not easy to do, nor is it possible to do in a quarter of an hour. Still, in the coming weeks, we want to give new signals, to cut costs and (migrant detention) durations." Speaking at a rally in northern Italy, Salvini had told illegal migrants, "get ready to pack your bags."

between Africa-Italy and Turkey-Greece. Pew Research Center study shows that, from January to August, 28 thousand migrants reached Europe through Spain (Connor, 2018).
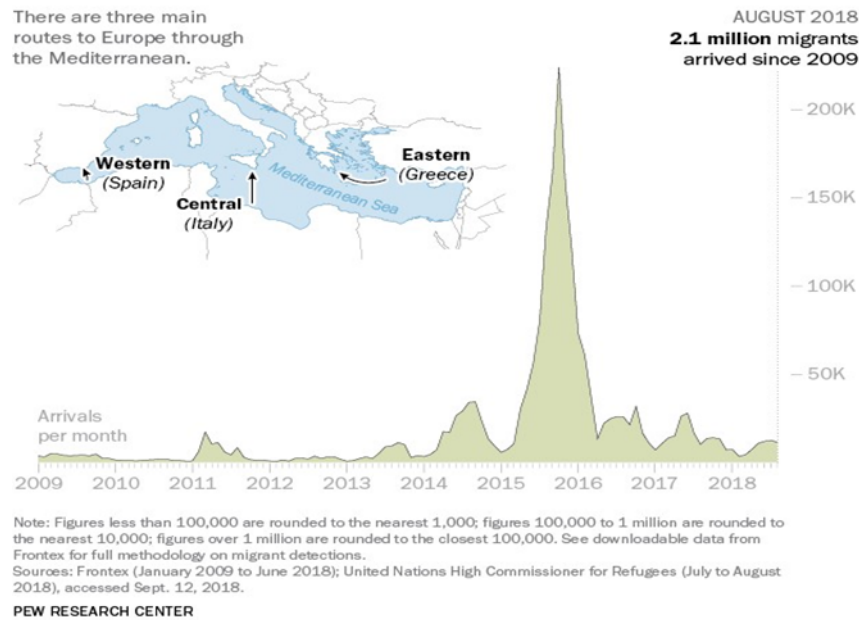
Figura 15. Monthly number of migrant detections by sea (January 2009 to August 2018), by route.
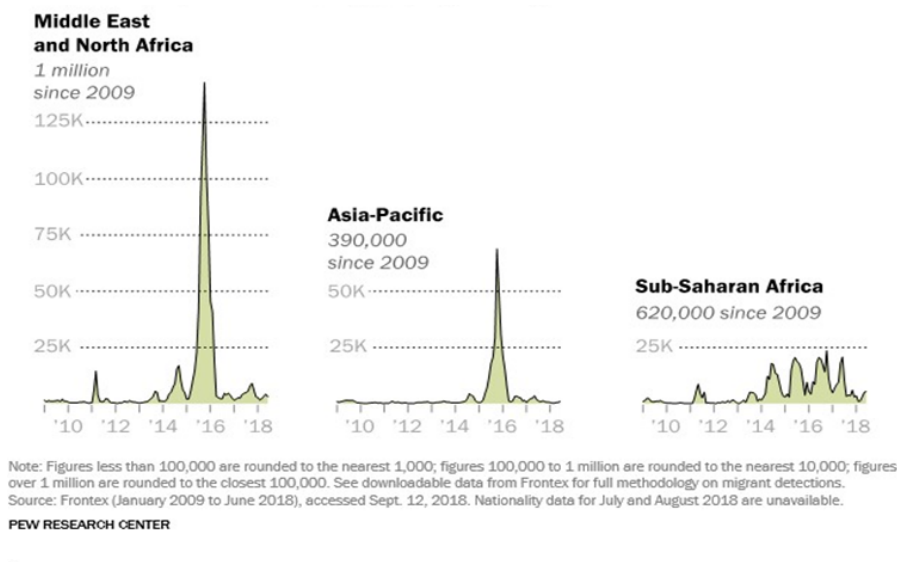
Figura 16 Monthly number of migrant detections by sea, by region of nationality.

Italy´s Government continued blocking the access of its ports from rescue boats with a humanitarian help identity. Matteo Salvini said that Italy would not cope anymore with what he called "illegal contraband of people" (frontieres, 2019).

In September 2019, again, a vast power shift occurred in Rome. Minister Salvini turned against the government after an internal dispute and tried to force a new general election. Salvini lost his balance and power with this move (Schumacher, 2019). And a new government emerged, along with new immigration policies (Irene Landini, 2019).- However, the Italian block against rescue boats was still up.

In October 2020, several humanitarian identities asked[29] for the end of this block camp (Infomigrants, 2020).

A. Italy and its migration

Great European emigration waves marked the 19th and early 20th centuries. At the end of the 19th century, after several wars for Italian Unification, the economy was weakened, and poverty was extreme, factors that were decisive for emigration, which became a social phenomenon in Italy.

In this context, millions of Italians left their country for better living conditions, mainly in the Americas. Thus, it is noteworthy that the reasons for these people's mass departure were economic and socio-cultural.

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[29] The NGOs asked for a meeting with the government while admitting the complexity of the current situation due to the COVID-19 pandemic. They urged formal government recognition of the value and obligation to conduct rescues of migrants at sea, an end to the blocking of ships and aircraft of EU civil society organisations, immediate assistance, and assigning of a safe port within 24 hours for all vessels operating at sea, whatever their classification may be and clear health measures that are the same for all, as well as the reactivation of a European mechanism for the safeguarding of lives at sea along the central Mediterranean route. (Infomigrants, 2020).

In this way, when they saw North America as a place where they could get a better jobs than in South America. They could find work in better conditions in the United States than South America. In this country, they managed to settle and work. However, after a certain period, the United States began to make it difficult for them to enter the country.

Immigrants began to head for Brazil and Argentina, as in the following excerpt:

> "It was a time when poverty was a drama in the country [Italy]. Brazil and Argentina were seen as a new world with great capacity and potential from potential from an economic point of view" *(Fadanelli, 2018).*

More than two million Italians entered Argentina, or two-thirds of all immigrants. Most of those arriving were peasants, who, together with farmers, day labourers and manual workers, formed the largest category of immigrants (Bueno, 2018).

In Brazil, the first Italian immigrants arrived 142 years ago. At the abolition of slavery, there was a labour shortage, so the government, in need of workers, encouraged the arrival of these immigrants and financed their travel costs.

When they arrived here, they first settled in the southern region. However, it was then that most Italians began to reside since in this region there was an expansion coffee plantations were expanding in this region, especially in the State of São Paulo (Bueno, 2018).

The countryside and agricultural work in the region's other states remained the destination. The other nearby countries which also received Italian immigrants were Chile, Uruguay and Peru. In Chile, Italians settled in urban areas, mainly in Santiago and Valparaiso, working primarily in the sectors of commerce, industry and as liberal professionals (Bueno, 2018).

In Uruguay, Italians have participated in a crucial moment in the country, the fight for independence, among whom Giuseppe Garibaldi stood out.

Later, in the post-war period, the migratory flow increased, with antifascist immigrants, first the antifascists and then the fascists (Bueno, 2018).

Finally, in Peru, immigrants arrived smaller than in other countries. However, they had a unique characteristic; the migratory chain was consolidating over time. Thus, despite receiving immigrants in smaller numbers, they were more "selective" since the activities they were dedicated to were associated with their majority (Bueno, 2018).

B. How the tables have turned

In this way, in the post-war context, the Italian people were among those who left their homeland and were received by various countries in addition to those countries. Indeed, it cannot be said that these immigrants were always well received well and managed, whether in Brazil or other countries, to conquer countless riches.

However, it is essential to make it clear that the mere fact of being able to enter another country, leaving the situation of misery and destitution in which the condition in which they found themselves, can be considered an achievement in itself. This being the case, the Italian people have historically, without leaving aside the difficulties faced in the countries to which they immigrated, were people who had the opportunity to try to have a more dignified life in those places.

In this context, what can be expected of people who were taken in by different countries at a time of extreme need? These people see the need for individuals who go through similar situations or, even worse, to know how to welcome those seeking to enter their country. However, this differs from what we see in Italy's attitude towards the European refugee crisis.

From the above, it is clear that it is not a peculiarity of today's world that people need to leave their countries of origin to enter others, aiming to have a more dignified life. However, the current refugee crisis in Europe was not only a large number of refugees but also refugees and some countries' attitudes in refusing to receive them, such as Italy.

In this context, even though refugees have rights guaranteed by treaties and conventions, such as the right not to be expelled and the prohibition of torture, these rights were not considered by the country in question.

This is because those who could not enter the Italian territory were left vulnerable until other countries could receive them.

Thus, although the Italians needed to migrate to other countries, having large colonies in some of them to this day was not sufficient reason for the government to accept refugees.

Given this, the historical contradiction into which the Italian people have fallen since did not have the sensitivity and ability to see the refugees with the eyes of those who have also been through the same situation.

8   Communication analysis

Communication during times of crisis has been a topic extensively studied and commented on. To better understand the issue, It has first to define the concept of Communication during crisis - The company's communicational response to a critical situation, whether large or small or a disaster that puts its institutional functioning at risk. Problems may be foreseeable or unforeseeable: redundancies are among the former; earthquakes, fires, sabotage, and defamation are among the latter.

8.1 Management partnership

The communication and information strategy in the European Union is based on a concept of complementarity of action between the European institutions and the Member States (Parliament, Communication policy, 2022).

The European Commission proposed, in 2008, to all of the different Government bodies of the Member States a celebration of a management Partnership that responds to the needs of the citizens of the EU. Through this partnership, the Commission turned to centralized indirect management, where delegates some of its competencies in an Intermediary Organism (Parliament, Communication policy, 2022).

For example, in the Portuguese case, the Center of the European Information Jacques Delors (CIEJD)[30], was o was constituted Intermediate Body of the European Commission for the promotion of the EU information and communication policy within the framework of the Management Partnership signed between the European Commission and the Portuguese State.

8.2 The narrative

The sharp rise in the public´s attention is focused on migration, which has become a top of list topic for the political agenda. The arrival of a previously unseen phenomenon of migrants and refugees in the European Union marked 2015. This event was dubbed by policymakers, the media, and politicians as a "migration crisis" has occurred. public's

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[30] [30] Website of CIEJD - https://eportugal.gov.pt/en/entidades/centro-de-informacao-europeia-jacques-delors

Right-wing populist parties saw their opportunity to spotlight voter issues in many EU member countries.

It also resulted in migration becoming a much more "sentimental" topic that is difficult to communicate but strongly resonates with viewers throughout Europe.

The European Commission, as the establishment in charge of proposing and communicating policies to address the "crisis", is especially crucial in this situation. Its Communication should be investigated for its contribution to and strengthening the "migration crisis" narrative.

The Commission has strategically applied this crisis narrative over the last years, as it evolved from an unorganized use of several words and phrases to a cohesive description of the "crisis" as a stand-alone and unimaginable occurrence.

As a result of the "crisis", the Commission's strategy evolved gradually from a humanitarian framework (between 2015 to 2016) into one centred on border management (2017) and collaboration with third-country migration management (2018 onwards). The Commission declared the "crisis" to be over in 2019.

The Commission expressed the alleged crisis, such as when it was supposed to end, based on two factors: 1. Numbers and 2. The wild nature of arrivals. Even so, the Commission's application of the crisis narrative has been generally inaccurate, neither as a description of past phenomena nor as a means of addressing citizens' misgivings. Instead, it framed migration as a security issue, legitimizing restrictive policy measures intended to "address the crisis". These included, for example, increased border controls or increased collaboration with third countries to reduce migration.

The Commission's definition of making and implementation this narrative, in particular, is misleading for three main reasons:

1. It ignores the far greater number of refugees hosted in third countries, as well as other currently underway humanitarian crises that have not received the same level of attention;

2. Framing the "crisis" in terms of statistics falls short of responding to citizen's core issues regarding migration;

3. The narrative overlooks the reality that mishandled regulations, as opposed to the amount or essence of the inflows, are responsible for a significant portion of the "crisis".

Quite troubling, this narrative has helped contribute to an atmosphere in which right-wing populists have plenty of space to broadcast their message. They were able to legitimize authority measures to deal with the "crisis". Conservative leaders have also increasingly adopted a security-oriented migration discourse to sway voters in favour of more restrictive laws.

Several recommendations can be made to counteract these dynamics and create a more forward-looking migratory narrative. The Commission should renounce the crisis narrative in favour of a more constructive and diverse communication strategy that could incorporate the following aspects:

i. **Issue Predominance**: The Commission should be aware of the consequences of frequently sharing information about migration on public opinion, political decision-making, and the growing influence of antiimmigrant forces. This awareness, however, should not prevent the Commission from speaking. Not communicating about migration is not an option, and it may play into the hands of right-wing populist forces eager to use the subject to instil fear and distrust.

The tone and content of migration communication should be adjusted rather than the frequency;

ii. **Frames with more variety**: It is critical to reject narratives that portray refugees and migrants, particularly their numbers, as a problem that must be addressed within the crisis management framework. Right-wing populist actors can easily co-opt this discourse and use it to blame the EU for not doing enough. To adequately anticipate these dynamics, the Commission should broaden the frames through which it communicates about migration. Instead of using a security frame by default, a broader range of structures that draw on economic or humanitarian aspects and are adaptable to different contexts and situations would result in a more balanced discussion about migration;

iii. **Narrativ**e: Communication regarding migration should strike a better balance between data and stories. Personal testimonies and better records should be encouraged. They are very effective at increasing empathy in an audience and putting a face to a complicated process. Numbers and statistics, in comparison, are more challenging to strike a person's emotions, and also since the general public requires further information. However, facts and events should be preserved and maintained as the basic framework of the EU migration communication;

iv. **Audience Segmentation:** The Commission should better understand the public and tails its communications to them. In this regard, it is helpful to consider studies that have studied this topic at a national level and to distinguish between social groups unique to each Member State. Regarding audience segmentation, it is crucial to concentrate on the so-called movable middle, which appears to be

more receptive to positive Communication about migration than customarily assumed. At the same time, the other part of the public must be noticed. The content of the Commission's Communication must be uniform and consistent all around. Nevertheless, the type of Communication could still be customized, considering the principles and beliefs of the aimed audience segmentation.

v. **A better form of Information:** The Commission should improve the style and tone of its communications more relatable, for example, by specifying its influence on the citizens' lives. Messages about migration should also be presented in a more comprehensible way. This could be accomplished, for example, by uplifting the commission employees to serve as "ambassadors", communicating directly with their domestic public offline and online. Furthermore, translating all the information in all 24 EU member languages is crucial in improving relations with the citizens.

vi. **Better Contextualization:** Frequently, migratory difficulties are incorrectly linked to a specific problem better addressed by other policy areas, like labour market reforms. The Commission should consider this to avoid using migration as a fall guy for other challenges.

9 Institutions responsible for the migration management and the European integration theory

We are particularly interested in the discursive interaction between the Institutions Resposible for the Migration Management and institutionally supported cultural identity

and the European supranational imagined community, which has been promoted, appropriated and constructed alongside the process of political and economic integration, since "increasingly, citizens of the European Union are being evoked as a different imagined community: as Europeans, an identity perhaps as problematic as the particularist national identities it aims to replace" (Geary, 2013, p. 39). European nation-states were built on the basis of contradictory discourses about their origins. With the birth of the European Community, the idea of Europe as a cohesive whole became an important part of European integration, raising the question of "what are the new national myths on which a European national identity might be based?" and, perhaps an even more important question, "what might be the dangers of this new identity?" (Geary, 2013, p. 45).

The dangers, it could be argued, may be the same as those raised by the idea of the nation-state, namely, who has the right to "sing it" (Butler, 2007), who is allowed, or not, to be part of us (Butler, 2007) (El-Tayeb, 2011), what performances are accepted, since, as Judith Butler explains, the state (a concept we expand to also refer to the supranational European state) "can signify the source of non-belonging, even produce that non-belonging as a quasi-permanent state" (Butler, 2007, p. 4).

Non-Europeans arriving at the borders of Europe raise the issue of the construction of Europeanness in a particularly strong way. The production and reassertion of a particular discourse about us can, as discussed, be expanded from the imagined community of the nation state into the supranational European domain, creating a European source of non-belonging, as Fatima El-Tayeb argues:

> "the continued inability, or rather unwillingness, to confront, let alone overcome the evident whiteness underlying Europe's self-image has quite drastic

consequences for migrants and minority communities routinely ignored, marginalised and defined as a threat to the very Europe they are part of, their presence generally only recognised as a sign of crisis and again forgotten in the ongoing construction of a new European identity." (El-Tayeb, 2011, p. 25)

The European Union have invested billions of euros in migratory management institutions, seemingly promoting "good migratory oversight". However, how does migration management really works? Moreover, have these institutions suffered any changes after the 2015 Migration Crisis?

9.1   European Parliament

The European Parliament decides on European legislation, including the multi-annual budget, jointly with the Council of the EU (governments of the Member States). It has always advocated a Common European Asylum System in line with the Union's legal commitments.

Parliament has also called for the reduction of irregular migration and the protection of vulnerable groups, notably through the adoption of legislation and the adoption of resolutions, such as the resolution of April 12 2016, on the situation in the Mediterranean and the need for a holistic EU approach to migration, where it assesses different policies and makes a series of recommendations.

One of the EP committees monitoring migration and asylum issues and matters is the Committee on Civil Liberties, Justice and Home Affairs (set up by former MEP and former Commission member António Vitorino).

9.2   European Council

The European Council is the institution that defines the general political directions and priorities of the EU. It is not one of the Union's legislative institutions and therefore does not negotiate or adopt EU legislation.

On the issue of immigration, the European Council plays a vital role in the EU's efforts to create an effective, humane and safe European migration policy by setting strategic priorities.

9.3   European Union Council

The Council of the European Union defines and implements the EU's foreign and security policy based on guidelines set by the European Council The Council of the EU is the EU institution that represents the governments of its member countries. It brings together their ministers or state secretaries to adopt legislation and coordinate policies.

Regarding migration, it negotiates and adopts EU legislation, sets courses of action and grants mandates for negotiations with third countries, coordinates member states' policies, adopts the EU budget with the European Parliament, and draws up the EU's standard foreign and security policy. Specifically, the policy areas in which the Council meets to monitor migration and asylum matters are security and defence, justice and home affairs. In 2021, the Council of the EU adopted new rules to attract and retain highly skilled workers from third countries, particularly in sectors facing skills shortages in the EU.

9.4   European Commission

The role of the European Commission is to propose and implement EU policies. The Commission's work is steered by a College of Commissioners and led by its President.

The Commissioners work on specific policy priorities set by the Commission President. In migration and asylum, it is tasked with representing and defending the interests of the EU as a whole, over and above the interests of its Member States. On September 23 2020, the European Commission proposed a new pact on migration and asylum. The Directorate-General for Migration and Home Affairs is responsible for European migration and home affairs policy and specific measures to manage migration flows better.

9.5   Justice Court

The Court of Justice of the European Union (CJEU) is one of the seven institutions of the EU. It combines two jurisdictions: The Court of Justice and the General Court. The CJEU is responsible for the jurisdiction of the European Union. These courts ensure the correct interpretation and application of EU primary and secondary law in the EU. They review the legality of acts of the EU institutions and decide whether the Member States have fulfilled their obligations under primary and secondary law. The Court of Justice also interprets EU law at the request of national courts.

It is responsible for verifying Member States' compliance with EU laws on asylum and migration and adjudicating on and imposing sanctions or penalties for violations of EU law. In December 2020, the CJEU ruled that Hungarian legislation on rules and practices in transit zones on the Serbian-Hungarian border was contrary to EU legislation on asylum and return.

9.6   European Economic and Social Committee (EESC)

The European Economic and Social Committee (EESC) is a consultative body of the European Union. The Commission may consult it, the Council or the Parliament in the

areas laid down by the Treaties, or it may be consulted on an optional basis. The EESC can also issue opinions on its initiative. Any mandatory instructions do not bind its members (329). They are entirely independent in the performance of their duties in the general interest of the Union.

The EESC is the voice of organized civil society in Europe. Organized civil society plays a crucial role in creating European immigration policies with a social dimension and added value. Through the support it provides to refugees and migrants, civil society contributes to more humane migration management and the successful integration of newcomers. Social inclusion of newcomers can only happen on the ground - for instance, in the workplace, schools and organizations.

The role of the EESC is to communicate the opinion of the representatives of economic and social activity to the institutions responsible for the Union's decision-making process. The Section for Employment, Social Affairs and Citizenship (SOC) and the Section for External Relations (REX) deal with migration issues. A Thematic Study Group for Immigration and Integration (IMI) operates under the SOC Section, organizing events focusing on the role of civil society in migration management and integration.

9.7   Region Committee

The Committee of the Regions is organized into six committees. The committee responsible for migration and asylum is the Committee on Citizenship, Governance and Institutional and External Affairs (CIVEX), which has competence in immigration, asylum and visa policy. In 2016, for example, the Committee of the Regions issued an opinion on the European Agenda on Migration.

Issues opinions on European affairs addressed to the European Commission, the Council and the European Parliament on matters of interest to regions. Represents regions and cities by giving them a voice in the EU legislative process with a regional and municipal impact. It delivers opinions on EU affairs to the European Commission, the Council and the European Parliament on topics of interest to the regions.

9.8 European Border and Coast Guard Agency (FRONTEX)

The European Border and Coast Guard Agency (FRONTEX) was established in 2004 and is based in Warsaw (Poland). It facilitates cooperation between border control authorities in each EU country by providing technical assistance on external border management. Frontex's support at the external borders helps ensure free movement without internal border controls.

Frontex has three strategic objectives: to reduce the vulnerability of external borders based on situational awareness, to ensure that the EU's borders are effective, and to plan and maintain the capabilities of the European Border and Coast Guard.

9.9 European Police Office (Europol)

EUROPOL, or European Police Office, based in The Hague (Netherlands), was established in 1999 to support EU Member States in preventing and combating serious international crime and terrorism.

It operates as a support centre for police operations, a criminal intelligence platform and a centre of expertise for law enforcement. According to its mandate, and in the field of migration, it combats the trafficking of human beings and organized illegal immigration.

9.10 The European Union Agency for Fundamental Rights (FRA)

The European Union Agency for Fundamental Rights (FRA) was founded in February 2007 and is based in Vienna (Austria). FRA is an independent body of the European Union, funded by the EU budget, which aims to collect and disseminate objective and comparable information on fundamental rights issues to promote and protect and provide EU institutions and Member States with independent assistance and expertise on fundamental rights issues.

It is an independent centre for promoting and protecting human rights in the EU. Its mission is to help make Europe a better place to live and work and defend the fundamental rights of all people in the EU. They help protect rights such as the right not to be discriminated against on age, disability or ethnicity, to have their data protected and to access justice.

9.11 **EU Agency for the Operational Management of Information Systems (EU-LISA)**

Established in 2011 and based in Tallinn (Estonia), the European Union Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (EU-LISA) was set up to provide a long-term solution for the active management of large-scale IT systems, which are considered essential tools in the implementation of EU asylum, border management and migration policies.

The Agency currently manages Eurodac, the second-generation Schengen Information System (SIS II) and the Visa Information System (VIS). In addition to these, EU-LISA is developing the Entry/Exit System (EES), the European Travel Information Authorisation

System (ETIAS) and the European Criminal Records Information System - Third Country Nationals (ECRIS-TCN).

In a Nutshell, the EU's approach to migration and asylum must form a coherent whole. However, it is a "patchwork" of decisions, strategies and policies, which cover only specific aspects and are successively reformulated as the situation demands. A division in the perspective of the various institutions compounds this. The European Parliament (EP) and the European Commission (EC) tend to have a more liberal and progressive view on the link between migration and development. At the same time, the Council adopts a more conservative approach, which prioritises the management of irregular migration and border control.

This means that the EC has encountered resistance in translating its formal agenda - notably concerning temporary migration schemes and mobility facilitation - into legally binding instruments for member states (Parliament, 2015).

At its core, migration policy is still primarily intergovernmental, with member states reluctant to delegate many competencies to the EU, particularly on migrant access issues. Some countries also have the possibility of not participating in this policy (opt-out) or adhering to specific aspects (opt-in), as in Denmark and Ireland (Parliament, 2015).

The inconsistencies, overlaps and contradictions between Member States and European policy are also demonstrated in several concrete examples: while the EU encourages circular migration, many existing visa regimes in European countries discourage such movement; while the European Commission negotiates Readmission Agreements with

third countries, several Member States negotiate bilateral agreements in parallel, leading to a confusion of results. There is also no systematic exchange between Member States on bilateral practices and instruments for cooperation with third countries on migration, even though institutional mechanisms and legal provisions provide so. In the EU, better coordination between the supranational and national levels could avoid some difficulties in negotiations with partner countries, duplications and overlaps in cooperation initiatives, or the use of European instruments as a "hat" to pursue member states' agendas.

10 Reforms to the common European asylum system

The Common European Asylum System (CEAS) establishes minimal norms for treating all European asylum seekers. The migration crisis has highlighted the need to reform the EU's rules on migration.

Under regulations in place, asylum seekers are treated unevenly throughout Europe, and the positive reaction to being pro-asylum also varies from country to country.

As a result, all asylum seekers travel through Europe and present asylum requests in countries where they believe will have a better chance to seek international protection.

Within the scope of a more general reform of the rules of the EU, on the topic of migration and asylum, on September 23 2020, the European Commission proposed a new pack (Council, EU asylum reform, 2020). The proposal predicts a comprehensive common European framework for managing migration and asylum, which includes several legislative proposals.

There is also a legislative proposal from 2016 that was not affected by the new recommendations from the Commission and relatively for which progress has already been made.

The reform of the Common European Asylum System aims at the following (Council, EU asylum reform, 2020):

- Establish a joint framework that contributes to a global approach to the management of asylum and migration;

- Transform the system to be more efficient and more resistant to migration pressure;

- Eliminate the pull factors and the secondary movements;

- Tackling the abuses and giving higher support to the more affected Member States.

The more recent legislative proposals under discussion aim at the following (Council, EU asylum reform, 2020):

1. Substitute the Dublin system for a new asylum and migration management system that distributes better the asylum requests throughout the Member States through a unique mechanism of solidarity that will guarantee its prompt handling;

2. Provide for temporary and extraordinary measures to address crisis and *force majeure* situations in the field of migration and asylum;

3. Predict temporary and extraordinary measures to face the crises and force majeure in the area of migration and asylum;

4. Reinforce the Eurodac Regulation to strengthen the database of the EU with fingerprints of asylum seekers;

10.1 Create an actual EU agency for asylum

On 19 January 2022, the European Union Agency for Asylum (EUAA) substituted the European Asylum Support Office (EASO).

The new agency is responsible for enhancing the functioning of the common European asylum procedure by:

- delivering an improved operational and technical aid to member states
- bringing more consistency to the examination of applications for international protection

On 9 December 2021, the Council embraced the regulation converting EASO into a fully-fledged EU agency. This was a substantial step onward in updating the EU's asylum and reception procedures.

The latest legislation expands the agency's support for cooperation between member states and non-EU countries.

10.2 A new system of asylum and migration management

The Dublin System, currently in force, was first instituted in 1990 and updated between 2003 and 2013. Its goal is to identify only one EU Member State responsible for taking care of one asylum request.

The process is based on some criteria, meaning the requirements of "first entry country". This means a few Member States are responsible for taking care of most asylum requests.

The migration crisis revealed the limits of the current system, which brings a big job for the member states in the front line.

The Legislative proposal from 2020 tries to substitute the Dublin Regulation with a new regulation relating to the management of asylum and migration, which will:

- Establish new overall governance at an EU level to ensure improved management and political execution;

- Determine more efficiently one Member State responsible for analyzing the asylum request;

- Guarantee a share sharing of responsibility between Member States through a new solidarity mechanism;

- To discourage abuses and prevent asylum seekers' secondary movement inside the EU territory.

10.3 Force majeure? New rules applicable to the migration crises

The new proposal foresees under force majeures appropriate rules with a faster action of solidarity mechanism to answer these crises, for example, with the migration crises of 2015.

The new instruments cover the more exceptional fluxes of people coming from countries outside of the European territory or ex-patriarchs, which can lead to:

- Turn the asylum system inoperable, like reception or return to a Member State;

- Have severe consequences for running the Common European System of asylum and the Migration management system of the EU.

- Impossibilities of applying the Common European Asylum System and its managing system.

Besides the previously described, the regulation proposal approaches the situations of force majeure, such as the Covid-19 pandemic, which can be dealt with in the domain of asylum and migration management in the European Union. Foresees the need for adaptation of the EU rules, matter to the procedures of asylum and return, and the

solidarity measures established in the new regulation. The crisis instrument proposes a new protection status immediately to those who are running from war conflicts in war crises.

10.4 Update of the database

Migrants in everyday situations and asylum seekers registered in EU Member States and associated countries have their fingerprints in the Eurodac database.

This database facilitates the application of the Dublin Regulation, helping with the following:

- Verification if an applicant or a person is in an unfair situation in a Member State and has asked beforehand for asylum in another EU country.

- Checks if an asylum seeker was beforehand arrested while trying to enter the European territory illegally;

- Determine which EU country is responsible for treating the asylum request.

The reform of the Eurodac regulation proposes the following:

- Collecting more data through facial images to strengthen the system;

- Gather more data, through the inclusion of information from third countries' nationals, in illegal situations in European territory that did not ask for asylum;

- Simplify the access to the authorities responsible for the application of the laws;

- Assist with the detection of movement not authorized in the European Union.

10.5 EUAA[31] Versus EASO

The new Agency substituted the former EASO; on January 19 2022, EUAA is responsible for bettering the Common European Asylum System by:

- Giving operational and technical assistance to the Member States,

- Assure that more of the international protection requests are dealt with.

10.6 A new way of Screening

The new screening regulations aim to ensure a faster identification of the correct procedure applicable to a person trying to enter the EU territory without having an entry condition. Which applies to the following subject:

- Subjects that request international protection at the boards, even though they do not have all the requirements to enter the EU;

- Subjects transported through rescue missions on land or by sea;

- Subjects detained in European territory if beforehand, escaped the border controls.

This new Screening will include identification, sanitary, security control, and collecting fingerprints to update the Eurodac database. This process will happen for five days in the external borders.

Afterwards, all the subjects at risk will either start their asylum process or return process either in border territory or external territory.

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[31] European Union Agency for Asylum - https://www.euaa.europa.eu/

To ensure fundamental rights in this process, the Member States still have to create a new mechanism of individual accompaniment. This new mechanism will also be fiscal if all procedures, including detention, repulsion, and national norms, are respected.

On June 22 2022, the Council approved the mandate to start negotiations with the European Parliament for this proposal.

10.7   Common asylum Procedure

To allow or deny international protection, the EU Member States have to follow the Asylum Procedure Directive.

This new legislative procedure has in mind the latter, which had the objective of substituting the directive currently in power with a regulation destined to define a standard international protection procedure. This will contribute to revoking the vast amount of incentives for asylum requests.

Following the rules:

- Will substitute the different procedures currently in force with new, simple methods;

- Will protect better the asylum seekers' rights and the vulnerable people;

- Will introduce more rigorous norms to avoid any abuse;

- This will establish a faster analysis of the requests by determining their motives.

This proposal introduces a new border procedure to make the returns effective.

The asylum and return procedures will work hand in hand, allowing the asylum seekers who were denied entry to be notified immediately and receive a more effective decision.

The resources against these decisions concerning asylum and return will be submitted to the same juridical organ, assuring more substantial juridical supervision.

This new proposal will have new instruments to better treatment to further asylum requests unfounded. This proposal is being at the moment discusses in the Council.

10.8   Throughout rules for asylum requests

The new legislative proposal ensures that all asylum seekers will be treated equally throughout all Member States.

The rules of the project definition are as follows:

- Standard criteria for identification of people that do require international protection;
- Common rights for those in a subject in all Member States;

In July 2017, the EU ambassadors, have agreed in regards to a mandate, for the negotiations, on the rules for the project, in regards to the conditions needed for the asylum seekers and to the rights and benefits for the ones beneficiating from international protection in all EU.

10.9   Better conditions

 The main goal of this reform is to ensure better refugee conditions for all asylum seekers. In this way, ensure all asylum seekers have the best living conditions regardless of where in Europe they are.

The new rules propose:

- A new standard definition for the asylum conditions for all asylum seekers;

- The right to work for all asylum seekers, latest, after nine months of its request;

- The right to education for minors and the need to reassign a tutor to the children that do not have one.

The second big goal of the directive proposal is to reduce the secondary movement for asylum seekers; the objectives are:

- Restrain the access to the asylum conditions to the Member States responsible for asylum seeker requests;

- Restrain the emission of travel documents except for urgent humanitarian reasons;

- Allow Member States to limit the presence of asylum seekers in a specific geographic area.

In November 2017, the ambassadors to the EU came to a deal about the mandate for negotiations. Nevertheless, the talks with the parliament are in an advanced stage.

11 Comparison of member states' behaviour during the 2015 crisis and the Ukraine crisis in 2022

This disparity points to a vexing problem in Europe's willingness to embrace the international refugee protection regime. The EU proposed imprisoning arriving refugees

for up to 18 months during the 2015 refugee "crisis." Not anymore, in the aftermath of Russia's invasion of Ukraine.

Russia's invasion of Ukraine has resulted in one of Europe's most significant and rapid refugee movements since World War II. Only seven days into the war, on March 2, 874,000 people were estimated to have fled to neighbouring countries. According to the UN High Commissioner for Refugees (UNHCR), up to four million people may flee the country in the coming weeks.

The European Union (EU) estimates that there will be seven million refugees by the end of the year. Regardless of which quantity is correct, Europe is facing an unprecedented refugee crisis.

While the EU refers to the "largest humanitarian crisis" that Europe has seen in "many, many years," it is essential to remember that the continent faced another critical humanitarian challenge not long ago, the 2015 refugee "crisis" caused by the Syrian conflict. However, Europe's starkly different responses to these two situations should serve as a wake-up call to anyone hoping for a more humane and generous Europe.

The distinctions also help to explain why some of those fleeing Ukraine, mainly nationals from Africa, Asia, and the Middle East, are not receiving the same generous treatment as Ukrainian citizens.

As of this writing, Ukraine's neighbours have shown overwhelming public and political support for the refugees. Political leaders have publicly stated that refugees from Ukraine are welcome. Countries have been preparing to receive refugees at their borders by deploying teams of volunteers to distribute food, water, clothing, and medicines.

Slovakia and Poland have stated that refugees fleeing the Ukraine war will be allowed to enter their countries even if they do not have passports or other valid travel documents

required; other EU countries, such as Ireland, have announced that visa requirements for Ukrainians will be lifted immediately.

Ukrainian refugees are provided with free public transportation and phone communication throughout Europe. The EU wants to reactivate the Temporary Protection Directive, which was implemented in the 1990s to deal with large-scale refugee movements during the Balkans crisis.

Refugees from Ukraine would be granted up to three years of temporary protection in EU countries without applying for asylum, with the ability to obtain a residence permit and gain the right to higher education, a home and work.

The EU also proposes to ease border controls and entry requirements for people fleeing Ukraine.

Ukrainian refugees can travel visa-free for 90 days across the EU, and many have moved from neighbouring countries to visit family and friends in other EU countries. European citizens and politicians are grouping to show support and solidarity for those attempting to flee Ukraine.

Here is how the international refugee protection system ought to work, especially in times of crisis: Countries maintain free movement for those fleeing conflict and war; Unnecessary security and identification controls are avoided; those fleeing conflicts are not punished severely for arriving without legitimate identity and identity documents; detainment measures have not been used; refugees can openly join relatives in other regions, and communities and figureheads welcome refugees with arms wide open.

However, we know this is not how the refugee protection regime has worked in the past and Europe, particularly in the countries now welcoming Ukrainian refugees. Racist and xenophobic propaganda directed at refugees and migrants, particularly those from Middle

Eastern and African countries, pervades public discourse in Poland, Hungary, Slovakia, and Romania, and hostile policies such as border pushbacks and draconian detention measures have been implemented.

Hungary, for example, since the 2015 "refugee crisis," the EU has refused to take refugees from non-EU countries. Non-European refugees, according to Prime Minister Victor Orbán, are "Muslim invaders" and migrants are "poison," Hungary should not accept refugees representing various cultures and religions. to "preserve its cultural and ethnic homogeneity." The European Court of Justice ruled in May 2020 that It was illegal for Hungary to detain asylum seekers arbitrarily in transit zones along its border with Serbia. Hungary was not alone in its harsh reaction to the "crisis" of 2015. Anti-migrant rhetoric spread from Brussels across the entire continent, facilitated by EU-wide migratory guidelines allowing for long detention periods. Researchers from the Global Detention Project (GDP) detailed the evolution of all EU Member States' detention systems before and during. After the 2015 refugee In their book Immigration Detention in the European Union, they discuss the crisis: In the Shadow of the "Crisis" (Springer, 2020). Among their fundamental discoveries: Across the EU, migration-related detention had plateaued mainly in the years leading up to 2015, but refugee pressures prompted significant rises in incarceration regimes throughout the region, which lasted long after the "crisis" had passed.

At the time, then-European Council President Donald Tusk argued that all newly arrived refugees be detained for up to 18 months, following EU directives, while their claims were processed.

More recently, in late 2021, the inhumane treatment of migrants and asylum seekers, most of whom were from Iraq and Afghanistan and were stranded, were trapped on Belarus's borders with Poland and Lithuania, causing outrage throughout Europe.

Belarus was accused of developing weapons for these people's plight, luring them to Belarus so they could travel to EU countries in retaliation for EU sanctions.

Border officials in Poland were violent to these refugees and migrants, with many suffering severe injuries from their treatment by Polish and Belarussian border guards. Thousands of migrants were left stranded in deplorable conditions in the forests between the two countries; at least 19 migrants died due to the freezing winter temperatures because they lacked food, shelter, blankets, and medicines. In response, Poland dispatched soldiers to its border, erected razor-wire fencing, and began construction on a 186-kilometre wall to keep asylum seekers from entering from Belarus. It also passed legislation that allows it to deport anyone who crosses its border illegally and prohibits them from returning. Even before the standoff between Poland and Belarus, refugees in Poland were not welcomed. In 2020, only 161 asylum seekers were granted refugee status out of 2,803 applications, and many refugees and migrants were detained: 1,675 migrants and asylum seekers were detained in January.

With this recent history as a backdrop, Europe's refugee responses are rife with double standards and racism. There are no calls from Brussels to detain Ukrainian refugees for up to 18 months. Why? Because as Bulgarian Prime Minister Kiril Petkov recently stated about Ukrainians: "These are not the refugees we are used to seeing. These are Europeans. These are intelligent, well-educated individuals. This is not the usual refugee influx; these are people whose identities are unknown, people with murky pasts, and possibly terrorists."

Correspondingly, Hungary's Orban has asserted that every refugee arriving from Ukraine will be "welcomed by friends in Hungary," adding that one does not need to be a "rocket scientist" to see the distinction between aiding Ukrainian refugees fleeing the war and "masses arriving from Muslim regions in the hope of a better life in Europe."

Unfortunately, these double standards have emerged in response to non-Ukrainians fleeing the conflict in Ukraine. There has been growing evidence of African, Middle Eastern, and Asian students and migrants being subjected to racist treatment, obstruction, and violence while attempting to flee Ukraine. Many reported being barred while boarding trains and buses in Ukrainian cities; Ukrainian nationals were given priority; others said they have aggressively pulled aside and stopped.

There are also reports of Polish authorities seizing African students and denying them entrance into Poland, even though the Polish Ambassador to the United Nations informed a General Assembly meeting on February 28 that claims of racial or religious discrimination at the border with Poland were "a complete lie and a terrible insult to us." He claimed that "nationals of all countries who have suffered from Russian aggression or whose lives are in danger can seek refuge in my country." According to the Ambassador, Ukrainians of 125 different nationalities have been.

Several African leaders, including Nigerian President Muhammadu Buhari, have strongly condemned the discrimination on Ukraine's borders, implying that everyone has the same entitlement to flee conflict and seek safety across international borders. "Reports that Africans are being singled out for unacceptable dissimilar treatment would be shockingly racist and in violation of international law," the African Union said, urging all states to "show the same empathy and support to all people fleeing war." regardless of their racial identity."

In a tweet, UN Secretary-General Antonio Guterres expressed similar sentiments: "I am grateful for Ukraine's neighbours' compassion, generosity, and solidarity in welcoming those seeking refuge. This solidarity must be extended without regard for race, religion, or ethnicity", and the UN High Commissioner for Refugees emphasized the importance of "continuing to welcome all those fleeing conflict and insecurity—-regardless of nationality or race."

The Ukraine refugee crisis not only provides Europe with a significant It is also a necessary time to reflect on the country's kindness, humanitarian values, and dedication to the international refugee protection regime: Can the peoples of Europe overcome widely spread racial profiling and animosity, and adopt the 1951 Refugee Convention's universalist essence? According to Article 3 of the Convention, all member countries "shall apply the provisions of this Convention to refugees without regard to race, religion, or country of origin."

12 How to avoid humanitarian crises in the European Union

Changes are taking place in both the economic and political spheres at the international level. Climate change is also increasingly severe and is causing natural disasters. Armed conflicts also generate large numbers of refugees and terrorism, which do not respect IHL. Formal declarations of war no longer exist, and assistance to victims is increasingly compromised by the refusal of states to cooperate in service and protection. The causes of humanitarian crises are increasingly complex and multiple. In the face of poverty, humanitarian crises of varying reasons can be expected to worsen. Despite the current situation, the Security Council remains deadlocked in front of the power of Russia and China. Faced with the Security Council's inertia and the increase in international tensions

relating to security, the EU is confronted with the problem of security, defence and humanitarian intervention. Faced with the challenges of global militarisation insecurity, the militarisation of Russia, the armed conflicts in Europe (Ukraine), the constant tensions provoked by Russia to cause instability in Europe and redefine the international power space, together with the high numbers of migrations towards Europe, and the transnational crime that foments not only these migrations but also armed conflicts, the EU will have to decide on the creation of a European army.

On the one hand, its autonomy in defending its territory is at stake. On the other hand, the USA's position has already decided on a military presence in Europe to protect its NATO allies in the event of an attack by Russia or its partners. The failures of the UN's institutional structures, and the blockage of the Security Council, lead to probable Humanitarian Interventions with EU participation, given the need to combat the violation of human rights and massacres of the population. It is not possible to deny the failures of the international protection system and the need to bet on security and possible participation in conflicts. An armed conflict with severe implications in Europe is not out of the question, so means, instruments and decision-making powers are needed to protect the population. In this sense, the following statement is current:

> 138 - " (...) the peace that we now know is not the one that either side would have hoped for or chosen. Unlike hegemony, it is based not on force but on the negation of power. Therefore, it can only be effectively imposed at a very high level of potential violence. Below this superstructure, we continue to live in perilous times" 443.

The current conjuncture entails new humanitarian demands. The number of people who need support and assistance to survive is expected to increase, with higher levels of migration, security problems, instability, poverty, and food and environmental crises in Europe. Faced with this scenario, the EU should reinforce the Humanitarian Aid budget,

on the one hand, and on the other hand, establish standard criteria for actions inside and outside the EU territory. Thus, the notion of Humanitarian Aid needs to be reformulated to eliminate the distinction between causes.

On the other hand, rapid response mechanisms must be created through Funds activated at the NGOs' request instead of the request being left to the entire decision and will of the political authorities. Humanitarian Aid in Member and non-Member States must not depend on political authorities' recommendations. Greater coherence between theory and practice is also desirable; in other words, when *Aid* is defined as short-term Aid and long-term Aid is provided, particularly for forgotten crises, through the creation of permanent offices and experts in this field, the scope of Aid is being transformed into a form of cooperation with the State's internal politics. At least that danger exists. Quoting from the interview presented in this dissertation:

> "The point of view on policy and legislation is already a principle; it's written there. Saying that it is on solidarity, in practice, is precisely what we already have. – If you want to help, you can let them enter the country. If you don't, you don't.
> This differs significantly from the Ukraine refugee crisis, especially in eastern Europe. Poland accepted 1 million refugees. And this current crisis has helped change the perspective on refugees.
> This "shared responsibility" is a step, but someone has to put their foot down. But we will have to wait and see how it plays out and how a more ambitious reform of the migration policies will be done through solidarity. It is going positively, but we will have to wait and see."- (see Annex I)

The EU must create mechanisms to manage relations with non-democratic states and NGOs in humanitarian Aid. They cannot use humanitarian Aid to remove responsibility from political governance. It is essential to create mechanisms to hold leaders accountable whenever they caused a disaster, their acts or omissions contributed to the effects and when they did not allow timely assistance. The establishment of sanctions remains essential but is still insufficient. It would be necessary, e.g. to prohibit business dealings

by politicians from authoritarian states or the circulation of money through European channels from states that receive large amounts of EU Humanitarian Aid. The landscape of Humanitarian Aid is changing globally with the expansion of the areas of action. This broadening is a result of the end of the welfare state.

The ideological political change towards emptying State solidarity and weakening the Social State, opening the way for the profits of economic groups, leads to the weakening of the population at various levels but also leads to poverty, which is the cause or aggravating factor of humanitarian crises. In the face of the need and urgency to provide food and health assistance, the only response found to assist the population is Humanitarian Aid from NGOs, whose primary financial backers are private individuals and companies. The economic problems and austerity measures have not only created a humanitarian crisis that is only alleviated by the responses of local, privately-funded NGOs but has also created the conditions for greater fragility and difficulties for the population to cope with any future crises. The underlying problem is a severe problem of the democratic nature of the institutions and the implementation of an ideology opposed to the solidarity that emerged after the Second World War. Measures to deepen democracy in the EU will be essential, allowing greater equality between states by changing the criteria for the Funds. This is the only way to prevent the EU's structures from serving as an instrument of a new form of imperialism and subordination of the weakest peoples (including from the point of view of the market, democratically weak institutions, institutions that do not follow the principle of legality, the economy, education and the human development index). To add, referencing the Diplomat interviewed:

> "Do whatever we can to help developing countries next to us. Assist them with creating the conditions not to have a humanitarian crisis. However, this is much more said than done. Since A. is not our responsibility or business, B. even if we

had all the financial amounts needed to do so, how can we apply it locally? And a Humanitarian crisis is a phenomenon that we can never predict. We can look back and improve and learn from it, but we can never 100% expect it. It is essential to create awareness. However, nobody expected Russia to do what it did. How can you invest in a stock that you were not expecting to? Climate change, for example, is a bit easier to predict and to create awareness, we have data. And we know that if we invest more in green energy, we can help the crisis. Taking a classic case, a Hurricane, the humanitarian crisis takes an hour to reach the locals. And it's even challenging to help the situation after it happens since roads can disappear, and airports can too.

We must be aware of it, but we must remember that it is tough even to plan and prepare for a Humanitarian crisis, whatever the cause. Knowing this, we can advocate for enough resources from previous problems and learn and improve future situations." .- (see Annex I)

On the other hand, the end of the Welfare State corresponds to widening the scope of action of Humanitarian Aid. This means that the evolution trend is towards Humanitarian Aid in a private area, close to charity (of personal morality). This reality poses new problems, namely by making the response depend on the economic conditions of the population, on the interests of the wealthiest groups and on the individual will to assist.

"It's a challenge. Actually, the trend toward recession nowadays is practically worldwide, although there are early signs of its abating. It affects directly most countries that constitute the main donor community, and there will be pressure to cut down on humanitarian aid to direct money to more pressing domestic needs. But cutting humanitarian aid will only worsen problems which will be knocking on the "rich donors" door later, so an effort will have to be made to stay the course on humanitarian aid. I think we won´t witness the exponential increase in humanitarian aid presently required, but I hope the rigidities of the system will also prevent a significant decrease." - (see Annex I)

Moreover, crises may accompany billionaire business deals (e.g. in football) involving millions of euros. In effect, a balance of actions is needed. This balance presupposes the need to create a national Humanitarian Aid policy with the introduction of compulsory participation rules for a humanitarian budget, e.g. with a percentage coming from millionaire businesses. Humanitarian Aid should be a national and public policy, with a budget that allows for donating goods and financial means in an emergency. In this way,

ways of respecting human rights are created. We began this work with references to peace.

For example, more efficient and humane screening, at our borders. How can we guarantee

faster and more reliable screening within the timeframe envisaged by the commission?

> "What can we do? Greece and Italy could and could not handle that massive around of people, and the result was to call the Army. And it was catastrophic because it is not the Army´s job. They have rubber bullets and machine guns and are trained to act when there is danger.
>
> To put it in 1 word, the answer is Money. You have to finance. We have to finance Greece and Italy, in numbers, to deal with this situation. We need to invest in the police and other protective organizations in the lands these refugees came from— for example, Tunisia, Libya, etc. The problem with these countries, especially with Libya, is that it is a country that is not very politically related to acting in these kinds of measures. Since it's not their problem, it is ours. And the vast majority are only in transit; they come through these countries to Europe. If we pay them enough, they wouldn't know how to operate; they are a relatively developing country. It cannot make it to a priority policy, which is not a policy. And finance depends on the pressure, and the EU has no pressure to invest in these preventive measures. I would not call it a refugee crisis but a human trafficking crisis. However, it can make you a refugee; you are in Italy's Mediterranean waters, in a rubber boat, and you enter Italy, and you might die. You come back through a rubber boat or make it back to your country, and you might die." - (see Annex I)

Faced with current circumstances and reinforcing the idea of permanent tension arising

from food crises, hunger, insecurity, armed conflicts, migrations in the context of mass

flight, and faced with the failure of international policies, the UN, the Security Council

and the EU in terms of external action, the ideologies of the capitalist markets, the truth is

that the peace that surrounds us is very fragile.

A humanitarian crisis of multiple causes is expected in Europe since the threats (natural

or human) are evident, and so are the weaknesses in the responses. Voices are once again

appearing to proclaim themselves "crisis saviours", as happened with dictators in the 20th

century (Salazar led Portugal into structural, educational and cultural poverty, and Hitler,

elected Man of the Year by TIME magazine, was responsible for mass murders in the

course of attempts to destroy several communities in Europe. The connivance of

organisations, academic elites, and community silence accompanied this context). As happened at decisive moments in history, the future will depend on individual values, the ethical capacities of the representatives in the various public institutions, the ideologies in power and the ability of citizens not to allow themselves to be silenced in the face of the chaotic world that is presented to them as an immutable condition. Remembering the past in this work has a particular reason because, as argued by Alain Berthoz, a French neuroscientist with extensive work in neuropsychology: - "Memory does not exist to remember the past but to anticipate the future. Memory is a predictive tool".

13 Concluding thoughts and reflections

The conclusions of this dissertation seek to understand what is the reason for the divergent responses of Member States to the Refugee Crisis in 2015. What was intended, in general, with this research was to analyse the development of EU policies towards refugees and to understand the responses to the inclusion of refugees in host communities in Europe and new solutions for the Humanitarian crisis.

With the information obtained from the European Commission, books and scientific articles, the contributions of these were geared towards a better understanding of how the asylum still has much to develop, in terms of instruments and implementation, for both the EU and its political community. Both from official and unofficial documents, knowledge has been gained on the fundamental part of good implementation of the common asylum policy. This means that they agree that much of what happens verges on moral and humanistic responsibilities, as well as the sharing of responsibilities by member states.

The refugee is distinguished from the migrant as one fleeing from danger within his or her state, where their life is at risk.

The economic migrant seeks only to leave his State in order to obtain personal improvements, unrelated to the security of his life.

Thus, a relationship was pursued between refugee and human security and with the 'security' of states. The refugee, him/herself, is protected by Humanitarian Law, since this is part of International Law, and this seeks to protect the person who is fleeing even protect the person who is fleeing for their own protection.

In terms of the security of states in relation to the refugee, and the interests of the state vis-à-vis the security of its society, the refugee contributes to the fear that may exist within a host community by being a subject alien to its culture and customs.

And since states look after their own nationals first, this leads to States to use more restrictive methods or instruments on people entering their territories.

The EU is divided on the question of migration. The pro-migration side believes the EU has a moral obligation to help refugees fleeing war persecution, while the anti-migration side questions the ability to integrate migrants who speak different languages and have different cultures. Frontex, the European Union's border guard agency, has seen its budget quadruple since 2015. The aborted 2020 migration pact pushed for mandatory solidarity. The plan would allow countries to choose how they contribute to Europe's migration efforts. NGOs voiced concerns about potential abuses in migrant processing centres far away from Europe, but Denmark is pushing ahead with the idea. Despite hints at successful integration of migrants in Germany since the 2015 migrant crisis, sentiments

on migration in Europe are changing, and a stance on migration to harden potential solutions is becoming more accepted.

The European Union has set up operations to combat illegal migration and smuggling of migrants in the Mediterranean, notably Operation Triton (Italy) and Operation Poseidon (Greece). It has also proposed creating an EU Common Coast Guard.

Following the European Council of June 2015, a temporary emergency relocation scheme was also decided. This scheme is complementary to existing national mechanisms, and is based on new criteria compared to the Dublin system. Under the temporary emergency scheme, Member States have committed to relocating about one hundred thousand people from Greece and Italy, and to resettle about eighteen thousand people in clear need of international protection.

Destatis recorded around 2 million immigrants arriving in Germany in 2015, and 860,000 foreigners leaving the country, resulting in net immigration of 1.1 million. German authorities face difficulties dealing with the large influx of migrants, with 400,000 asylum applications still pending. The German Government is being criticised by the other EU nations, but German civil society is beginning to question the legitimacy of such a situation. On the other hand, other Member States like Hungary, opted to implement a close border policy - Hungary violated the European Union rule by not allowing asylum seekers from third countries considered safe, and also by using organisations that assist these asylum seekers, the Court of Justice of the European Union ruled on November 2021. Hungary has failed to fulfil its obligations under the Procedures Directive by allowing underlining that it "welcomes the substance of the action 19" interposed by Brussels.

Hungary changed its laws in 2018 to criminalise the activities of organisations that facilitate the lodging of asylum applications by persons who are not entitled to asylum under Hungarian law. This means that asylum seekers are denied opportunities to challenge the decision of the Hungarian authorities.

Another Member State case analyzed in this dissertation, was Italy, as the epicentre of the Crisis - In the post-war context, the Italian people were among those who left their homeland and were received by various countries. These people tried to have a more dignified life in those places, but this differs from what we see in Italy's attitude towards the European refugee crisis. It is not a peculiarity of today's world that people need to leave their countries of origin to enter others, aiming to have a more dignified life. However, the current refugee crisis in Europe was not only about refugees. The Italian government did not accept refugees because of the historical contradiction into which the Italian people have fallen since. - The new Government introduced new laws, including a 25 per cent tax on financing "immigration activities" and imposing restrictions on assembly. After Salvini's victory, Italy's government announced that they would no longer aid ships at sea that would call for help. This changed the migration routes in the Mediterranean.

Aiming to answer the main research question, the narrative of the European union, was also analyzed - The crisis narrative has helped right-wing populists legitimize authority measures to deal with the "crisis", and conservative leaders have increasingly adopted a security-oriented migration discourse to sway voters in favour of more restrictive laws. The Commission should adjust the tone and content of migration communication, broaden the frames through which it communicates about migration, and encourage personal testimonies and better records to increase empathy in an audience.

The Commission should better understand the public and tails its communications to them. It is crucial to concentrate on the so-called movable middle, which appears to be more receptive to positive Communication about migration than customarily assumed. The European Commission should improve the style and tone of its communications with citizens, translate all the information in all 24 EU member languages, and avoid using migration as a fall guy for other challenges.

Russia's invasion of Ukraine has resulted in one of Europe's most significant and rapid refugee movements since World War II. The EU has compared the situation to the 2015 refugee "crisis" caused by the Syrian conflict. As of this writing, Ukraine's neighbours have shown overwhelming public and political support for the refugees, and have been preparing to receive them by deploying teams of volunteers to distribute food, water, clothing, and medicines.

Ukrainian refugees are provided with free public transportation and phone communication throughout Europe, and the EU wants to ease border controls and entry requirements for people fleeing Ukraine. European citizens and politicians are grouping to show support and solidarity for those attempting to flee Ukraine. However, we know that the refugee protection regime has not worked in the past and that xenophobic propaganda and hostile policies are being implemented in Europe, particularly in Poland, Hungary, Slovakia, and Romania.

The Ukraine refugee crisis provides Europe with a significant opportunity to reflect on its kindness, humanitarian values, and dedication to the international refugee protection regime. Changes are taking place in both the economic and political spheres at the

international level, and humanitarian crises are becoming increasingly complex and multiple.

In light of the challenges of global militarisation, the militarization of Russia, the armed conflicts in Europe, the high numbers of migrations towards Europe, and the transnational crime that foments not only these migrations but also armed conflicts, the EU will have to decide on the creation of a European army. The peace that we now know is not the one that either side would have hoped for or chosen, and the current conjuncture entails new humanitarian demands.

The EU should reinforce the Humanitarian Aid budget and establish standard criteria for actions inside and outside the EU territory. Rapid response mechanisms should be created through Funds activated at the NGOs' request. When Aid is defined as short-term Aid and long-term Aid is provided, the scope of Aid is being transformed into a form of cooperation with the State's internal politics. The EU must create mechanisms to manage relations with non-democratic states and NGOs in humanitarian Aid. The landscape of Humanitarian Aid is changing globally as a result of the end of the welfare state.

The economic problems and austerity measures in the EU have created a humanitarian crisis that is only alleviated by the responses of local, privately-funded NGOs, but has also created the conditions for greater fragility and difficulties for the population to cope with any future crises. The end of the Welfare State corresponds to the widening of the scope of action of Humanitarian Aid, which poses new problems. A balance of actions is needed between humanitarian aid and charity.

The EU created several mechanisms to facilitate the asylum harmonisation process, including the European Asylum Support Office, the Dublin Regulation, Eurodac, the

Schengen Information System Frontex Agency, and the Fundamental Rights Agency. However, we must remember that asylum touches on a sensitive issue for states: their sovereignty. The European Union has faced great difficulties in harmonising asylum-related issues, and the current European asylum system does not have a unanimous legal nature.

The European Union needs to rethink its asylum policy, establishing self-executing self-executive legal norms on this matter, and establishing practical cooperation between national asylum administrations and solidarity between member states and third countries. We end as we begin.

Annex I

Interview

Disclaimer: This interview was conducted to reach a specialist working currently in politics and on an international platform. For those reasons, the diplomat that was interviewed is to become anonymous. What was discussed during the consultation does not reflect, in any way, the state of the art nor the ideals that this Diplomat´s country represents. This interview is based on this diplomat's ideology only.

1. One of the most challenging questions for this Humanitarian topic is how we integrate migrants. However, looking at Ukraine's most recent humanitarian crisis, it seems it could have been easier for the refugees in 2015. Looking back, could we have eased the path of the refugees as we did in Ukraine?

   "It is a fascinating question. I think in 2015, the severe refugee crisis was a significant watershed, and in a way, it made it easier for the Ukraine refugee crisis to be handled. There are very aspects to these: 1ˢᵗ. We have to define refugees and migrants; refugees are legal or illegal. Refugees are getting away from persecution, catastrophes, and so on. In a legal aspect, these two are very clear cut, but in practice, in a big migratory way is very hard to work. Since in some cases of refugees, they are migrants; they would not get a visa since they want to come to Europe because they do not have a job. It's the same way with banks; if you own the bank 1000 euros, you have a problem; if you own 100 000 euros, the bank has a problem. If we have 50 1000 refugees, we can organize and sort them out and see the ones that are legitimate refugees, but if we have a million waves of people

moving around, it is not that easy. The government of Angela Merkel stood its ground and said that we couldn't just close the borders. And the numbers went very quickly up; however, after a couple of years, they also went down. And it turned out that they returned to their origin country or moved further on to Europe or America. The Syrian refugee crisis is still an essential topic in eastern turkey, Lebanon, in Jordan, where most of these people are still refugees.

The Syrian civil war cost around 15 million euros to place refugees and IDPs, internally displaced people. They are still refugees but do not have to cross an international border. If you cross an international border, you are an international refugee. Of these 15 million, around 5 million are IDP, they are in Syria, and about 6 and 7 million are refugees in Turkey, Lebanon and Jordan, as I previously mentioned. Only quote-unquote, "1 million" made it to the EU. And this is the expression of the high perspective that we have. Although we, Europe, have a small share of the problem, we make a big fuss about it. With the current laws, raw perceptions and outlook of what immigration and refugee law and politics have to be, the 2015 refugee crisis, we were unprepared. At this time, with the Ukraine war, it was quicker; there were so few people, but since these people were ethnic, linguistic, cultural, and religious, they were presumably closer to Europe. Frankly, I doubt any Europeans have met a Syrian and a Ukraine, and they can't speak Ukrainian or Arabic. Many Syrians and Ukrainians are not religious, but it is a cultural stereotype. And became a fact. People come if they look some part European, we have to help; if they don't, but do, but they don't expect to – this was a case of plain racism. In 2022, we have been discussing this topic for a century and a half, which is an epidemical reaction to a physical phenomenon. In

the case of Ukraine, it was the topic of racism that won. When the war in Ukraine ends either through more war or peace, things will stabilize, and Ukraine can move to other countries, like Australia, Canada, and so on, rather than the Syrians since they are better qualified. "

2. There is a new Reform to the Common European Asylum System, and one of the aims is to - "Substitute the Dublin system for a new asylum and migration management system, that distributes better the asylum requests throughout the Member States, through a new mechanism of solidarity, and that will guarantee its prompt handling".

The nine legal initiatives in the Pact offer a few proposals we need to familiarize ourselves with. Its centrepieces are pre-entry screening, asylum procedures at the EU's external borders, and a proposal for 'flexible solidarity' rather than shared responsibility among the Member States. There is, then, little innovation in evidence. Yet, each aspect of the Pact has been given a new 'twist' to increase its appeal to the negotiating partners both in the Council and the European Parliament. However, if many Member States are publicly against helping asylum seekers, how can the EU distribute their efforts more positively?

"Under the protocol of the Dublin Regulations, the state that has to handle the asylum seekers' case was the country where they first enter. That very quickly is a managing problem. And the response from some member states was very aggressive: standing up walls, police forces, and armies charging the refugees

away. And even before you can evaluate whether you are a refugee, many people were unrightfully expelled. So, there was much pressure to try for other member states to share the responsibility regarding screening. And even though Germany was generous in that regard, those eastern countries, more Soviet Union countries backgrounds, that have their minorities and linguistic problems, it is tough, and it still is, for them to take a share of responsibility.

So, this idea of "shared responsibility" would work if we could have a quota, so some countries get these amounts and so on. However, each Member State has its final saying. The point of view on policy and legislation is already a principle; it's written there. Saying that it is on solidarity, in practice, is precisely what we already have. – If you want to help, you can let them enter the country. If you don't, you don't.

This differs significantly from the Ukraine refugee crisis, especially in eastern Europe. Poland accepted 1 million refugees. And this current crisis has helped change the perspective on refugees.

This "shared responsibility" is a step, but someone has to put their foot down. But we will have to wait and see how it plays out and how a more ambitious reform of the migration policies will be done through solidarity. It is going positively, but we will have to wait and see. "

    a.   Even if the Dublin system will not be applied – at least not under that name – in the future, the new procedure at the heart of the suggested Pact raises numerous questions:

How can we ensure it will genuinely ease the pressure on Member States with external EU borders?

" Right now, the politics are making it so that countries like Poland and Romania willingly accept the refugees who were unwilling to do it seven years ago. Since now the pressure on the borders is in the countries previously mentioned, Italy and Greece. And for that reason, are keener to approve new changes to the Dublin Regulations."

b. How can we guarantee faster and more reliable screening within the timeframe envisaged by the Commission of five to ten days, and quicker asylum procedures at the border, for which the Commission has set a timescale figure of 12 to 20 weeks at most?

"Italy and Greece are victims of a side effect of the Syrian refugee crisis. Almost every week, you see on the news a rubber boat with massive amounts of people and that some or all died or drowned. But in terms of enormous migration policies, it is not there. We cannot compare this with what is happening in Ukraine. What can we do? Greece and Italy could and could not handle that massive around of people, and the result was to call the Army. And it was catastrophic because it is not the Army´s job. They have rubber bullets and machine guns and are trained to act when there is danger.

To put it in 1 word, the answer is Money. You have to finance. We have to finance Greece and Italy, in numbers, to deal with this situation. We need to invest in the police and other protective organizations in the lands these refugees came from—for example, Tunisia, Libya, etc. The problem with these countries, especially with Libya, is that it is a country that is not very politically related to acting in these kinds of measures. Since it's not their problem, it is ours. And the vast majority are only in transit; they come through these countries to Europe. If we pay them enough, they wouldn't know how to operate; they are a relatively developing country. It cannot make it to a priority policy, which is not a policy. And finance depends on the pressure, and the EU has no pressure to invest in these preventive measures. I would not call it a refugee crisis but a human trafficking crisis. However, it can make you a refugee; you are in Italy's Mediterranean waters, in a rubber boat, and you enter Italy, and you might die. You come back through a rubber boat or make it back to your country, and you might die. – and that right now is a sideshow to Ukraine."

3. How do we reconcile humanitarian needs with economic recession, given that most countries under recession are the most significant "givers" of humanitarian funding?

"It's a challenge. Actually, the trend toward recession nowadays is practically worldwide, although there are early signs of its abating. It affects directly most countries that constitute the main donor community, and there will be pressure to cut down on humanitarian aid to direct money to more pressing domestic needs. But cutting humanitarian aid will only worsen problems which will be knocking on the "rich donors"

door later, so an effort will have to be made to stay the course on humanitarian aid. I think we won´t witness the exponential increase in humanitarian aid presently required, but I hope the rigidities of the system will also prevent a significant decrease."

4. How can we address and consider the EU government's poor measures towards migrants and refugees? What can still be done to communicate with the government and institutions and raise awareness?

"As I stated, compared to now, the big game-changer is that the communication was pretty successful. In the Syrian crisis, there were shock colours and millions of Syrians; we had to figure out if it was doable, where to allocate and so on. In this year´s case, Russia invaded Ukraine; everyone agreed we needed to help, we gave them as much help as possible and accepted as many people as required. The communication was performed correctly, which was the exact opposite of 2015. "

5. What is your opinion on the communication between Member States during the migration crisis in 2015?

"Due to the Dublin Regulation at the time, the communication between the EU was lacking. Germany is even doing more than any other country, which we could expect, for the culture and minorities represented in Germany. However, it gains controversy internally and externally.

One of the leading causes of the German government is migration. The current government is a right-wing government, very anti-migration. And the second largest party is righter than this one. And then we have Hungary, which is more or less divided like most countries are. In Poland, the situation is different since they didn't suffer as near as other countries. And at this time, they were very responsive because of historical reasons. They have the paradox of a right-wing nationalist government. In Italy, for the first time, we have a right-wing government. The Italian social movement existed right before the war. "

6. How was your daily work changed in 2015 with the Migration crisis, compared to now with the Ukrainian War?

" I worked closely to the time of the Arab Spring; what I recall, there were two significant changes: 1. The big sovereign enterprises and second the German investors.

Currently, in my daily work, Ukrainian issues are the most common, not only the migration, but the big thing is the isolation of Russia. This considerable polarisation was latten a year ago, now here. You have a few allies like Syria and Belarus, for example, and then the other topic is China and not wanting to be associated with Russia. They are sympathetic to Russia's sovereignty. China wants to change the system by slowly introducing a more diplomatic understanding approach. However, they have similarities with Russia ideologically.

The good thing in this situation is that my daily work currently, compared to 2015, we have built more ambitious legislation in the last couple of months than we had in years. We have had, in general, a very positive reaction from various players in terms of supporting refugees and international law. "

7. How can we as Member States avoid, or at least ease, the next Humanitarian crisis in the European territory?

"Do whatever we can to help developing countries next to us. Assist them with creating the conditions not to have a humanitarian crisis. However, this is much more said than done. Since A. is not our responsibility or business, B. even if we had all the financial amounts needed to do so, how can we apply it locally? And a Humanitarian crisis is a phenomenon that we can never predict. We can look back and improve and learn from it, but we can never 100% expect it. It is essential to create awareness. However, nobody expected Russia to do what it did. How can you invest in a stock that you were not expecting to? Climate change, for example, is a bit easier to predict and to create awareness, we have data. And we know that if we invest more in green energy, we can help the crisis. Taking a classic case, a Hurricane, the humanitarian crisis takes an hour to reach the locals. And it's even challenging to help the situation after it happens since roads can disappear, and airports can too.

We must be aware of it, but we must remember that it is tough even to plan and prepare for a Humanitarian crisis, whatever the cause. Knowing this, we can advocate for enough resources from previous problems and learn and improve future situations. "

8. Do you believe the EU humanitarian aid policy and the New Pact on Migration and Asylum are enough?

"No, it will never be enough; Portugal, for example, has a progressive migration policy. And historically, it is a great case study. Creating a consensus framework is very ambitious, and to some extent, try to create a consensus with neighbouring countries to help with screening. It is not enough, but it would be the best we can do. For example, before the Schengen area existed …, it's never enough because you always want to make the best situation possible and only learn genuinely when we have a crisis."

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