

# Territorial walls and migration control in Italy and Greece during the humanitarian crisis in Syria (2015-2018)


*Muros territoriales y controles migratorios en Italia y Grecia durante la crisis humanitaria de Siria (2015-2018)*


**Abstract:** Syrian refugees encountered enormous difficulties in accessing the countries in which they intended to seek asylum, due to the impeditive measures adopted by them, characterized as true walls, contrary to the provisions of the main international conventions on the subject. These international conventions aim to guarantee rights and protection to refugees, of which the principle of *non-refoulement* (non-return) stands out, which determines that the refugee will not be returned to their country of origin. With this, the following question arises: how did the migratory barriers imposed by Italy and Greece affect the principle of *non-refoulement*? This work aims to analyze the Italian and Greek policies during the years 2015 to 2018 and if they did not violate the concept of *non-refoulement* by preventing the entry of asylum seekers. In this sense, the article uses the qualitative method, especially based on a document analysis of the policies of the two countries, as well as a case study methodology to argue that the *non-entrée* mechanisms, used by Italy and Greece, started to prevent formal recognition since it would only materialize with access to the territory of these countries.

**Keywords:** refugees; *Non-Refoulement*; Syria; Italy; Greece.

**Resumen:** Los refugiados sirios encontraron enormes dificultades para acceder a los países en los que pretendían buscar refugio, debido a las medidas impeditivas adoptadas por ellos, caracterizadas como verdaderos muros, en línea con lo dispuesto en los principales convenios internacionales en la materia. Estas normas internacionales tienen como objetivo garantizar los derechos y la protección de los refugiados, de los cuales se destaca el principio de *non-refoulement* (no devolución), que determina que el refugiado no será devuelto a su país de origen. Con esto, surge la siguiente pregunta: ¿cómo afectaron las barreras migratorias impuestas por Italia y Grecia al principio de *non-refoulement*? Este trabajo tiene como objetivo analizar las políticas italiana y griega durante los años 2015 a 2018 y si no violaron *a priori* el concepto de *non-refoulement* al impedir la entrada de solicitantes de asilo. En este sentido, el artículo utiliza el método cualitativo, especialmente a partir de un análisis documental de las políticas de los dos países, así como una metodología de estudio de caso para argumentar que los mecanismos de *non-entrée*, utilizados por Italia y Grecia, comenzó a impedir el reconocimiento formal ya que solo se lograría con el acceso al territorio de estos países.

**Palavras-chave:** refugiados; *Non-Refoulement*; Siria; Italia; Grecia.

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## 1 Introduction

Migrations are part of the history of human evolution and have occurred, and still occur, for various reasons. Initially, human beings migrated in search of their food security, but over time, with the organization of society, people began to migrate due to political or religious persecution or because they fled conflicts, seeking their physical integrity.

In Classical Antiquity, the search for refuge became a political topic for the first time. It is from ancient Greece the origin of the word “asylum”, which arises from the junction of the particle “a”, which for the Greeks denoted denial, with the word *asylao*, its meaning would be the same as to withdraw or extract. Thus, the Greek word *asylon* meant the protection of people who sought shelter in other cities for any reason, including persecution (ANDRADE, 2001).

From the fifteenth century there is news of the expulsion and forced migration of a large number of people, a movement that began with the Jews of the region of present-day Spain, in 1492, an expulsion that occurred for religious reasons as a result of the Christianization policy of the kingdom of Castile and Aragon (JUBILUT, 2007. Most Jews took refuge in Portugal (CUPERSCHMID, 2003; RODRIGUES, 2016).

In addition to the Jews, the same kingdom expelled Muslims, nationals of the Ottoman Empire, rival of the Iberian States in the Mediterranean, on charges that they threatened military security if they protected their nationals living outside its borders. Also based on the religious argument, and because they did not adhere to the official religion, there was the expulsion of Protestants from the Netherlands, between 1577 and 1630. There are also Huguenot Protestants, fugitives from France in 1661, at which time King Louis XIV imposed the religious conversion of the population to Catholicism. Finally, there was the expulsion of Puritans, quakers and Irish Catholics from England in the eighteenth century in the name of imposing religious unity on Britain (JUBILUT, 2007).

The effects of the 1st and 2nd World Wars, in regard to large population displacements, ended up generating a great commotion in the International Community. In this way, they normalized, within the framework of Public International Law and the Universal Declaration of Human Rights, the actions and measures to be carried out to safeguard the lives of people who felt compelled to leave their homeland.

To this end, the United Nations High Commissioner for Refugees (UNHCR) was established under the aegis of the newly established United Nations (UN) in 1950 to deal with refugee affairs. As a result of this creation, the Convention Relating to the Status of Refugees was established in 1951, which established, among several provisions, the principle of *non-refoulement*, being that, the cornerstone of protection for refugees.

In 1967, a protocol was created that reformulated and provided more scope to that established in the Convention, since the statute of 51 protected refugees who emerged as a result of World War 2, in Europe. However, from the 1960s, the various emancipationist conflicts

that occurred, mainly in Africa and Asia, resulted in a large number of refugees, causing the international community to revise the recommended in the 1951 Refugee Statute.

In its definition, *non-refoulement* it is a principle that prohibits states from returning a refugee or asylum seeker to territories where his life or freedom, as well as his other fundamental rights, are under threat of violation on grounds of race, religion, nationality, belonging to a particular social group or political opinion. As described, this principle is what guides all the other provisions inserted in the statute and legal texts.

However, although there is an evolution of International Refugee Law in the Twenty-First Century, some European states have been adopting measures to control the migratory flow, through border barriers, especially in recent years. Thus, individuals who are at risk are not even able to formalize a request for refugee *status* in the country of destination, thus demonstrating the violation of this principle by the signatory states to the 1951 Convention and its 1967 Protocol. From the above, this article aims to analyze the territorial walls and migration control in Italy and Greece during the Syrian humanitarian crisis during the years 2015 to 2018.

Despite the fact that there are no world-wide conflicts, such as the Great Wars, which have generated forced migratory movements in large quantities, the world continues to be plagued by civil wars, terrorist actions, natural disasters and regional exoduses. These facts occur due to food shortages, among other reasons, which cause people to seek better living conditions in other countries. However, faced with a scenario, in recent years, of growing nationalism in several countries of the world, in order to reaffirm their sovereignty and in the face of various demonstrations of xenophobia that have occurred in European countries and the global north, many states are imposing territorial barriers and are intensifying their migration controls, not allowing refugees to enter their territories and be protected by the provisions of the Refugee Statute and its protocol. This raises the following question: How did the migration barriers imposed by Italy and Greece affect the principle of *non-refoulement*?

This article is divided into three sections, other than an introduction and a conclusion. The first section will address theoretical and conceptual aspects of International Refugee Law, the principle of *non-refoulement* and the main international conventions on the subject.

Next, the causes and consequences of the Syrian crisis since the Arab Spring will be addressed. In addition, the main impacts of this crisis will be discussed, especially the departure of nationals from that country to the most different regions, including Europe.

The third section will discuss the main policies and restrictive measures regarding the arrival of Syrians in Europe between the years 2015 and 2018, focusing especially on those adopted by Italy and Greece. The article concludes with an opinion on these entry barriers and the consequent violation of the principle of *non-refoulement*, a cornerstone of the protection of internationally recognized refugees.

## 2 Refugee Protection Instruments

### 2.1 Definition of refugee in the 1951 Convention

The legal regime for the protection of refugees began to develop in the early 1920s, shortly after the Bolshevik Revolution, and the league of Nations introduced its concern for forced migrants (JUBILUT, 2007). The first period of the Refugee Institute, between 1920 and 1935, defined refugees collectively, that is, because they were part of a certain social or ethnic group and needed protection.

Still with the bias of protecting a specific group, in 1938, the Intergovernmental Committee on Refugees (IGCR) was founded, with the purpose of protecting and assisting Jewish refugees from German countries (SIMÕES, 2018). According to Hathaway (1991, p. 25): “since 1938, the institution of refuge receives a more individualistic approach, having as its main characteristic the examination regarding the merit of each asylum seeker. This period is comprised between 1938-1950”.

With the end of the Second World War, there was an extreme need to create a well-structured international legal base related to the refugee issue, given that this was the historical event that gave birth to the largest number of people fleeing evidenced yet, generating more than 40 million refugees (BARRETO, 2010).

According to the United Nations High Commissioner for Refugees:

The United Nations Convention Relating to the Status of Refugees was formally adopted on 28 July 1951 to resolve the refugee situation in Europe after World War II. This global treaty defines who becomes a refugee and clarifies the rights and duties between refugees and the countries that foster them (BARRETO, 2010, p. 10).

The 1951 Convention, conceived in the midst of the Cold War, was an international legal instrument capable of defining the term “refugee”, as well as specifying their rights and duties. The report was the result of the *Ad Hoc* Committee efforts on Statelessness and related problems, established by the United Nations Economic and Social Council (ECOSOC) in 1949.

The text handled in the 1951 Convention was approved at the United Nations Conference of Plenipotentiaries relating to the Status of Refugees and Stateless Persons, of July 28, 1951, coming into effect on April 22, 1954, bringing in its Article 1 (A), the following definition of Refugee:

1) Who was considered a refugee under the adjustments of May 12 1926 and June 30 1928, or the conventions of October 28 1933 and February 10 1938 and the protocol of September 14 1939, or the Constitution of the International Refugee Organization;

2) Who, as a result of events that occurred before January 1, 1951 and fearing persecution on grounds of race, religion, nationality, social group or political opinions, is outside the country of their nationality and who cannot or, by virtue of that fear, does not want to avail themselves of the protection of that country, or who, if they do not have nationality and are outside the country in which they had their habitual residence as a result of such events, cannot or, due to that fear, do not want to return to it (BARRETO, 2010, p. 11).

Moreover, the legal provision brings its exceptions not applying to persons in whom there are serious reasons to think that they have committed some crime against peace, war crime or crime Against Humanity. In relation to those who have committed a serious crime under common law outside the country who have sought refuge, before being admitted as refugees in that country, and, finally, to those who have become guilty of acts contrary to the purposes and principles of the United Nations (Convention Relating to the Status of Refugees, 1951).

Due to a more immediate vision of the members of the convention, the concept of refugee was restricted to people who had been persecuted or displaced as a result of the events prior to the date of January 1, 1951, creating the temporal and geographical reserves. However, the concept became comprehensive through the 1967 Protocol Relating to the Status of refugees (SIMÕES, 2018, p. 99).

Thus, the Convention Relating to the Status of Refugees of 1951 and its protocol of 1967, as well as the United Nations and its agencies have established that enjoy the refugee *status*:

People who are outside their country of origin due to well-founded fears of persecution related to issues of race, religion, nationality, belonging to a particular social group or political opinion, as well as due to serious and widespread human rights violations and armed conflicts. (UNHCR, 2022)

It should be noted, however, that the term “persecution” has not been conceptualized by international norms, in which the individual must have founded fear of persecution to be defined as a refugee. It should be noted that, for international regulations, victims of natural disasters or famine are not covered, unless, in addition to these factors, these victims also have a well-founded fear of persecution, according to the reasons set out in Article 1 (A) of the Convention Relating to the Status of Refugees. In addition, for Jubilut (2007), the reasons established in the Convention Relating to the Status of Refugees and in the 1967 Protocol are directly related to civil and political rights guaranteed at the international level and that, in the case of the refugee individual, are not being respected.

## 2.2 The Principle of *Non-Refoulement*

The Global Trends 2021 report (UNHCR, 2022), published annually by the UN Refugee Agency, points out that in 2021, more than 82 million people worldwide were forced to leave their homes. Among them, 48 million people were considered internally displaced, 26.4 million refugees and 4.1 million asylum seekers. According to the aforementioned document, in 2020, more than 30 thousand people a day were forced to flee their homes due to conflicts and persecution.

The world is facing the worst migration crisis since the Second World War, with a sharp increase in forced displacement. For Luis Varese in article for IMDH, 2005

The Cartagena Declaration becomes strategic at a time when the nature of armed conflicts is changing rapidly, when increasingly anarchic conflicts occur or to assert a group identity. The most tragic of the new faces of war are the levels of violence and, above all, violence against the civilian population, the affirmation of sexual violence as a weapon of war, which has always existed, and which has now been elevated to the category of military tactics, to demoralize and establish social control. Conflicts between states, which can be internationally obliged and responsible, no longer prevail, conflicts of armed groups that often resort to generalized violence and atrocity crimes to assert their power or local control took place (VARESE, 2005, *online*).

There are numerous existing conflicts that lead the individual to displacement, such as the Syrian Civil War, the historical conflict between Palestine and Israel, the Libyan Civil War, the humanitarian crisis facing the Rohingya group in Myanmar, conflicts in the Middle East, the fight against the Islamic State, Civil War in South Sudan, political conflicts in Venezuela, among other relevant events. As rightly discussed by Bauman (2017, p. 11):

What has happened in recent years, however, is a huge jump in the contingent of refugees and asylum seekers, added to the total volume of migrants already knocking on Europe's doors; this jump has been caused by the growing number of "sinking", or already submerged, States, or – for all intents and purposes – stateless, and therefore also lawless territories, stages of endless tribal and sectarian wars, mass murder and permanent banditry of the "every man for himself" type. To a large extent, this is collateral damage from the military fatally misjudged, poorly conducted and calamitous expeditions to Afghanistan and Iraq.

The principle of *non-refoulement* is protected by Article 33 (1) of the 1951 Convention, the Magna Carta for refugees. Within the framework of International Refugee Law, this principle is the guarantee that the refugee individual and asylum seeker must not be compulsorily returned to any territory where there is a possibility of violation of human

rights, armed conflict, persecution and widespread violence. It must be said, therefore, that this norm deals with a negative obligation imposed on states, which cannot endanger the life of the refugee person, and must prevent sending them to the territory where they may be exposed to threats and violations (MARQUES, 2018).

For International Human Rights Law, the return seal is treated as an implicit obligation of peremptory seals, such as the prohibition of torture and inhuman punishment or treatment, being broader and giving protection to every person, without differentiation. For International Refugee Law, the purpose of the person (*ratione personae*) of *non-refoulement* is linked to refugee *status*, including those who are awaiting recognition of *status* as well. While International Humanitarian Law understands that transfers or deportations of the protected individual during times of occupation or armed conflicts are prohibited (MARQUES, 2018).

Jubilut (2007) clarifies that the *non-refoulement* is the basis of Refugee Law, which gives that person protection, reception, a new country and opportunity to live, as well as, starting from this principle of human solidarity, a system of public law has been built. Thus, it is a negative obligation, considering that it is the function of the state not to expose the refugee to the risk of persecution or violation of human rights, and should refrain from sending that individual to the territory where their life or freedom may be at risk (MARQUES, 2018).

As for the positivity of the principle of *non-refoulement* within the framework of international law, it can be said that:

It should not be overlooked that the widespread adoption of *non-refoulement* obligations in human rights treaties has strongly contributed to the improvement of the international protection of migrants. In this sense, it is possible to identify a myriad of human rights treaties – universal and regional – that proscribe refoulement, implicitly or explicitly, inter alia: International Covenant on Civil and Political Rights (1996); United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984); International Convention for the Protection of All Persons from Enforced Disappearance (2006); European Convention on Human Rights (1950); American Convention on Human Rights (1969); OAU Convention on Refugees in Africa (1969); Inter-American Convention on Extradition (1981), Inter-American Convention to Prevent and Punish Torture (1985); African Charter on Human and Peoples' Rights (1981); Convention on the Rights of the Child (1989); Charter of Fundamental Rights of the European Union (2000); and the Arab Charter on Human Rights (2004) (Marques, 2018, P.47-49).

As elucidated by Marques (2018), the term “*non-refoulement*” is used as a form of obligation that encompasses not only repulsion at borders, but also other forms of compulsory departure that make it possible to expose the refugee to the risk of persecution.

For Marques (2018), it is extremely relevant to face the relationship between articles 33(1) and 1 (A) (2) of the 1951 Convention, regarding the dimension *ratione personae* of the obligation of non-return. Whereas Article 33 (1) only refers to the expulsion of the refugee to the borders of territories where his or her life or liberty is threatened, the principle of *non-refoulement* also protects the refugee who seeks refuge. The *non-refoulement* principle does not differentiate between the refugee and the one waiting for the refugee *status* declaration.

In this same sense, Luz Filho (2001, p. 11) formulated the following understanding:

Provided for in Article 33 (1) of the Geneva Convention Relating to the Status of Refugees of 1951, the principle of *non-refoulement* is essential to the international protection of refugees and prohibits the receiving state from applying any measure of compulsory departure that directs the refugee to the territory where he or she suffers, or may suffer, a threat or violation of his or her fundamental rights as a result of persecution, torture or cruel, inhuman or degrading treatment or punishment, including the prohibition of refoulement against the asylum seeker who intends to remain under its jurisdiction. The principle has scope, therefore, on the territory of the state, its borders and international areas that give them access.

For Marques (2018), when a state does not have the capacity to guarantee the protection of refugees, that same state should look for alternatives so that the safety of these refugees is guaranteed, not returning them to the country of origin, but to a country that manages to absorb them and that can guarantee their protection and safety.

In this same sense, Luz Filho (2001), presents that refugee protection does not only occur through the formalization of their *status*, but with the granting of the guarantees and rights to the applicants, including in these guarantees the principle of *non-refoulement*.

Despite the international effort to guarantee protection to refugees, there are some gaps in the bookkeeping of the *status* that end up giving room for interpretation. In these loopholes, the States end up preventing the entry of asylum seekers, as Oliveira well observed:

However, the aforementioned article 33 (1) of the 1951 Convention does not explicitly mention the application of the *non-refoulement* to refugees not yet formally recognized, nor to the prohibition of their rejection at the border. In this sense, the practice of states to impose border barriers to the access of asylum seekers involves the discussion of issues related to the scope of application of such a principle and admission at the border, given the right of sovereign states to safeguard their territories (OLIVEIRA, 2017, P. 31).

In the following section, we will address the Syrian crisis in order to better understand how these displacements occurred and then seek to understand the reasons for the indicated European states (Italy and Greece) to have adopted restrictive policies that, in practice, violated the principle of *non-refoulement*.



### 3 The Syria Refugee Crisis

#### 3.1 The Arab Spring

The Arab Spring was a series of popular uprisings that broke out in more than 10 countries in the Middle East and North Africa region. Tunisia was the cradle of revolutions that spread to neighboring nations in opposition to high unemployment rates, poor living conditions, corruption, and authoritarian governments (CASARÕES, 2012).

These movements in search of democracy are still a consequence of the independence of the African colonies, which when they freed themselves from their metropolises ended up being directed by authoritarian minorities who managed to seize power. However, the quest for democracy would come at a heavy price, and bloody episodes first emerged in Africa and spread across the Middle East.

Visentini (2012) brings in detail one of these episodes: “on December 17, 2010, the young Tunisian, Mohamad Bouazizi set fire to his own body as a form of protest against the oppression and corrupt government of his country”. This act of desperation can be considered the fuse of the Arab Spring. Giving greater detail to the event, Fernando Brancoli brings us the following passage:

[...] for the seventh time in two weeks, a police officer confiscated the vegetable stall of a young Tunisian, Mohamed Bouazizi. On the last occasions he had been seized, he was only released on payment of bribe. When trying to retrieve the items again, the seller allegedly received a slap on the face, given by an agent, who, in addition to physical aggression, used phrases to humiliate the Tunisian’s father, who was killed when Bouazizi was three years old (BRANCOLI, 2013, p. 45-46).

Brancoli (2013) brings us some historical and geographical information about Syria, reporting that it was one of the last countries to join the Arab Spring protests, being located in a central region of the Middle East, to becoming independent from France in 1946 and bordering Lebanon, Israel, Iraq and Turkey.

The author complements his ideas by addressing the internal Syrian environment, pointing out that the country was experiencing instability in the political and economic fields that eventually reverberated in the psychosocial field, in which the level of unemployment was high, there was a lack of access to drinking water and great restriction of fundamental rights through a government.

The Syrian case is shrouded in great complexity. The religious issue, with the presence of elements of Islamic fundamentalism, added to international interests and geopolitical disputes in the region, means that the conflict that began in 2011 has no prospect of reaching an end (BRANCOLI, 2012; CASARÕES, 2012).

The dictator Bashar Al-Assad, who remains in power due to the unrestricted support of Russia, violently suppressed the demonstrations that took place in Syria, starting a civil war that lasts to the present day. This conflict is responsible for a large number of refugees and is a sensitive and relevant issue on the agenda of the international community.

### 3.2 The Syria Refugee Crisis

When the conflict in Syria began in 2011, a large number of people began to leave the country, since the conflict was not only political, but also involved disagreements between local ethnicities and religions. An unprecedented civil war broke out that violated international humanitarian law, including the use of chemical weapons in urban areas, disproportionate attacks on urban and civilian areas, and targeting ambulances, water treatment plants and markets. Too often destruction seems to be the goal as basic standards of humanity are ignored (International Committee of the Red Cross, 2018).

According to UNHCR, as early as March 2011, around 5,000 Syrians crossed the border into Lebanon, marking the beginning of the largest humanitarian and forced displacement crisis the 21st century has witnessed to date. Also during this period, other countries in the region began the first actions to welcome Syrian refugees. Turkey, for example, opened its first refugee camp in May – and is now the most welcoming country in the world for Syrians (UNHCR, 2021).

Continuing the search in the UNHCR website, it is possible to see that at the end of 2012, neighboring countries, of course, were the ones that sheltered Syrian refugees the most, with about half a million refugees. This number would continue to grow, since the conflict and crisis were just beginning and reached the level of two million refugees in the first half of 2013.

With no end in sight for the conflict, Syrians continued to leave their country, but in search of a safe place. But neighboring countries have lost the ability to take in new refugees, becoming overwhelmed. Lebanon welcomed about 2500 refugees a day in April 2014 (UNHCR, 2022).

Syrian refugees face unimaginable difficulties as they try to reach safety. Syrian displaced tell sad stories of displacement as they leave their homes, fear of the harsh winter, lack of water, food and electricity. The options are cruel: buy food or warm up from the cold. Many cannot afford to pay for both at the same time (International Committee of the Red Cross, 2018). Many of these stories have become true tragedies, mainly because of the various shipwrecks that occurred when refugees were trying to reach Europe through the Mediterranean Sea.

It is noteworthy that these tragedies began to stamp various international media outlets, which made the eyes of the world turn to the conflict. In this way, several humanitarian aid agencies began to make efforts to mitigate Syrian suffering while waiting for a solution to the internal issues of the country.

UNHCR (UNHCR, 2022) still brings some considerations about the *spill over* from the Great Syrian displacement: “other countries in the region began to mirror the meager socio-economic conditions plaguing Syria and, as a consequence, around 500,000 Syrian refugees embarked on Sea trajectories towards Europe.”

In 2016, after five years of conflict, the war in Syrian territory remained responsible for the largest humanitarian and refugee crisis in the world. It is estimated that in that year, more than 2 million internally displaced persons and members of affected communities sought protection services inside Syria. (UNHCR, 2022).

The European Border and Coast Guard Agency, known as FRONTEX, was established to help EU Member States and associated countries in the Schengen Area to protect their borders, including cross-border migration control and crime (FRONTEX, 2021b).

Corroborating the data collected by FRONTEX, it is estimated that more than one million migrants arrived in Europe in 2015 via the Mediterranean Sea (FRONTEX, 2021). Of this total, more than eight hundred thousand went to Italy and more than one hundred and fifty thousand went to Greece. According to the FRONTEX report, this significant number is a consequence of the stagnation of the war in Syria and the poor quality of life in refugee camps.

Due to this serious crisis in Syria and without the prospect of a close closure, a large number of migrants have sought refuge in other countries, logically passing through their neighbors, but seeking Europe as their final destination. However, despite all the mishaps encountered in this pilgrimage, which highlights a dangerous crossing in precarious boats towards Europe, the countries of the Old Continent did not expect them with open arms.

Syrian refugees would also have to face the migration policies implemented by European countries that, for the sake of their sovereignty and internal security, would hinder their entry, and their long-sought security, through policies known as *non-entrée*. Among these countries, Greece and Italy stand out, which will be the subject of study in the next section.

#### **4 Italy and Greece migration policies between 2015 and 2018**

The countries most sought after by refugees were Italy and Greece, probably because of their proximity to the Middle East and North Africa. The access routes used were the Mediterranean and Aegean seas. However, these destinations sought by Syrian refugees, demanded a sea crossing. Many of these crossings ended up killing thousands of refugees before they reached their destination (UNHCR, 2022).

The European Union is an economic and political union consisting of 27 countries, which share policies in various fields such as climate, health, security and migration (UNIÃO EUROPÉIA, 2021). At the height of the Syria humanitarian crisis, the UK was part of the EU. Within the European Community, the Schengen area was established, which would be an area that allows European and non-European citizens to move freely through the countries

that are part of that area, eliminating the internal borders that exist between them. However, the EU began to strengthen the control of external borders in order to guarantee the security of those who live or transit through this area (UNIÃO EUROPÉIA, 2021).

The refugee crisis has shaken some rules in force in the EU, and one of them is the recognition of a refugee *status* of a person, since the asylum request must be made in the country where the applicant enters the bloc, which comes to burden countries such as Italy and Greece, which are the largest refugee recipients in the bloc.

Concurrently with the Syrian humanitarian crisis, Italy and Greece were still suffering from the effects of the 2008 global economic and financial crisis, which led to poor economic performance and rising unemployment.

In this way, the arrival of refugees, in the long term, caused xenophobic sentiment to arise and gave precedents to the emergence of policies aimed at making it difficult for asylum seekers to enter these countries. Within the proposed by the study of this work, the policies adopted by Italy and Greece that were intended to hinder or prevent the entry of refugees from the humanitarian crisis in Syria will be addressed in the next sections.

#### 4.1 Migration policies of Italy between the years 2015 and 2018

Housing immigrants who enter a country in large numbers is no easy task. There is an obvious overload in the political, economic and social fields that end up impacting the lives of the residents of these countries. In this sense, Fernandes (2018), raises two types of impact in the economic field: direct and indirect. The direct refers to the expenditure spent on the shelter and aid of immigrants. Within this direct impact, Fernandes brings us that Italy has spent about 5 billion euros to be able to receive, shelter and assist these immigrants. Complementing his idea, he states that the indirect impact reaches, in addition to the economic field, the social field, since migrants accept jobs for lower wages, lowering wage levels and increasing the unemployment rate of Italian citizens (FERNANDES, 2018).

Still, following the reasoning of Fernandes (2018), the arrival of refugees brought to Italy, in the political field, a great polarization. Due to the economic situation, which was not one of the best, coupled with an increase in unemployment rates and lower wages, many Italians began to support far-right candidates who used anti-immigration policies in their campaigns.

Deepening in data the economic crisis experienced by Italy, while the number of immigrants increased in its territory, Davanzati and Giangrande (2019) bring us the following data about the Italian economy:

Since 2008, GDP growth has always been below 2% per year. In the period considered, there was a severe recession, the lowest point of which was in 2009, with a drop of -5,5%. Thus, there was a hesitant recovery in 2010 and 2011, respectively of 1.7% and 0.6%. In 2012 and 2013, GDP fell again expressively. From 2014 onwards, the performance was lackluster, with slow GDP growth (DAVANZATI; GIANGRANDE, 2019, p. 10).

The information provided by the scholars, coupled with the entry of a high number of Syrian refugees into Italy since the beginning of the crisis in their country, which indirectly impacted on the Italian economy, made Italians seek to believe that the economy would recover if the entry of immigrants was prevented (FERNANDES, 2018).

<http://brasil.elpais.com/tag/italia/a> Italy, which was going through an economic crisis and which suffered from the constant arrival of immigrants in its territory, sought help from the European Union to try to alleviate this situation that did not seem to have a close outcome. However, having ignored their pleas, the Italian state decided to restrict the entry of boats with immigrants into its territory, since it did not have the conditions to absorb the intense migratory flow that had Europe as its final destination (A PIOR..., 2017).

As measures to repel immigrants, in 2017, Italy cut the route through Greece and Turkey, but remained the main gateway to Europe, since migrants began to use Libya as a starting point to cross the Mediterranean (G1, 2018).

In this way, due to the whole conjuncture of the Italian state, Matteo Salvini ascended to power, who had as a campaign the fight against immigration in Italy:

In 2018, even with the significant reduction (-75%) of migratory flows, the coming to power of the league of Matteo Salvini – leader of the Italian extreme right – took place through an electoral campaign based on xenophobic discourse and abusing fake news associating migrants with crime and unemployment, stimulating hatred and intolerance in the country, in a typical scapegoat production tactic (CARDOSO, 2020, *online*).

While in power, 2018-19, Salvini established measures that ignored the international conventions to which Italy was a part of. It began to prevent ships with migrants from docking in Italian ports, triggering FRONTEX to direct them to another country (CARDOSO, 2020). This caused the suffering of the Syrians to be prolonged in time, starting to encourage irregular crossings that were conducted by coyotes in boats without security. Thus, in addition to risking their lives, immigrants arrived at their destination without money, depending on the support of the state that welcomed them.

In response to the measures created by Salvini, 451 migrants were transferred from a fishing boat to the FRONTEX Mediterranean border patrol vessels, directing them to Malta or Libya.

The decrees bearing Minister Salvini's name severely limited visas for humanitarian reasons, reduced the scope of the protection system for immigrants, and established social danger as a reason for expelling a asylum seeker (SALVADOR, 2021). It should be noted that these decrees had the approval of the Council of Ministers and the consent of the population. In addition, according to Salvador (2021, p. 34) "the decree formalizes to the Minister of the Interior the right to restrict and prohibit the entry, transit or landing of ships in Italian territorial waters for reasons of order and security, framing the facilitation of irregular immigration as an aggravated infraction".

Salvador (2021, p. 32) also brings to light the reason for the elaboration of the decrees by Salvini: “[...] justifies the decree – both in its preparation phase and when already approved -to eradicate cases of immigrants arrested on charges of connection with terrorism, promote order in cities and ‘guarantee justice’ to Italians”.

The climate that prevailed in Italy, in which the economic situation was critical and with high unemployment, made Italians point to refugees as another of the factors responsible for the serious crisis that the country was going through. In this way, the environment became conducive to the rise of far-right politicians to power and, consequently, the implementation of measures that would curb the entry of refugees into the country.

### 3.2 The migration policies of Greece between the years 2015 and 2018

The 2008 crisis also rattled Greece. Together with Portugal, Italy and Spain, he became a member of PIGS (Portugal, Italy, Greece and Spain), a group of countries that had their economy shaken and in full decline within the European Union.

In order to strengthen itself economically, Greece signed three bailout agreements, as Falcari and Niemeyer bring us (2018, p. 39):

Since the 2010 crisis, Greece has signed three bailout agreements. The first, on May 3, 2010, totaling € 107 billion, of which € 72.8 billion was disbursed until March 2012. The remainder was suspended to be included in the second bailout. This, signed on March 1, 2012, involved in addition to this inclusion, € 130 billion to be disbursed between 2012 and 2014. The third, in July 2015, involved € 86 billion to be disbursed between 2015 to 2018. In none of these three agreements, despite pressure from the IMF, was debt relief contemplated. On the contrary, the imposition of austerity measures on the country was the common denominator.

As in Italy, the economic crisis has been accompanied by high unemployment rates and, in parallel, it has also been one of the most sought-after destinations for Syrian refugees fleeing the crisis in their country.

Living the serious economic crisis, already in 2012, Greece built, with the intention of reducing the flow of immigrants to its territory, 12 km of fences on its border with Turkey (SERVIÇO PASTORAL DE MIGRANTES, 2012), in addition to installing a surveillance circuit, according to the United Nations observations on the Greek asylum system:

Towards the end of 2012, an electronic surveillance system was introduced on the Greece-Turkey land border, and a 12 km fence effectively prevented any attempt to cross that part of the land border that is not marked by the Evros River.

These measures have resulted in a shift in land crossings to sea borders in the northern and northeastern Aegean Sea, making the journey of migrants and refugees more dangerous, with a number of shipwrecks in which dozens of people have lost their lives at sea. The victims are mostly Syrians, Afghans and Somalis. The Hellenic coastal Court numbered 218 search and rescue actions (involving 6,421 rescued people) during the first seven months of 2014 against a total of 110 in the full year of 2013 (2,511 rescued people)<sup>1</sup> (UNHCR, 2014, p. 7).

Still, as reported in the UN observations document, the Greek government has implemented detention measures outside the EU land and sea borders, with the purpose of discouraging irregular crossings, smugglers and coyotes:

The Greek authorities acknowledge that they have implemented containment measures at land and sea borders outside the EU, with the intention of discouraging irregular crossings before they occur. The imposition of law and order by the Hellenic Coast Guard also targeted smugglers and facilitators of irregular migration<sup>2</sup> (UNHCR, 2014, p. 7).

After the installation of *non-entrée* on the part of the Greek state, the United Nations High Commissioner for refugees came to the following data:

In all, according to police statistics, 29,894 people were intercepted and arrested at the Greece-Turkey sea border during the first nine months of 2014, compared to 8,052 people during the same period of 2013, while arrivals at the Evros land border continue to remain low since the end of 2012. The overwhelming majority (more than 91%) of those who arrived in 2014 were Syrians, Afghans and Eritreans<sup>3</sup> (UNHCR, 2014, p. 7).

A migration agreement between Turkey and the European Union in 2016 would use the former as a buffer state, curbing the migration flow towards Greece (WENDEN, 2016). In this way, the EU would prevent Syrians from entering European territory and prevent migrants from making the pilgrimage through the Schengen area after being granted guaranteed asylum.

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- 1 Towards the end of 2012, an electronic surveillance system was introduced along the Greek-Turkish land border, and a 12 km fence completed, effectively hindering any crossing at this part of the land border not marked by the river Evros. These measures have resulted in a shift from land crossings to sea borders in the North and South-Eastern Aegean Sea, making the journey of migrants and refugees a lot more perilous, with a number of shipwrecks in which dozens of persons have lost their lives at sea. Victims were mostly Syrians, Afghans and Somalis. The Hellenic Coast Guard counted a total of 218 search and rescue (SAR) incidents (involving 6,421 rescued individuals) during the first seven months of 2014 against a total of 110 in whole year of 2013 (2,511 persons rescued).
  - 2 The Greek authorities acknowledge that they implement deterrence measures at the external EU land and sea borders, aimed at discouraging irregular crossings before they occur. The enforcement of law and order by the Hellenic Coast Guard also targets smugglers and facilitators of irregular migration.
  - 3 In all, according to police statistics, 29,894 persons were intercepted and arrested at the Greek-Turkish sea borders during the first nine months of 2014, in comparison to 8,052 persons during the same period in 2013, while arrivals at the land border of Evros continue to remain low since the end of 2012. The overwhelming majority (up to 91 per cent) of those arriving in 2014 were Syrians, Afghans, Somalis and Eritreans.

According to Dr. Thomas Gammeltoft-Hansen of the Danish Institute for Human Rights, this practice adopted by the EU and Turkey is called *non-entrée*, in which poor countries serve as “*gatekeeper*” of the most developed countries:

[ ... ] this growing set of *non-entrée* practices as a critical case for examining the continued role of international law in refugee policy. Over the last two decades, many of the traditional *non-entrée* practices have been legally challenged. Rather than abandoning *non-entrée*, states have instead turned their attention to a new generation of deterrent regimes intended to overcome these legal objections. Much, if not most, of the work of deterrence is now taking place in the territory – or at least under the formal authority of – poorer states of origin and transit, which for economic, political or other reasons are often willing to serve as the gatekeepers to the developed world<sup>4</sup> (GAMMERLOFT-HANSEN, 2014, *online*).

In this same sense, Castiglione published in the Public Health notebook, in 2018, the following:

From there, the so-called “No-Entry” regime was consolidated. Since many of the initial practices of this regime have been legally challenged - and condemned - over the past decades, several of the so-called developed countries have come to dodge these defeats by ‘outsourcing’ their border control policies. The latest generation of policies is anchored in the territories around Europe and focuses on containing refugees - and migrants - in their regions of origin or in transit countries, through increasingly intensive collaboration with countries such as Turkey or Libya. For this, several strategies are mobilized: prison construction, technical assistance, technology transfer, among others. Such policies shape the path one must travel to obtain asylum. Keeping these paths in mind when talking about the health of the refugee population is essential, since many of the health risks and outcomes are related to the spaces, times, and institutions that make up the “No-Entry” regime: countries of origin and transit, the border, the countryside the “asylum office”, sometimes the detention center or deportation (CASTIGLIONE, 2018, p. 1).

The study carried out by the European Parliament came to the following conclusion on the situation of refugees in Greece:

In Greece too, persons of foreign origin *xenoi* increasingly monopolize discussions in the media in a negative perspective. Following the EU–Turkey Statement on 18 March 2016, the general welcoming attitude began to change. Terms such as

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<sup>4</sup> [ ... ] this growing set of *non-entrée* practices as a critical case for examining the continued role of international law in refugee policy. Over the last two decades, many of the traditional *non-entrée* practices have been legally challenged. Rather than abandoning *non-entrée*, states have instead turned their attention to a new generation of deterrent regimes intended to overcome these legal objections. Much, if not most, of the work of deterrence is now taking place in the territory – or at least under the formal authority of – poorer states of origin and transit, which for economic, political or other reasons are often willing to serve as the gatekeepers to the developed world.



‘migration’ ‘and’ migrants ‘instead’ of ‘refugees’ reappeared in the terminology used by political leaders and other influential actors, thus suggesting that the country does not bear the same legal obligations as for refugees<sup>5</sup> (EUROPEAN PARLIAMENT, 2017, p. 80)

Similarly to Italy, the study concluded that xenophobia has become prevalent among Greeks:

The concentration of refugees and migrants on the islands is increasing tension there, as thousands of asylum seekers have begun to realize that they have been “trapped”, while local communities have begun to realize the difficulties in dealing with the situation and its impact on day-to-day life and tourism. The media report on a number of attacks against small groups of refugees on the islands, the ill treatment of unaccompanied minors in places of detention, as well as attacks against humanitarian staff and accommodation sites<sup>67</sup>(EUROPEAN PARLIAMENT, 2017, p. 80).

Similarly to Italy, Greece, which was experiencing serious economic instability, came to adopt measures that prevented or hindered the entry of refugees (SERVIÇO PASTORAL DOS MIGRANTES, 2012). The Greek population supported the measures adopted by the government, since they believed that the entry of a high number of refugees was responsible for the crisis they were going through, which brought to the surface the feeling of xenophobia in the country.

## 5 Final Considerations

The humanitarian crisis in Syria, which began in 2011 with the Arab Spring, triggered a large migratory movement of Syrians in search of better living conditions. Following a natural itinerary, they first moved to the countries that make territorial limits and later moved on to other destinations such as Europe.

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5 In **Greece** too, persons of foreign origin *xenoi* increasingly monopolize discussions in the media in a negative perspective. Following the EU–Turkey Statement on 18 March 2016, the general welcoming attitude began to change. Terms such as ‘migration’ ‘and’ migrants ‘instead’ of ‘refugees’ reappeared in the terminology used by political leaders and other influential actors, thus suggesting that the country does not bear the same legal obligations as for refugees.

6 The concentration of refugees and migrants on the islands is increasing tensions there, as thousands of asylum seekers started to realize that they were ‘trapped’, while local communities started to note the difficulties in the management of the situation and its impact on daily life and tourism. The **media report on a number of attacks** against small groups of refugees on the islands, the ill treatment of unaccompanied minors in places of detention, as well as attacks against humanitarian staff and accommodation sites.

7 In **Greece** too, persons of foreign origin *xenoi* increasingly monopolize discussions in the media in a negative perspective. Following the EU–Turkey Statement on 18 March 2016, the general welcoming attitude began to change. Terms such as ‘migration’ ‘and’ migrants ‘instead’ of ‘refugees’ reappeared in the terminology used by political leaders and other influential actors, thus suggesting that the country does not bear the same legal obligations as for refugees.

Because they are developed countries, with greater potential to provide a better quality of life, Syrians have sought as a destination countries such as Italy and Greece. It should be noted that once entering these countries and having *status* as a ratified refugee, these migrants could move throughout the European continent that is encompassed by the Schengen Area.

However, Italy and Greece have sought to prevent Syrian refugees from reaching their territories, through territorial barriers such as fences, and by stepping up land and sea patrols, through agencies such as Frontex, the European border and Coast Guard Agency. However, by adopting these mechanisms, it is not possible to distinguish refugees from irregular immigrants, which prevents the refugee from having their rights guaranteed.

In parallel to the humanitarian crisis in Syria, Italy and Greece were experiencing a serious economic crisis, creating barriers to absorb the high number of asylum seekers entering their territories, making them unwelcome in their countries and generating a strong xenophobic feeling and support for ultranationalist policies by the population that felt harmed by the entry of immigrants.

Although Greece and Italy are part of the United Nations, and accept the provisions of the International Declaration of Human Rights and the Status of Refugees, there is no international norm that obliges states to guarantee refuge and accept refugees in their territories.

The recognition of refugee *status*, and access to their rights, such as that of the *non-refoulement*, as already mentioned, it is a mere formality, since the refugees in fact already find themselves in this situation. In this way, the mechanisms of *non-entrée*, used by Italy and Greece, began to prevent this formal recognition, since it would only materialize with access to the territory of those countries.

In order to avoid the practices of *non-entrée*, although there is no obligation to admit refugees into their countries, the principle of *non-refoulement* should already be admitted beyond the borders of the countries of destination.

It is also inferred that barriers, both physical and actions that prevent access to a territory, end up becoming a violation of the principle of *non-refoulement* for denying the request in the destination country.

The present study did not intend to exhaust itself or give a solution to the issue, since it is a complex issue in which it contrasts state sovereignty and human rights, however, in cases in which there is the involvement of refugees, who leave their countries due to fear and in order to ensure the right to life, it would be necessary for the UN, through UNHCR, to have more powers and autonomy before national States so that it could manage crisis situations more efficiently and that it could guarantee the rights and mitigate the suffering of people who find themselves in this situation of vulnerability.

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