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THE ROLE OF THE EUROPEAN ASYLUM
POLICY IN EXACERBATING THE RISK OF
GENDER-BASED VIOLENCE AGAINST SUB-
SAHARAN MIGRANT WOMEN

THE GREEK CASE

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To all the women of my life,
You are my inspiration

ABSTRACT

Women constitute half of the people migrating worldwide and to Europe. Nevertheless, the international and regional framework on asylum lacks a gender-mainstreaming approach and for this reason, they are inadequate to respond to specific gender needs. Studies have highlighted how the precarious conditions in which women live in the country of transit and/or arrival and resettlement can increase the danger of interpersonal violence. Yet, there is a great data gap regarding sexual violence against migrant women and its entity, due to the difficulty in assessing sexual gender-based violence. This difficulty can be traced back to the lack of access to services for women, the distrust in institutions, cultural barriers, and failed protection by the national judicial system. Moreover, research has concentrated on sexual violence, which is in fact only one type of GBV that women risk suffering from. The aim of this research is to investigate the presence and amount of different interrelated types of GBV perpetrated against sub-Saharan migrant women in Greece and what are, if there are, the responsibilities of the European asylum policies in this regard. To be able to answer my research question, on one hand, I will use the notions of structural and dynamic violence to interpret the role of the European asylum policies; on the other hand, I will rely on the testimonies of the women interviewed. The evidence of this thesis shows that European asylum policies and practices exacerbate the risk of GBV against sub-Saharan migrant women in Greece.

TABLE OF CONTENTS

LIST OF FIGURES	3
ACRONYMS	4
INTRODUCTION	5
CHAPTER I	7
WHY A THESIS ON GENDER-BASED VIOLENCE AGAINST SUB-SAHARAN MIGRANT WOMEN: INTRODUCTORY CONSIDERATIONS	7
1.1 STATE OF THE ART	7
1.2 RESEARCH QUESTION	9
1.3 THEORETICAL CONSIDERATIONS ON GENDER-BASED VIOLENCE AGAINST WOMEN	10
<i>1.3.1 What is gender-based violence against women</i>	<i>10</i>
<i>1.3.2 Gendered structural and dynamic violence</i>	<i>15</i>
1.4 GENDER-BASED VIOLENCE AGAINST SUB-SAHARAN MIGRANT WOMEN	18
<i>1.4.1 The importance of an intersectional approach</i>	<i>19</i>
<i>1.4.2 Migrant women and the continuum of violence</i>	<i>22</i>
1.5 METHODOLOGY	26
CHAPTER II	31
ADDRESSING GENDER-BASED VIOLENCE AGAINST MIGRANT WOMEN – MAIN INSTRUMENTS ON THE SUBJECT	31
2.1 THE INTERNATIONAL LEVEL	31
<i>2.1.1 The Convention on the Elimination of All Forms of Discrimination Against Women: Committee’s General recommendations on migrant women</i>	<i>31</i>
<i>2.1.2 Other documents of transversal relevance: the WPS Agenda</i>	<i>43</i>
2.2 THE REGIONAL LEVEL	45
<i>2.2.1 The Council of Europe Framework on GBV and migrant women</i>	<i>45</i>
<i>2.2.2 The European Union legal framework on GBV and migrant women</i>	<i>49</i>
2.3 THE NATIONAL LEVEL: THE CASE OF GREECE	54
<i>2.3.1 Greek implementation of international and regional instruments</i>	<i>54</i>
<i>2.3.2 National legal framework for the protection of migrant women from GBV</i> ...	<i>58</i>
CHAPTER III	61
THE ASYLUM FRAMEWORK FROM A GENDER PERSPECTIVE: ON WOMEN’S HUMAN RIGHTS AND MIGRANT WOMEN’S VULNERABILITY 61	
3.1 THE INTERNATIONAL LEVEL	61
<i>3.1.1 Women in the Geneva convention on the Status of Refugees</i>	<i>62</i>
<i>3.1.2 The UNHCR guidelines for the protection of migrant, asylum-seeking and refugee women</i>	<i>63</i>
3.2 THE REGIONAL LEVEL	69
<i>3.2.1 The Council of Europe: a gender-sensitive approach to asylum policies</i>	<i>69</i>
<i>3.2.2 The Common European Asylum System: gaps increasing women’s vulnerabilities</i>	<i>73</i>
3.3 THE NATIONAL LEVEL	80

3.3.1 Overview of Greek legal framework on asylum and the latest changes.....	80
3.3.2 Greece's implementation of the CEAS with regard to vulnerable persons.....	81
CHAPTER IV.....	87
GENDER-BASED VIOLENCE AGAINST SUB-SAHARAN MIGRANT WOMEN IN GREECE – EVIDENCE FROM MERAKI COMMUNITY CENTER	87
4.1 EVIDENCE BACKGROUND: MERAKI COMMUNITY CENTER	87
4.1.1 Case data of sub-Saharan migrant women part of the project	88
4.2 BORDER-CROSSING VIOLENCE	92
4.2.1 The consequences of the EU externalization and securitization of its borders for sub-Saharan migrant women.....	92
4.3 GENDER-BASED VIOLENCE AGAINST SUB-SAHARAN MIGRANT WOMEN DURING THE ASYLUM DETERMINATION PROCESS	95
4.3.1 Gender-based violence occurring in reception centers: hotspots, camps and other types of accommodations	97
4.3.2 The structural and dynamic gender-based violence of asylum interviews....	107
4.4. GENDER-BASED VIOLENCE AGAINST SUB-SAHARAN MIGRANT WOMEN OUTSIDE THE ASYLUM SYSTEM.....	110
4.4.1 Specific barriers for migrant women with irregular status.....	111
4.4.3 The policy on housing and its consequences for refugee women and women with irregular status	113
CONCLUSIONS	119
REFERENCES.....	123

LIST OF FIGURES

Figure 1: Distribution of types of beneficiaries in cases managed

Figure 2: Legal situation of single mothers and single woman in cases managed

Figure 3: Figure 3: Living conditions of women in cases managed – Athens and surroundings areas

ACRONYMS

AIDA	Asylum Information database
CEAS	Common European Asylum System
CEDAW	Convention on the Elimination of All forms of Discrimination Against Women
CoE	Council of Europe
EASO	European Asylum Support Office
ECRE	European Council on Refugees and Exiles
ESTIA	Emergency Support to Integration & Accommodation
EU	European Union
EUAA	European Union Agency for Asylum
EURTF	European Union Regional Task Force
FGM	Female Genital Mutilation
GA	General Assembly
GBV	Gender-based violence
GR	General recommendation
GSDFPGE	General Secretariat for Family Policy and Gender Equality
IOM	International organization for migration
IPA	International Protection Act
MSF	Médecins sans frontières
NAP	National Action Plan
OHCHR	Office of High Commissioner for Human Rights
RIS	Reception and Identification Service
SC	Security Council
UN	United Nations
UNHCR	United Nation High Commissioner for Refugees
VAW	Violence Against Women
WPS	Women Peace and Security

INTRODUCTION

Migration is a structural and systemic phenomenon characterizing the history of human beings. However, it has become more and more a political issue. In the years to follow, conflicts, climate change and human rights violations are all factors that will increase the number of people fleeing their countries of origin to find a safe place to live. According to the World migration report 2022 of the International organization for migration (IOM), 48% of people migrating are women. The same can be said for Europe, where more than a half of migrants are women (55%). As a group with particular vulnerabilities, women are exposed to a greater risk of suffering violence and specifically gender-based violence. Studies have highlighted how the precarious conditions in which women live in the country of transit and/or arrival or resettlement can increase the danger of interpersonal violence. Yet, there is a great data gap regarding sexual violence against migrant women and its entity, due to the difficulty in assessing it. Moreover, research have concentrated on sexual violence, which is in fact only one type of gender-based violence that women risk to experience.

According to the international and regional framework on women's rights, states have the positive duty to create and implement policies to protect women from the risk of discrimination and gender-based violence they face. However, several studies demonstrated that the international and regional frameworks on asylum lacks a gender-sensitive approach, and for this reason, they are inadequate to respond to specific gender needs.

During my internship experience in humanitarian assistance at the Meraki center in Athens (Greece), with the Vasilika Moon Onlus organization, I had the opportunity to work with numerous migrant women of sub-Saharan origin, both asylum seekers, refugees or undocumented. The aim of the center is to guide migrants to services in the area, by accompanying them on a path of inclusion according to their needs. Their personal stories and experiences we listened to were stories of suffering in Greece. At the center we witnessed gender-based violence and invisibility that is not documented and indeed, there is a huge absence of disaggregated data that would serve to formulate more appropriate policies. What we were able to learn

from listening to the stories of sub-Saharan migrant women was the amount of violence suffered in hotspots and refugee camps, whose conditions are far below the standards of minimum protection of people's dignity, the extreme difficulties related to the lack of housing, the absence of institutional legal assistance for interview preparation, the long time it takes to receive a decision on asylum claims, the problems related to being a single mother, and the almost total absence of sexual and reproductive health services, as well as gender-based violence prevention and protection services.

The precariousness of their conditions therefore prompted me to ask how such a violation of human rights and women's rights is happening and why. *Whose responsibility is it? What is the role of the European Union? What the role of Greece? And ultimately are the European asylum policies exacerbating the risk of GBV suffered by sub-Saharan migrant women?*

To answer these questions, I rely on literature review, as well as legal sources and the testimonies of sub-Saharan migrant women interviewed at Meraki community center. Chapter 1 presents theoretical considerations on the concept and definition of gender-based violence and that of structural and dynamic violence, and then focuses on the importance of the role of intersectionality as an approach to the topic, and on the concept of a continuum of violence suffered by migrant women before, during and after their arrival in Europe. Moreover, the methodology is presented. Chapter 2, on the other hand, attempts to offer an up-to-date analysis of the legal framework against gender-based violence, from the international to the regional and national level, to understand where and how the protection of migrant women is placed. Chapter 3 instead analyses the legal framework on asylum, using the same vertical method, discussing and proving the absence of a gender perspective within migration policies. Finally, Chapter 4 shows the evidence of the consequences of the absence of a gender approach, the more general gender-blindness of the European Union in the context of the Common European Asylum System and the European and Greek discriminatory policies for sub-Saharan migrant women, in terms of gender-based violence suffered in its different aspects: physical violence, sexual violence, psychological violence, and socio-economic violence.

CHAPTER I

WHY A THESIS ON GENDER-BASED VIOLENCE AGAINST SUB-SAHARAN MIGRANT WOMEN: INTRODUCTORY CONSIDERATIONS

1.1 State of the art

According to the World migration report 2022, 48% of people migrating are women¹. The same can be said for Europe, where more than a half of migrants are women (55%)², constituting 30% of the asylum request in 2019³. These data refute the tendency to see migration as mainly composed by men, and women only when accompanied by a man; on the contrary, more and more women are traveling alone to reach a safe country.

They are part of the so-called mixed flows characterizing the migration phenomenon in Europe: it refers to “a cross border movement of people, including refugees fleeing persecution and conflict, victims of trafficking and people seeking better lives and opportunities”⁴. In addition, “motivated to move by multiple factors, people engage in mixed migration, have different legal status, and face a variety of vulnerable situations. Although entitled to protection under international human rights law, they may often be exposed to multiple rights violations along their journey. Moreover, refugees and migrants travel along similar routes, using similar means of travel – often traveling irregularly and wholly or partially assisted by human smugglers”.

¹ M. McAuliffe, A. Triandafyllifou, *World Migration Report 2022*, Geneva, International Organization for Migration (IOM), 2021

² S. Solmone, T. Frattini, *Sesto rapporto annuale dell'Osservatorio sulle migrazioni*, Collegio Carlo Alberto e Centro Studi Luca d'Agliano, Torino, 2022

³ UN and Eurostat data, available online at www.un.org/development/desa/pd/data/global-migration-database and www.ec.europa.eu/eurostat/web/migration-asylum/asylum/database

⁴ Migration data portal, *Mixed migration*, available at www.migrationdataportal.org/themes/mixed-migration, last access December 2022

As stated in the definition, mixed flows can contain forced migration, the particular category of people fleeing their country due to persecution, conflict, violence or human rights violations⁵. However, in my thesis, I won't make any distinction between mixed and forced migration. This is a deliberate choice based on the fact that often the reasons why people leave their country of origin have been exploited for political purposes, to decide whether, according to those personal reasons, people can stay in the Country of arrival or not (as in the case of the so-called "economic migrants", in Italy). To the contrary, it is not for me in the present thesis, as I believe to anyone else, to investigate and judge the validity of the choice of each.

In the matter of migrant women, research and political agendas have focused so far on the topic of gender-based violence experienced by women mostly during pre-conflicts and conflicts situations occurring in the country of origin⁶, and on specific acts of interpersonal violence such as rape, domestic violence, human trafficking and early forced marriages⁷. Less research has been conducted on migrant women and their conditions during the last stages of their migratory projects, especially in the country of transit or resettlement⁸, and on the types of violence experienced in these contexts.

Studies have highlighted how the precarious conditions in which women live in the country of transit and/or arrival or resettlement can increase the danger of interpersonal violence⁹. Yet, there is a great data gap regarding sexual violence

⁵ Migration data portal, *Forced migration or displacement*, available at www.migrationdataportal.org/themes/forced-migration-or-displacement, last access December 2022

⁶ United Nations Security Council Resolution 1325, *Women Peace and Security*, S/RES/1325(2000), 31 October 2000

⁷ J. Hourani, K. Block, J. Phillimore, H. Bradby, S. Ozcurumez, L. Goodson, C. Vaughan, *Structural and Symbolic Violence Exacerbates the Risks and Consequences of Sexual and Gender-Based Violence for Forced Migrant Women*, in "Frontiers in Human Dynamics" vol.3 No.660682, 2021, p.2

⁸ S. Ozcurumez, S. Akyuz, A. Bradby, *The Conceptualization problem in research and responses to sexual and gender-based violence in forced migration*, *Journal of Gender studies*, vol.30 (2020), p. 4

⁹ S. Barry, *A contradiction of asylum: sexual violence in Greece's refugee camps*, *The Governance Post*, available online at www.thegovernancepost.org/2021/01/contradiction-of-asylum-greece-sgbv/, last access December 2021

against migrant women and its entity, due to the difficulty in assessing SGBV¹⁰. This difficulty can be traced back to the lack of access to services for women, the distrust in institutions, cultural barriers and failed protection by the national judicial system¹¹. Moreover, research have concentrated on sexual violence, which is in fact only one type of gender-based violence (GBV) that women risk to experience¹².

According to the international and regional framework on women's rights, states signatories of treaties such as the UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW), or the regional Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), have the positive duty to create and implement policies to protect women from the risk of discrimination and gender-based violence they face for the fact of being women¹³. However, several studies demonstrated that the international and regional framework on asylum lacks a gender-mainstreaming approach¹⁴, because the systems of protection was designed according to a male perspective of migrations¹⁵. For this reason, they are inadequate to respond to specific gender needs.

1.2 Research question

In my study, I try to understand if there is a causal link between the inadequacies of policies and practices of the European Union (EU) towards immigration and asylum on one hand, and GBV suffered by sub-Saharan migrant women once arrived in Greece on the other. *Are the asylum policies indirectly discriminating against migrant women? In other words, are they an example of structural and dynamic violence? If yes, what are the consequences for the lives of migrant*

¹⁰ Ibidem

¹¹ J. Hourani et. al., *Structural and Symbolic Violence*, cit., p. 9

¹² Council of Europe, *Types of gender-based-violence*, available at www.coe.int/en/web/gender-matters/types-of-gender-based-violence

¹³ UNGA, *Convention on the Elimination of All Forms of Discrimination Against Women*, Res.34/180 (1979); Council of Europe, *Convention on preventing and combating violence against women and domestic violence*, Council of Europe Treaty series No. 210, Istanbul (2011)

¹⁴ J. Freedman, *Mainstreaming gender in refugee protection*, Cambridge Review of international affairs, vol.23 n.4 (2010), p. 589

¹⁵ Ibidem

women? Are the EU asylum policies exacerbating the risk of GBV? And which types of GBV do sub-Saharan migrant women suffer from in Greece? With the present thesis I try to answer these questions, focusing on the Common European asylum system (CEAS) and its implementation in Greece, relying on direct testimonies of sub-Saharan migrant women.

1.3 Theoretical considerations on gender-based violence against women

To be able to analyze the situation of systemic gender-based violence suffered by migrant women in the country of travel and resettlement in Europe, it is fundamental to first understand what GBV is, by clarifying the meaning of gender, its difference with other words such as biological sex and sexual orientation, its specific implications for women and its relationship with violence and power. I will examine the root causes of GBV in the patriarchal system of oppression and systematize the different and interrelated types of GBV against women.

Once these notions are clarified, I will explain the theoretical concepts of structural and dynamic violence. These latter will allow me to analyze the situation of GBV against migrant women in Greece in the context of the CEAS, to understand the link between different levels of violence exercised by different social constructs and actors: societal norms, institutes, laws and policies, and individuals.

1.3.1 What is gender-based violence against women

The Istanbul Convention is the first international human rights document containing a definition of gender¹⁶. It is described as “the socially constructed roles, behaviors, activities and attributes that a given society considers appropriate for women and men”¹⁷. These social attributes are context and time-specific, and changeable¹⁸.

¹⁶ A. Pandea, D. Grzemny, E. Keen, *Gender matters – A manual on addressing gender-based violence affecting young people*, Council of Europe, 2019, p.17

¹⁷ CoE No.210(2011), art. 3

¹⁸ UN Women, *Concepts and definitions*, available at www.un.org/womenwatch/osagi/conceptsanddefinitions.htm

Moreover, gender is in relation to other aspects of identity, such as for example class, ethnicity, age and physical ability¹⁹. The socially establishment of what a woman and a man are, and which roles, behaviors and attributes are expected from them is both the cause and the consequence of discrimination and imbalanced distribution of power²⁰. Indeed, we can say that gender is a relation of power, occurring both in private and public sphere²¹ and shaping the structures of the society in unequal ways that disadvantage mostly women²².

On the contrary, biological sex, often used interchangeably with sex, refers to “the biological and physiological characteristics that define humans as female or male”²³. While biological sex defines women and men according to biological features (chromosomes, sex organs, hormones...), gender denotes them based on social factors²⁴. Furthermore, gender and biological sex can correspond or not: one may self-identify as female, male, transgender, other or none²⁵.

Therefore, GBV is violence carried out on the basis of gender²⁶ and it is perpetrated because of gender identity, sexual orientation, perceived or factual sex²⁷. Moreover, it is a form of discrimination rooted in structural gender inequality and unequal power relations²⁸, with the aim of maintain such inequalities, characteristics of a patriarchal system: “a system of social structures and practices”²⁹ based on the subordination of certain categories (e.g. women, LGBTQ+ people) by men.

¹⁹ A. Pandea, *Gender matters*, cit., p.33

²⁰ D. Koester, *Gender and power*, Birmingham, Development Leadership program of the University of Birmingham, 2015, pg. 3

²¹ Ibidem

²² A. Pandea, *Gender matters*, cit., p. 21

²³ Ivi, p. 33

²⁴ M. Mikkola, *Feminist Perspectives on Sex and Gender*, “*The Stanford Encyclopedia of Philosophy*”, 2022, available at <<https://plato.stanford.edu/archives/win2022/entries/feminism-gender/>>.

²⁵ A. Pandea, *Gender matters*, cit., p. 34

²⁶ *Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence*, Council of Europe Treaty Series No.210 (2011)

²⁷ A. Pandea, *Gender matters*, cit., p. 17

²⁸ Ibidem

²⁹ S. Walby, *Theorising patriarchy*, “*Sociology*” vol.23 No.2, Los Angeles, Sage publications, 1989, p. 214

For the purpose of the present thesis, I concentrate on GBV against women as a target group. When speaking about women I refer to the biological sex without taking into consideration the sexual identity, this latter going beyond the scope of the research. This choice is made also considering that women are the group most affected by GBV³⁰: 35% of girls and women in the world have experienced physical or sexual abuse, 70% of all human trafficking victims worldwide are women, 200 million women and girls alive have been victims of female genital mutilation³¹.

The UN Declaration on the Elimination of Violence against Women defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”³². All acts of violence have the main aim of hurting the integrity and dignity of another person³³. In addition, according to the Istanbul Convention, GBV means “violence that is directed against a woman because she is a woman or that affects women disproportionately”³⁴.

Furthermore, we also have to intend GBV against women as a form of discrimination, meaning “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women (...) on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”³⁵

³⁰ From now on I will refer to GBV against women as GBV for reasons of simplification of the writing

³¹ *Spotlight Initiative*, UN, available at www.un.org/en/spotlight-initiative/resources.shtml, last access December 2022

³² UNGA, *Declaration on the Elimination of Violence against Women*, Resolution 48/104 of 20 December 1993, art.1

³³ CoE, *What is gender-based violence?*, available at www.coe.int/en/web/gender-matters/what-is-gender-based-violence, last access January 2023

³⁴ CoE No.210(2011), cit., art. 3 (d)

³⁵ Ivi, art. 1

Starting from this comprehensive definition of GBV and taking into account the types of violence contained in the articles of the Istanbul Convention³⁶, the Council of Europe (CoE) defines five inter-related types of GBV: verbal violence, psychological violence, physical violence, sexual violence and socio-economic violence³⁷.

Verbal violence “is characterized by systematic and regularly painful and humiliating verbal, and most of the verbal violence experienced by women for the fact of being women is sexualized and counts as sexual violence”³⁸. Taking into account that all forms of violence have a psychological aspect, “psychological violence by itself includes isolation, confinement, withholding information or disinformation, threatening behaviors”³⁹. On the other hand, physical violence is “an act attempting to cause or resulting in pain and/or physical injuries”⁴⁰. It also “demonstrates difference of social power through coercion”⁴¹: as said above, violence is the means through which imbalanced relations of power are maintained.

This same concept is behind sexual violence too, which the CoE defines as “an abuse of power”⁴² consisting of “non-consensual sexual activities that includes: engaging in non-consensual vaginal, anal or oral penetration with another person by the use of any body part or object; engaging in other non-consensual acts of a sexual nature with a person; or causing someone else to engage in non-consensual acts of a sexual nature with a third person; being forced to watch somebody masturbate, forcing somebody to masturbate in front of others; forced unsafe sex, sexual harassment, and abuse related to reproduction (e.g. forced pregnancy, forced

³⁶ CoE No.210(2011), cit., art. 33- 42

³⁷ Council of Europe, *Types of Gender-based violence*, available at www.coe.int/en/web/gender-matters/types-of-gender-based-violence, last access January 2023

³⁸ Council of Europe, *Verbal violence and hate speech*, available at www.coe.int/en/web/gender-matters/verbal-violence-and-hate-speech, last access January 2023

³⁹ Council of Europe, *Psychological violence*, available at www.coe.int/en/web/gender-matters/psychological-violence, last access January 2023

⁴⁰ Council of Europe, *Physical violence*, available at www.coe.int/en/web/gender-matters/physical-violence, last access January 2023

⁴¹ Ibidem

⁴² Council of Europe, *Sexual violence*, available at www.coe.int/en/web/gender-matters/sexual-violence, last access January 2023

abortion, forced sterilization, female genital mutilation)”⁴³. All forms of sexual violence can appear in both the private and the public spheres⁴⁴.

Lastly, violence can also occur in the socio-economic sphere. Widely speaking, the gap between women and men in the cycle of poverty has expanded in the last decades⁴⁵. It is the so-called phenomenon of the “feminization of poverty”: as recognized by the Beijing Conference, poverty has a gender dimension⁴⁶, which means that there are specific needs of women to address and that they lack specific access to resources and services to change their situation. Yet, economic vulnerability takes place at the personal level too, making the victim more vulnerable to other forms of violence⁴⁷. According to the CoE, individual forms of socio-economic violence include: “taking away the earnings of the victim, not allowing them to have a separate income, making the victim unfit to work through physical abuse”⁴⁸.

On the other hand, public sphere forms of socio-economic violence can include “denial of access to education or equal paid work, denial of access to services, exclusion from certain jobs, denial of the enjoyment of civil, cultural, social and political rights”. The public dimension of socio-economic violence is both the cause and the consequence of unequal power relations in the society, and it is interrelated with the individual dimension, for example by contributing to make women economically dependent on their partner⁴⁹.

⁴³ Ibidem

⁴⁴ CoE, *Types of gender-based violence*, cit.

⁴⁵ UN Women, *The feminization of poverty*, available at www.un.org/womenwatch/daw/followup/session/presskit/fs1.htm, last access December 2022

⁴⁶ *Beijing declaration and Platform for Action*, Fourth World Conference on Women, 1995

⁴⁷ Council of Europe, *Socio-economic violence*, available at www.coe.int/en/web/gender-matters/socio-economic-violence, last access January 2023

⁴⁸ Ibidem

⁴⁹ Ibidem, examples are lower wages, very low or no child-care benefits, or benefits being tied to the income tax of the wage-earning male partner

GBV against women is a serious human rights violation⁵⁰ and its impact on women's health and public health are large and severe. A global systematic review of scientific data collected and elaborated by the World Health Organization (WHO) shows that exposure to violence determines poor health conditions for women: violence against women (VAW) results in physical and psychological trauma, as well as impacting sexual and reproductive health. Mental health problems such as Post-traumatic stress disorder (PTSD), anxiety, depression, eating disorders, suicidality and problems related to sexual health, such as unwanted pregnancies, abortion, HIV contraction and gynecological problems⁵¹ are only some among the effects deriving from GBV perpetrated by intimate and non-intimate partners.

1.3.2 Gendered structural and dynamic violence

GBV is a matter of gendered structural and dynamic violence. To be able to argue this, once defined the concept of gender, its relationship with power and violence, and so the nature of GBV and the different types of violence perpetrated against women, we must deepen the concept of violence and understand the multiple levels at which GBV is perpetrated, and by which actors. Using a feminist approach, violence can be defined as “a process rooted in social interactions and hierarchies of relations, manifesting in the gendered and patriarchal system”⁵². The process of GBV is exercised for the maintenance of such system and its power structure through the subordination of groups belonging to certain intersectional categories (biological sex, sexual orientation, ethnicity, class) exercised both by individuals and the social structure⁵³.

⁵⁰ United Nations High Commissioner for Refugees, *Gender-based violence*, available at www.unhcr.org/gender-based-violence.html, last access January 2023

⁵¹ World Health Organization, *Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence*, Geneva, World Health Organization, 2013, p. 8

⁵² Y. Punam, D.M. Horn, *Continuums of violence*, in T. Väyrynen, S. Parashar, E. Féron, C. Confortini, *Routledge handbook of feminist peace research*, London, Routledge Taylor and Francis group, 2021, p.3

⁵³ N.F. Russo, A. Pirlott, *Gender-Based Violence – Concepts, Methods, and Findings*, Arizona, New York Academy of Science, 2006, pp. 178-205

Therefore, there are at least two interconnected planes where GBV takes place: at a personal level we speak about interpersonal violence, while when dealing with the social structure the concept is that of structural and dynamic violence. Interpersonal violence is perpetrated by an individual or a small group of individuals⁵⁴ and its acts can be divided into family or partner violence (IPV) on one side, and community violence on the other side⁵⁵. In the first case, the perpetrator is a family member, a partner or someone related to the victim, while in the second case there are no family ties between the individuals⁵⁶.

On the other hand, structural violence is embedded in social, political and economic organizations of society⁵⁷. Indeed, during the '70s feminist sociologists shifted the responsibility of GBV from individuals to the social structures of patriarchy⁵⁸, trying to explain GBV as “a function of the patriarchal structures” and as a tool for social control of women⁵⁹. In the present argument I will concentrate on structural violence, not because interpersonal violence is less important, but because I adopt an understanding of it and of GBV perpetrated by individuals as a result of certain conditions created by structural violence⁶⁰.

We base the organization of our social, political and economic life on social norms which are both reflected and reproduced by law, with the attempt to regulate them⁶¹. It derives that law is pervasive in our society⁶². Besides, the patriarchal system of

⁵⁴ J.A. Mercy, S.D. Hillis, A. Butchart, A. Mark, C. Bellis, L. Ward, X. Fang, M.L. Rosenberg, *Interpersonal Violence: Global Impact and Paths to Prevention*, “Injury Prevention and Environmental Health” 3rd edition, Washington (DC), The International Bank for Reconstruction and Development/The World Bank, 2017, Chapter V, p. 71

⁵⁵ Ivi, p. 72

⁵⁶ Ibidem

⁵⁷ S.R. Montesanti, *The role of structural and interpersonal violence in the lives of women: a conceptual shift in prevention of gender-based violence*, “BMC Women’s Health” No.15, Canada, BCM Women’s Health, 2015, p.1

⁵⁸ S.J. Creek, J. L. Dunn, *Rethinking Gender and Violence: Agency, Heterogeneity and Intersectionality*, in “Sociology Compass”, Southern Illinois, Blackwell Publishing Ltd, 2011, p.319

⁵⁹ Ibidem

⁶⁰ S.R. Montesanti, *The role of structural and interpersonal violence*, cit., p.2

⁶¹ P.R. Grzanka, *Introduction: System of Oppression*, in “Intersectionality – A foundation and frontiers reader”, London, Routledge Taylor & Francis Group, 2014, p.2

⁶² Ivi, p.4

oppression is deeply rooted in social norms, or we can say that it is constituted by a complex of such norms; as a consequence, law both reflects and reproduces systemic inequalities deriving from patriarchy, in a vicious circle. For this reason, law can be defined as “a system of oppression”⁶³. Furthermore, this is why an approach dealing with structural violence is needed to understand GBV: political, social and economic systems of organization, institutions and laws exacerbate the pre-existing inequalities of gender social norms through the means of law.

Kimberlé Crenshaw, civil right activist and scholar of critical race theory who first coined the term intersectionality in 1989⁶⁴, made another theoretical but also practical distinction to individuate gender and racial discrimination at the level of the structure of the society: subordination has both a structural and a dynamic character⁶⁵. Structural discrimination derives from the racist, patriarchal and class systems of dominations and is reflected in the subaltern position given to gender, race and class in the society⁶⁶. At the same time, these “axis of oppression”⁶⁷ and subordinations manifest themselves dynamically through policies and practices which perpetuate subaltern positions, dispossession of power⁶⁸ and ultimately, violence. As a matter of fact, we can adopt the same distinction for GBV: being itself a form of discrimination⁶⁹, it can be both structural and dynamic.

In my work I will use these concepts based on research, studies and theoretical analysis in the case of sub-Saharan migrant women in Greece. I will speak about GBV at the two interrelated levels of structural and dynamic violence on one side, and interpersonal violence on the other. In Chapter 4 I will analyze examples of structural and dynamic violence perpetrated against migrant women: the European

⁶³ Ivi, p.2

⁶⁴ K. Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine*, in “Feminist Theory and Antiracist Politic”, Chicago, University of Chicago Legal Forum: vol.1989 art.8, 1989

⁶⁵ K. Crenshaw, *The Structural and Political Dimensions of Intersectional Oppression* (2014), in “Intersectionality: a foundation and frontiers readers” cit., p.17

⁶⁶ Ibidem

⁶⁷ K Crenshaw, *The Structural and Political Dimensions*, p.17

⁶⁸ Ivi, in E. Rigo., *La Straniera*, Roma, Carrocci Editore S.p.A., 2022, p.69

⁶⁹ UNGA RES/34/180 (1981), art.1

immigration and asylum system and its practices and policies among which the failure to recognize everyday-life forms of violence⁷⁰, the unequal access to services, freedom of movement obstacles and restrictions and other, together with their consequences for the lives of women. In this way, I will be able to show how institutions are responsible for reinforcing and legitimizing gender-discriminatory social systems and to exacerbate different types of GBV at the interpersonal level: sexual gender-based violence, stalking, reproductive coercion, and different kinds of socio-economic violence.

1.4 Gender-based violence against sub-Saharan migrant women

In this paragraph I will concentrate on the concepts of intersectionality and “continuum of violence”, justifying their relevance for the topic and their connection with migrant women. The first is a theoretical approach introduced by Crenshaw in 1989. It allows us to see the interaction among different levels and types of discrimination, enabling us to speak about migrant women taking into consideration historical, geographical, cultural and social backgrounds as well as structural and dynamic systems of oppression overlapping and adding to create multilayered violence. These aspects are fundamental to be considered in order to avoid stumbling upon a superficial, partial and western-colonial reading of the conditions of sub-Saharan women.

Secondly, I will concentrate on how multiple violence suffered by migrant women result in a stratification formed starting from the beginning of the migratory project in the country of origin to the country of arrival and/or resettlement in Europe. Moreover, I will briefly show how these violence intersect with multiple actors, from individuals to institutional, and I will give an abstract of Chapter 4, in which the continuum of violence suffered in Europe will be disaggregated and each form of GBV will be analyzed with the lens of the EU asylum policies and their effects. Lastly, I will conclude with a clarification on the dichotomy between victim and

⁷⁰ Y. Punam et. al., *Continuums of violence*, cit., p.4

agents and how we need to expand this restrictive view when dealing with migrant women victims of GBV.

1.4.1 The importance of an intersectional approach

One of the main pillars composing the international human rights law framework is the right to non-discrimination, or the anti-discrimination law. First appeared in the Covenant of Civil and Political Rights (CCPR) and in the International Covenant on Economic, Social and Cultural Rights (ICESC) of 1976⁷¹, it is present in every conventions on the protection of human rights: from the Convention on the Elimination of Racial Discrimination⁷², to the Convention on the Elimination of All Forms of Discrimination against Women⁷³, the Convention on the Rights of the Child⁷⁴ and the Convention of the Rights of Persons with Disabilities⁷⁵. The right to nondiscrimination is understood as “a basic and general principle relating to the protection of human right”⁷⁶, and it refers to specific categories according to the convention in which it is present: discrimination can occur on the basis of sex, race/ethnicity, religion, language, or political opinion. Moreover, States party to the treaties have both a negative and positive duty to refrain from discrimination in law, policies and practices and to assume any measures to respect, protect and fulfill the right to non-discrimination⁷⁷.

⁷¹ *International Covenant on Civil and Political Rights*, UNGA Resolution 2200A(XXI) (1996), art.2 (1); *International Covenant on Economic, Social and Cultural Rights*, UNGA Resolution 2200A(XXI) (1996), art.2 (2).

⁷² *International Convention on the Elimination of All Forms of Racial Discrimination*, UNGA Resolution 2106(XX) (1969), art. 5

⁷³ UNGA Res.34/180 (1979), art. 15

⁷⁴ *Convention on the Rights of the Child*, UNGA Resolution 44/25 (1989), art.2 (1)

⁷⁵ *Convention on the Rights of Persons with Disabilities*, UNGA Resolution 61/106 (2006), art.12

⁷⁶ *CCPR General Comment No.18: Non-discrimination*, UN Human Rights Committee, 1989, par.1

⁷⁷ See, for instance, *General comment No. 24* Committee on Economic, Social and Cultural Rights, 2017, para. 10; *General recommendation No. 28*, Committee on the Elimination of Discrimination against Women, 2010, para. 9; Committee on the Elimination of Racial Discrimination, *Statement on the coronavirus (COVID-19) pandemic and its implications under the International Convention on the Elimination of All Forms of Racial Discrimination*, 2020, p.2; and *General comment No. 6*, Committee on the Rights of Persons with Disabilities, 2018, para. 30; *General comment No.31*, Human Rights Committee, 2004, paras. 6 and 8; and *General comment No. 18* (1989), para. 10

However, criticism has been raised against the categorization of groups this set of laws want to protect and its effect on the prevention and protection of people from discrimination. Indeed, the identification of specific categories has led to a “single issue framework for discrimination”⁷⁸, where such categories are understood and treated separately one from the other. This is very dangerous and it prevents from really protecting people from discrimination, because of two main reasons: first, it fails to capture the complexity of reality, where different “axes of subordination” (gender, race, ethnicity, class)⁷⁹ intersect with one another, and in doing so the risk is to marginalize those whose experiences do not fall within one precise category⁸⁰; second, it prevents developing effective tools (legislative and not) to fight against inequalities.

It is starting from these criticisms over the anti-discrimination system and trying to find a different way to look at discrimination, subordination and inequalities that the term “intersectionality” emerged: it was first coined by Kimberlé Crenshaw, in 1989, in her work “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics” considered a cornerstone of intersectional theories. Intersectionality can be defined as “a method and a disposition”⁸¹ which looks at gender, race, ethnicity and class not separately, but as interacting with each other and, in doing so, creating a combination of multiple systems of oppression, or what Crenshaw define as “compound discrimination”⁸². In this context, the “multiply-burdened” are the subjects for which multiple disadvantages interact and intersect in their lives⁸³. For example, to understand the subordination experienced by black women we have to

⁷⁸ K. Crenshaw, *Demarginalizing the Intersections*, cit., p.150

⁷⁹ K. Crenshaw, *The Structural and Political Dimensions*, cit., p.17

⁸⁰ K. Crenshaw, *Demarginalizing the Intersections*, cit., p.151

⁸¹ D.W. Carbado, K. Crenshaw, V. Mays, B. Tomlinson, *Intersectionality: Mapping the Movement of a Theory*, in “Du Bois Review: Social science research on race”, London, Cambridge University Press, 2013, p. 33

⁸² K. Crenshaw, *The Structural and Political Dimensions*, cit., p.17

⁸³ K. Crenshaw, *Demarginalizing the Intersections*, cit., p.140

take in consideration the interaction between gender and race⁸⁴ creating a double discrimination: a compound of sexism and racism suffered by black women⁸⁵.

Yet, it is not the axes of subordination *per se* which creates the compound discrimination and the resulting subordination: what create, shape and reproduce patterns of discrimination and systemic inequalities are the social forces and their translation into law, the gaps in legal doctrine, the policies of different institutions⁸⁶, but also certain civil rights and feminism orientations⁸⁷. Indeed, on one side the anti-discrimination model is shaped according to black male experience when it comes to race, and to white women experience when it comes to gender⁸⁸. Especially the first wave of feminism was shaped by the Western vision of white women on issues such as sexual violence, patriarchy, reproductive rights, work and education. However, the experience of white women in western society can be completely different from that one of black women⁸⁹, for which at least two different categories of racism and sexism intersect⁹⁰. This homogeneous and generalized interpretation of the oppression of women as a group regardless of their differences, rooted in colonialism and white privilege⁹¹, leads to the dangerous tendency of marginalizing experiences that do not fall under pre-constituted criterions⁹².

On the other hand, law has contributed to emphasizing the difference of treatment between white women and black women and the stereotypes connected through courts sentences during the 20th century. Crenshaw made the example of how rape is perceived when it comes to black women: she marked the difference between

⁸⁴ Ibidem

⁸⁵ K. Crenshaw, *Demarginalizing the Intersections*, cit., p.140

⁸⁶ P. R. Grzanka, *Introduction: System of Oppression*, cit., p.2

⁸⁷ K. Crenshaw, *Demarginalizing the Intersections*, cit., p.150

⁸⁸ Ivi, pp. 139-167

⁸⁹ K. Crenshaw, *Demarginalizing the Intersections*, cit., p.144. Example given is that one of patriarchy

⁹⁰ K. Crenshaw, *The Structural and Political Dimensions*, cit., p.18

⁹¹ C.T. Mohanty, *Feminism and colonialism*, in "Intersectionality: a foundation and frontiers reader", cit., p.204

⁹² K. Crenshaw, *Demarginalizing the Intersections*, cit., p.151

historical sexist expectations on white women chastity on one hand, and historical stereotypes on black women sexual promiscuity on the other⁹³. Since, according to this stereotypes, black women were not associated with chastity, their “rape charges were automatically discounted”⁹⁴.

The intersectional approach enables one to face structural and dynamic violence from different points of view, with a culturally, historically and geographically sensitive look. These are the reasons why intersectionality is so fundamental: it can capture the consequences of the interaction of different axes of subordination and the way in which structural and dynamic violence is exercised. It not only analyzes systems of oppression, but also “considers privileged positions within and between them”⁹⁵. Moreover, it can also be understood as a social movement which can find solutions for transformation⁹⁶.

1.4.2 Migrant women and the continuum of violence

In the previous paragraph which defined what GBV is, we intended violence as “a process rooted in social interaction and hierarchies of relations, manifesting in the gender and patriarchal system”⁹⁷. As a process, violence is cumulative and boundless⁹⁸. From the accumulation of different types of violence, Liz Kelly coined the term “continuum of violence in 1988. She employed it to describe the use of everyday violence which leads to sexual violence⁹⁹, but for the purpose of the present analysis it can be intended as “a constitutive relationship between different

⁹³ Ivi, p.159

⁹⁴ J. Wriggins, *Rape, Racism and the Law*, in “Harvard Women’s Law Journal” vol.6 No.1042, p.103, in K. Crenshaw, *Demarginalizing the Intersections*, cit., p.158

⁹⁵ H. Lutz, *Intersectionality as Method*, in “Journal of Diversity and Gender studies” vol.2 No.1-2, Leuven, Leuven University Press, 2015, p.43

⁹⁶ W. D. Carbado, K. Crenshaw, V. Mays, *Intersectionality: Mapping the movement*, cit., p.312

⁹⁷ See pg. 9

⁹⁸ B. Lawrence, A. Karim, *On Violence: A Reader*, Durham (NC), Duke University Press, Durham, 2007, p.12

⁹⁹ L. Kelly, *The Continuum of Sexual Violence*, in “Violence and social control. Exploration in Sociology”, London, Palgrave Macmillan, 1987, pp 46-60

types of violence”¹⁰⁰ experienced and accumulated by migrant women through the steps of their migratory project.

This latter is anything but defined, it changes and readapt itself in the while¹⁰¹. It is a complex and in-evolution reality¹⁰². For Sub-Saharan women the journey to reach Europe lasts more or less eight months¹⁰³, given that the process of externalization of European borders, combined with the difficulty to obtain a visa and the absence of legal channel force migrant women to illegally cross the borders between the various African states and then between the neighboring States of the EU and between the States of the Union. Europe¹⁰⁴. Specifically, in the case of Greece in 2022 on a total of 18014 arrivals, 12,223 migrants arrived from Turkey by sea on the Greek island of Lesbos, Chios and Samos while 5,790 crossed the borders from Turkey via the river Evros; a minority arrived in Crete (558)¹⁰⁵.

The complexity and the length of the journey increase the risk for women to suffer at least one type of GBV and expose them to a stratification of violence. Indeed, according to a French study, the majority of migrant women suffered from one or more sort of violence such as physical, psychological, sexual, economic or administrative and symbolic violence. Moreover, women that underwent GBV back in the country of origin are also the ones facing the hardest migration journeys¹⁰⁶. Transactional sex has been identified as characteristic of the phase of transit¹⁰⁷: it is a survival strategy for women in order to get money or the protection from a man,

¹⁰⁰ Y. Punam et. al., *Continuums of Violence*, cit., p.2

¹⁰¹ C. Schmoll, *Les damnées de la mer. Femmes et frontières en Méditerranée*, Paris, Editions la Découverte, 2020, p.79

¹⁰² S. Mazzella, *Sociologie des migrations*, Paris, PUF, 2014, in Schmoll, *Les damnées*, cit., pp.77-78

¹⁰³ C. Quagliariello, *Salute riproduttiva, genere e migrazioni. Il continuum di violenze nei vissuti di donne e madri “dalla pelle nera”*, Milano, Mondì migranti, 2019, p.202

¹⁰⁴ D. Fassin, *Policing Borders, Producing Boundaries. The Governmentality of Immigration in Dark Times*, cit. in Quagliariello, *Salute riproduttiva*, cit., pp. 213-226

¹⁰⁵ UNHCR data portal, available at www.data.unhcr.org/en/situations/mediterranean/location/5179

¹⁰⁶ A. Andro, C. Scodellaro, M. Eberhard, M. Gelly, M. Fleury, *Parcours migratoire, violence déclarées, et santé perçue des femmes migrantes hébergées en hôtel en Île-de-France. Enquête Dsafir*, in “Bulletin Epidémiologique Hebdomadaire – BEH”, Saint Maurice (Val de Marne), Institute de veille sanitaire, 2019, pg. 334-341

¹⁰⁷ J. Hourani et. al., *Structural and Symbolic Violence*, cit., p.6

due to the state of danger and their limited livelihood possibilities¹⁰⁸. For example, to obtain a fake passport or passage on boats to Greece¹⁰⁹

However, GBV occurred during the trip does not stop there, it continues after the arrival in Europe, intersecting and following the previous abuses suffered, bearing in mind that different gender vulnerabilities imply different forms of GBV¹¹⁰. The first discrimination inflicted to migrant women once arrived in Europe is the illegal status attributed to them and the consequent restrictions applied on their freedom of movement. This is the product of policies and border-securitization, which do not create safe and regular entry to Europe, yet on the contrary contribute to increase the precarity of migrant women, already fatigued by the migratory journey until there. This first kind of violence will be discussed at the beginning of chapter 4. To follow, the conditions of detention centers and the refugee camps will be discussed, since they carry with them several types of violence experienced by migrant women and connected rights violated: from physical mobility restrictions to the reception conditions, the lack of access to primary needs and services and the consequences in terms of sexual abuses, unwanted pregnancies and other forms of GBV.

After that, the 4th chapter will focus on the violence occurring during the asylum determination process and the living conditions of migrant women transferred from the island to the mainland, in Athens. I will discuss about the “burden of proof”¹¹¹ characterizing the interviews for the recognition of the status of refugee or the subsidiary protection, the problem of the family visa institute, as well as the lack of access to services such as medical and gynecological care, psychological support, language support, access to child care, employment opportunities and anti-violence services. Finally, the last part will be dedicated to migrant women suffering GBV

¹⁰⁸ E. Tastsoglou, X. Petrinioti. C. Karagiannopoulou, *The Gender-Based Violence and Precarity Nexus: Asylum-Seeking Women in the Eastern Mediterranean*, in “Front. Hum. Dyn” vol.3 No. 660882, 2021, p.8

¹⁰⁹ R. Espen, F. Falcione, M. Hersh, K. Obser, A. Shaar, *Initial assessment report: Protection Risks for Women and Girls in the European Refugee and Migrant Crisis – Greece and the former Yugoslavia Republic of Macedonia*, UN Refugee Agency and UNHCR, UN Population Fund (UNFPA) and Women’s Refugee Commission (WRC), 2016, p.8

¹¹⁰ E. Tastsoglou et. al., *The Gender-Based Violence*, cit., p.3

¹¹¹ J. Hourani et. al., *Structural and Symbolic Violence*, cit., p.6

outside the system, either because their claim for asylum was rejected or because they obtained international protection and have been left alone, without any institutional support. With this regard, the critical aspects of the absence of housing and the risk of labor and sexual exploitation will be analyzed.

The study of all these aspects demonstrate and reinforce the concept of the phenomenon of the accumulation of violence suffered by migrant women. Moreover, it will show how violence in forced and mixed migrations has a gender-specific dimension¹¹². Besides, the intersectional approach will help to understand the situation of migrant women in Greece less superficially, and more sensitive and closed to reality. In particular, how the subordination related to gender is interconnected with the ethnical, national or class origin: the precarious conditions they face during the travel or in refugee camps, and the resulting dependence on other subjects for survival expose them to a “continuum of violence” as much as their gender¹¹³.

Last but not least, I would like to conclude this paragraph with an ethical as well as theoretical and practical clarification on the risk of the victimization of migrant women when dealing with GBV and their experience from a western and European position. Historically, there has been the tendency to blame women for being victims and for their victimization, and to recognize or not GBV according to what is socially acceptable and what is not: women often needed to be considered as “pure” in order to be victims, or in the opposite case they were “promiscuous” and so the violence was more acceptable, as if they somehow deserved it¹¹⁴. When the violence was recognized (always from outside, perpetrating the idea that a personal experience needed an external validation), the focus was on extreme pathological acts¹¹⁵. Furthermore, because of cultural codes and stereotypes, women who experienced GBV have often been portrayed only as victims, creating a dichotomy

¹¹² Ivi, p.2

¹¹³ E. Rigo, *La straniera*, cit., p.68

¹¹⁴ S.J. Creek et. al., *Rethinking Gender and Violence*, cit., p.314

¹¹⁵ Ibidem

between victim and agents that on one side has the effect of disempowering them from their will, and on the other side misses the complexity of real life¹¹⁶.

The risk can be the same when it comes to migrant women. Because of their condition of vulnerability and of cultural stereotypes, they are reduced to a homogeneous group suffering from a generalized oppression. Moreover, because of colonial backyards, western feminism sometimes constructed the idea of the “third-world woman”: an underdeveloped oppressed woman seen with paternalistic eyes¹¹⁷ and in desperate need of a western help. On the contrary, each individual experience is personal and different for migrant women and cannot be reduced to a general categorization¹¹⁸. Furthermore, especially in the last decade, migrant women do not depend anymore on husbands or men but leave autonomously their country of origin to escape GBV or economic and political difficulties¹¹⁹; they have their own migratory project and are political agents of their own story in all respects. To be able to talk about them, assist them and work with them, we have to shift the vision from victim to survivors¹²⁰ and from victimization and passivity to active subjectivity.

1.5 Methodology

The present thesis draws upon primary sources, such as official international, regional and national documents from institutions, organizations and other actors, published research as secondary sources and data collected as part of my internship period at Meraki Center, an orientation service project based in Athens and led by Vasilika Moon Onlus¹²¹. The data are composed of interviews made with sub-

¹¹⁶ Ivi, pp.312-315

¹¹⁷ C.T. Mohanty, *Feminism and Colonialism*, cit., pp. 200-226

¹¹⁸ A. Alam, T. Bauer., F. Delille et. al, *Migrant, refugees and asylum-seeking women and girls in Europe* produced for the Gender equality division of the Council of Europe, Strasbourg, Institute of Political Studies, 2019, p.26

¹¹⁹ Ivi, p.12

¹²⁰ S.J. Creek et. al., *Rethinking Gender and Violence*, cit., p.313

¹²¹ Vasilika Moon Onlus is a NGOs operating with refugees in Greece since 2016. It currently has two main different projects, one in Korinthos and one in Athens. I had the opportunity to be selected for the Athens project, where I worked as an intern for two months, from June 2022 to July 2022.

Saharan migrant women, traveling alone or with children, who experienced forms of GBV after their arrival in Greece, both in the context of the islands' hotspots and in the mainland (Athens).

As a legal focus, I chose the EU framework for asylum for two main reasons: first, as exposed above, research until now have concentrated on the violence experienced by women in the country of origin, while attention for GBV experienced in the country of transit and resettlement is still developing; second, because from the beginning of the migratory crisis in the EU, the difficulty of finding a common management of this structural phenomenon due to the opposition from certain member states, the asylum and immigration politics of the EU and of national governments and political propaganda based on stereotypes on migration have created situations of serious violations of the fundamental human rights of migrants, as largely documented by different human rights organizations and agencies¹²².

Furthermore, in the framework of the EU, I chose the geographical focus of Greece because of other two main reasons: firstly, among the EU member states, it has one of the most highly documented and sever situation of violations of the human rights of migrants¹²³, also resulting from the policies of the EU, which will be analyzed in Chapter 3. Secondly, my internship at Vasilika Moon Onlus was based in Athens, where I was able, together with my colleagues, to collect the data I will be using for the study.

¹²² UNGA *Report of the special rapporteur on the human rights of migrants, Felipe González Morales, Human rights violations at international borders: trends, prevention and accountability*, Human rights Council fiftieth session, HRC/50/31 (2022); *News Comment: UNHCR warns of increasing violence and human rights violations at European borders*, UNHCR, 2022, available at www.unhcr.org/news/press/2022/2/62137a284/news-comment-unhcr-warns-increasing-violence-human-rights-violations-european.html; Oxfam International, *At Europe's borders, migrants and refugees are denied their basics human rights*, available at www.oxfam.org/en/europes-borders-migrants-and-refugees-are-denied-their-basic-human-rights; Human Rights Watch, *Europe: refugees and migrants' rights*, available at <https://www.hrw.org/tag/europe-refugees-migrants-rights>

¹²³ Human Rights Watch, *World report 2022*, available at www.hrw.org/world-report/2022/country-chapters/greece; Amnesty International, *Greece*, available at www.amnesty.org/en/location/europe-and-central-asia/greece/report-greece/; last access December 2022

Besides, the subjects of my thesis are sub-Saharan migrant women who have applied for asylum in Greece and whose application is still pending, has been accepted or refused. This choice is done because of the recognition that migration has a gender-specific dimension¹²⁴, the high prevalence of violence against women and girls¹²⁵, the absence of a gendered approach to immigration and asylum laws and the availability of evidence, both derived from research and data collected. Indeed, during my internship, my colleagues and I had the opportunity to interview a great number of migrant women, the vast majority of whom were from sub-Saharan Africa, who shared their migratory stories and their experiences since their arrival in Greece. From this collection of data, it has emerged that the vast majority of them experienced serious systemic gender-based violence once entered the asylum reception system.

I bring the experiences and testimonies of 8 women among the 26 I had the possibility to work with. They all have different ages, and four of them are single mothers, one of them was pregnant at the time, and four of them are single women. They all come from the Democratic Republic of Congo, except for one woman who is from Cameroon. Besides, they all have been in Greece for several years: 5 of them are in Greece since 2019, 2 since 2021 and 1 since 2017. They all arrived firstly in the islands, except for one single woman who crossed the land borders between Turkey and Greece. After different periods of time, they have been transferred or came alone to the mainland and to Athens. With respect to their legal situation, at the time of my internship 3 of them received the international protection status and the residence permit, 2 of them had two rejections and 3 of them were still waiting for the decision, for different reasons. Analyzed in Chapter 4 To ensure anonymity their names have been replaced with a capital letter.

Finally, as previously said, the research so far has mainly focused on SGBV experienced by migrant women. However, this is only one form of GBV. In my study, I try to investigate the presence and amount of different interrelated types of

¹²⁴ UN Women *From evidence to action: tackling gender-based violence against migrant women and girls*, 2021

¹²⁵ J. Hourani et. al., *Structural and Symbolic Violence*, cit., p.2

GBV perpetrated against migrant women and what is the responsibility of institutions and policies in this regard.

The study is conducted using a qualitative analysis of the data, relying on the women's rights framework as well as the legislative framework on asylum as legal basis, and using an intersectional approach deriving from the third wave feminism to interpret the results.

CHAPTER II

ADDRESSING GENDER-BASED VIOLENCE AGAINST MIGRANT WOMEN – MAIN INSTRUMENTS ON THE SUBJECT

The present chapter is divided into three sections; all of them deal with the framework to combat GBV against women with respect to migrant, asylum-seeking and refugee women. The first section treats the international level and precisely the CEDAW Committee' General recommendations on the specific needs and protection of migrant, asylum-seeking and refugee women, as well as its further implementations. After that, the second part is dedicated to the regional level: it is the case of Chapter VII of the Istanbul Convention in the framework of the Council of Europe (CoE), its gender-equality strategy, and the EU implementation of international and regional instruments, as well as its legal framework. Subsequently, the focus will be on Greece's fulfillment of international and regional obligations and its national legislation and actions for combating GBV against migrant women. Finally, two documents of transversal relevance will be briefly discussed, namely the Women Peace and Security Agenda with its missed opportunity to include migrant women.

2.1 The international level

2.1.1 The Convention on the Elimination of All Forms of Discrimination Against Women: Committee's General recommendations on migrant women

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted by the United Nations General Assembly (UNGA) in

December 1979 and it entered into force as an international treaty in September 1981. It has, at the time of writing, 189 States parties, including the European States. It is the most important binding document in the history of Women's human rights¹, reaffirming fundamental human rights and specifically the equality of rights between women and men, and establishing an agenda for action by countries to guarantee the respect and enjoyment of those rights² and to achieve *de facto* equality. The Convention is mainly divided in three parts: civil rights and legal status of women; reproductive rights; the impact of cultural factors on gender relations³. Article 1 of the Convention defines GBV as form of discrimination affecting women disproportionately⁴.

In each part, the Convention highlights the specificity of women's experience of discrimination and attributes to States the responsibility to end it. Indeed, it sets the obligations of States to reach effective equality⁵, including taking special measures⁶. The types of obligations are to respect, to protect and to fulfill the rights contained in the document (principle of due diligence). The last part of the Convention establishes the Committee on the Elimination of Discrimination Against Women, composed of a team of independent experts, with the aim of monitoring and tracing the progress made by States in the context of the Convention.

Despite the historical and innovative contribution of CEDAW, some gaps have been individuated, such as the absence of reference to violence against women (VAW), the heterosexuality lens through which marriage is treated, the many reservation to articles of the Convention and the limited acknowledgement of

¹ P. Degani *Women's rights lecture*, University of Padova, 2021

² UN Human Rights Office of the High Commissioner, *Convention on the Elimination of All Forms of Discrimination Against Women New York, 18 December 1979*, available at www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women, last access January 2023

³ Ibidem

⁴ UNGA Resolution 34/180, *Convention on the Elimination of All Forms of Discrimination against Women*, United Nations, 18 December 1979, art. 1

⁵ UNGA RES/34/180, cit., art.2

⁶ Ivi, art. 3

intersectional and multiple levels of discrimination⁷, as in the case of migrant women's experiences. To partially fill these regulatory gaps, the Committee adopted over the years 38 General recommendations (GR) focusing on specific topics about women's rights. The GR are to be taken as normative implementation of the CEDAW by States, and they clarify and amplify the obligations of States parties. Although they are not legally binding, GRs can be considered authoritative statements on the content of legal duties of states⁸.

In the following section I analyze four main GRs in chronological order, which are complementary to the asylum laws framework: the GR No. 30 on women in conflict prevention, conflict and post-conflict situations⁹, the GR No. 32 on gender-related dimensions of refugee status, asylum, nationality and statelessness of women¹⁰, the GR No. 35 on gender-based violence against women¹¹ and the GR No. 38 on trafficking in women and girls in the context of global migration¹². All of them contain important statements with respect to the issue of GBV against migrant women.

GR No.30 on women in conflict prevention, conflict and post-conflict situations

⁷ P. Degani, *Lectures*, cit.

⁸ Centre for Women, Peace and Security, General Recommendations, available at <https://blogs.lse.ac.uk/vaw/int/cedaw/general-recommendations/#:~:text=General%20recommendations%20are%20not%20treaties,%E2%80%A6>, [last access 27 January 2023]

⁹ CEDAW Committee on the Elimination of Discrimination against Women, *General recommendation No.30 on women in conflict prevention, conflict and post-conflict situations*, 1 United Nations, November 2013

¹⁰ CEDAW Committee on the Elimination of Discrimination against Women, *General recommendation No.32 on gender-related dimensions of refugee status, asylum, nationality and statelessness of women*, United Nations, 14 November 2014

¹¹ CEDAW Committee on the Elimination of Discrimination against Women, *General recommendation No. 35 on gender-based violence against women*, United Nations, 27 July 2017

¹² CEDAW Committee on the Elimination of Discrimination against Women, *General recommendation No.38 on trafficking in women and girls in the context of global migrations*, United Nations, 20 November 2020

The GR No.30 of 2013 guides States parties on how they can address women's rights in prevention, conflict and post-conflict areas, in which serious violations of women's rights are of particular concern¹³. In section III, it confirms the territorial and extraterritorial application of the Convention¹⁴, and its application to State and non-State actors¹⁵. The last part of this section has a great relevance, in that it highlights the complementarity of the CEDAW with international refugee law, among other international laws¹⁶.

In fact, the Committee states that the provisions of the Convention “reinforce and complement the international legal protection regime for refugees and displaced and stateless women and girls”¹⁷, in the recognition that the international framework for the protection of refugees and asylum seekers lacks explicit gender equality provisions¹⁸, making the example of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol¹⁹. The content of this paragraph is of particular importance since the Committee makes it clear that the main documents in the international framework for refugee and asylum seekers are, in other words, not gender-sensitive and that the CEDAW shall be applied in this area to fill the gap.

The IV section treats the core issue of the GR, underling the role of the Convention in the protection of women during conflict and post conflict situations²⁰ and stressing the multiple risks they suffer from in those contexts²¹. Noting that the Convention applies at every stage of the displacement cycle²², the Committee points

¹³ CEDAW/C/GR/30, *Scope of general recommendation*, cit., par.4

¹⁴ Ivi, *Application of the Convention to conflict prevention, conflict and post-conflict situations*, cit., Section III (A)

¹⁵ Ivi, Section III (B)

¹⁶ CEDAW/C/GR/30, *Complementarity of the Convention and international humanitarian, refugee and criminal law*, cit., Section III (C)

¹⁷ Ivi, par.22

¹⁸ Ibidem

¹⁹ UNGA Resolution 429, *Convention relating to the Status of Refugees*, December 1951

²⁰ CEDAW/C/GR/02, *Convention and conflict prevention, conflict and post-conflict situations*, cit., Section IV

²¹ Ivi, Section IV (B)

²² CEDAW/C/GR/30, cit., Section IV (B) (5)

out that refugee women have additional needs to men with regards to their experience as refugees²³. Among other women, they are at greater risk of suffering from GBV and especially sexual violence during and after conflicts²⁴, being trafficked²⁵, not having access to participation, education, employment and health²⁶. Moreover, it recognizes that female asylum seekers “can face gendered barriers to asylum” because of the male perspective shaping refugee and asylum seekers regimes²⁷.

Finally, the Committee sets some practical measures from States to adopt for the protection of asylum seekers and refugee women, in accordance with their due diligence²⁸. They include:

- Practical measures for the protection and prevention of GBV and mechanisms for accountability in camps and other displacement settings²⁹;
- Investigation and prosecution of crimes of GBV³⁰;
- Access to medical care, legal assistance and safe environment for women victims of GBV³¹;
- Long-term strategies to support women’s socio-economic rights and opportunities for participation and the enhancement of their situation³².

²³ Ivi, par.55

²⁴ CEDAW/C/GR/30, cit., par.36

²⁵ Ivi, Section IV (B) (2)

²⁶ CEDAW/C/GR/30, cit., Section IV (B) (3), (4)

²⁷ Ivi, par.56

²⁸ CEDAW/C/GR/30, cit., par.57

²⁹ Ivi, par.57 (e)

³⁰ CEDAW/C/GR/30, cit., par.57 (f)

³¹ Ivi, par.57 (g)

³² CEDAW/C/GR/30, cit., par.57 (h)

GR No.32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women

The Committee's GR No.32 addresses the application of the CEDAW to the right to asylum³³, the principle of non-refoulement³⁴ and the right to nationality³⁵, reaffirming that GBV discrimination falls under the definition of discrimination contained in article 4 of the Convention³⁶. Specifically, the GR covers "all women in need of international protection and in the context of refugee status and asylum"³⁷.

In fact, the Committee recognizes the "overlapping interrelationship"³⁸ between the CEDAW and the legal regime on refugees and asylum seekers. As a consequence, the provisions of the Convention must be understood as a tool to "reinforce and complement the international legal protection regime for refugees and states women and girls"³⁹, at every phase of the migratory cycle⁴⁰. Additionally, it acknowledges that the experiences of migrant women, included asylum, integration and resettlement in a third country, depend on the "action or inaction"⁴¹ of different actors, among which States parties bearing "the primary responsibility"⁴². They indeed have the duty to prevent, investigate, prosecute and repair any act of discrimination against refugee and asylum-seeking women under their effective jurisdiction, inside or outside their territory⁴³ at every level, from the public to the horizontal one (family and individuals)⁴⁴.

³³ UN GA, *Universal declaration of Human Rights*, 1948, art.14

³⁴ UNGA RES/429, cit., art. 33

³⁵ CEDAW/C/GR/32, cit., art. 9

³⁶ CEDAW/C/GR/32, cit., Section II, par. 6

³⁷ CEDAW/C/GR, *Section IV - Application of non-discrimination and gender equality to international refugee law*, (A), cit., par. 12

³⁸ CEDAW/C/GR/32, *Relationship between the Convention, international human rights law and international refugee law*, cit., Section III, para. 9

³⁹ *Ivi*, para. 10

⁴⁰ *Ibidem*

⁴¹ CEDAW/C/GR/32, cit., Section III, para. 7

⁴² *Ibidem*

⁴³ *Ibidem*

⁴⁴ CEDAW/C/GR/32, cit., *Section IV*, (C), para. 27

Given the complementary and interrelated nature of the Convention, section IV of the GR lists the measures to be taken for the application of non-discrimination and gender equality to international refugee law⁴⁵. After having recognized that VAW is the major gender-related form persecution suffered by migrant women in their country of origin, constituting legitimate ground for international protection⁴⁶, the Committee comments on specific article of the CEDAW and connect them to recommendation to States parties to respect their due diligence towards migrant women⁴⁷. The following is a summary of mine that connects the articles mentioned by the committee with the measures recommended to the States, to make clear the duties of the latter and the normative basis on which they are based.

First of all, the Committee recognizes that refugee protection is a collective responsibility and therefore States party should express solidarity through burden-sharing measures⁴⁸. This is an important concept when speaking about European asylum policies and it will come back in Chapter 3 when I deal with the CEAS and its implementation. Secondly, it recommends measures that States parties have to take in order to fulfill their obligations. For example, the non-discrimination articles⁴⁹ are the normative basis according to which the Committee stresses the importance of a gender sensitive approach to asylum instruments⁵⁰: it is the case of the conduct and settings of asylum interviews, the screening mechanism implementation and the reception arrangements conditions.

With regards to the asylum interviews, the lack of a gender perspective on women's asylum claims can result in the improper assessment or rejection of the refugee status⁵¹. Indeed, the Committee underlines the risks of victimization of women: the fact that women's claim for asylum are classified under the concept of "social

⁴⁵ Ivi, Section IV

⁴⁶ Ivi, para. 15

⁴⁷ Ivi, *Section IV*, (C) and (D)

⁴⁸ Ivi, (D), footnote n.38

⁴⁹ UNGA RES/34/180, cit., art 1-3, 5 (a)

⁵⁰ CEDAW/C/GR/32, cit. *Section IV*, par. 36

⁵¹ Ivi, para. 16

group” may strengthen the stereotyped idea of women as “dependent victims”, affecting their right to a fair asylum process⁵². On the contrary, as also discussed in Chapter 1, women are “active agents”⁵³ and to be able to respect and protect their rights States must shift the vision of women from passive victims to active subjects⁵⁴. The rejection of their claim to asylum resulting from the absence of a gender-perspective is at all effect caused by gender-discrimination and falls under the umbrella of GBV.

For this reason, States have to ensure gender-sensitive asylum procedures that include:

- The right for women to have an independent asylum claim and to be interviewed separately, without family members⁵⁵. Indeed, for example, the husband may be the source of the complaints and his presence would prevent the woman from presenting her case⁵⁶;
- The use of gender-sensitive techniques and procedure for the interviewers⁵⁷. This may include the presence of same sex interviewers⁵⁸, and staff training according to the UNHCR Guidelines on international protection⁵⁹;

Besides, the Committee suggests appropriate screening mechanisms for the identification of women asylum seekers with specific needs (women and girls with disabilities, unaccompanied minors, victims of trafficking/forced prostitution/torture, victims of SGBV and of trauma more in general)⁶⁰. However, it does not deepen the methods which shall be used in terms of how to identify them, how to offer them special assistance and all the possible barriers that can be

⁵² Ivi, para. 31

⁵³ Ibidem

⁵⁴ S.J. Creek et. al., *Rethinking Gender and Violence*, cit., p.313

⁵⁵ CEDAW/C/G/32R, cit. *Section IV*, para. 50 (a)

⁵⁶ Ivi, para. 16

⁵⁷ Par. 50 (d)

⁵⁸ Par. 16

⁵⁹ UNHCR, *Guidelines for international protection: gender-related persecution within the context of the article 1A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, May 2022, in CEDAW/C/GR, *Section IV*, cit., para. 47

⁶⁰ CEDAW/C/GR/32, *Section IV*, cit., para. 46

encountered. Finally, gender-sensitivity should be applied to reception arrangements, which have to be organized according to specific needs of women victims of GBV and other vulnerable groups such as pregnant women, nursing women and women with children⁶¹. Again, the Committee does not give any practical example here on how to make reception conditions suitable for migrant women, except from the suggestion of using female guards in case of detention and training the staff⁶².

Finally, article 3 is the starting point according to which States have the responsibility to provide access to services for asylum-seeking women and refugee women. It states that measures must be taken for the advancement and equality of women in all fields⁶³: education⁶⁴, economic and social life⁶⁵, employment⁶⁶ and health care⁶⁷, for which the lack of access results in socio-economic GBV. In practice they should provide safe accommodation, with sanitary and health facilities, food and social services as well as employment opportunities and mechanisms for complaints⁶⁸. In addition, States have the duty to ensure legal, medical, psychological and linguistic support for their integration⁶⁹. The statements of the Committee on this topic will be particularly relevant in Chapter 4, when analyzing the (lack of) access to services for migrant women in Greece.

GR No. 35 on gender-based violence against women

The GR No. 35 should be read in conjunction with GR No.19 of 1992 on violence against women⁷⁰. In the document, the term VAW is replaced with GBV as “a more

⁶¹ Ivi, para. 34

⁶² Ibidem

⁶³ UNGA RES/34/180, cit., art. 3

⁶⁴ Ivi, art. 10

⁶⁵ UNGA RES/34/180, cit., art. 13

⁶⁶ Ivi, art. 11

⁶⁷ UNGA RES/34/180, cit., art. 12

⁶⁸ CEDAW/C/GR/32, *Section IV*, cit., par. 48

⁶⁹ Ivi, par. 24

⁷⁰ CEDAW/C/GR/35, cit. Section II, para. 8

precise term that makes explicit the gendered causes and impacts of the violence”⁷¹. It affects all other women’s rights such as the right to life, health, freedom and security, as well as freedom from torture, degradation treatments, freedom of movement, participation (...) ⁷² and reproductive rights⁷³. The Committee argues that GBV is one of the ways in which subaltern position of women in the society are perpetuated⁷⁴, and it is linked to other factors among which minority status, national origin, being a refugee and migration status⁷⁵. Moreover, political, economic and social crises, humanitarian emergencies and others affect GBV⁷⁶.

Prevention, protection, prosecution and punishment and reparation are the five pillars States must ensure to women in order to fulfill their due diligence, that takes place at the legislative, executive and judicial level. With respect to national legislation, the Committee addresses States to take all legislative measures in order to protect women from GBV and abolish any discriminatory provision which encourages, facilitates or justifies GBV, including “restrictive immigration laws that discourage women from reporting such violence”⁷⁷.

GR No.38 on trafficking women and girls in the context of global migration

The GR No. 38 deals with the phenomenon of trafficking in women and girls for the purpose of forced prostitution and/or labor exploitation. It finds its justification in art. 6 of the CEDAW. Women’s and girls are usually trafficked for the purpose of sexual and economic exploitation, specifically prostitution and pornography,

⁷¹ Ivi, para. 19

⁷² CEDAW/C/GR/35, cit. Section II, para. 15

⁷³ Ivi, para. 18

⁷⁴ CEDAW/C/GR/35, cit. Section II, para. 10

⁷⁵ Ivi, para. 12

⁷⁶ CEDAW/C/GR/35, cit. Section II, para. 14

⁷⁷ Ivi, Section IV, part A, para. 29 (c)(iii)

forced labor, arranged marriages or to be “sold” as brides, for sexual services or domestic functions⁷⁸.

In the GR No.38 the Committee defines discriminatory migration and asylum regimes as one of the root causes of trafficking in women and girls⁷⁹: they push migrant women to take irregular pathways in the attempt to ask for asylum in third countries⁸⁰, which in the majority of cases put them in situations of danger and increase the risk of trafficking at every stage of the migratory journey⁸¹. Besides, the absence of a gender-sensitive approach to asylum policies hugely contributes to limit the access to safe migration pathways and just asylum procedures⁸².

Examples of policies are:

- The border control policy, pushbacks and refusals of entry, and freedom of movement restrictions such as detention⁸³.
- Visa regime which request a minimum income in order to obtain the documents, indirectly creating in such way an economic and legal dependency and the conditions for exploitation⁸⁴.
- Lack of employment opportunities regulations, confining migrant women to unregulated or “low-skilled” jobs stereotypically associated with them, such as domestic work or care work, resulting in intersectional discrimination based on sex and ethnicity and exploitation.⁸⁵

To conclude, the Committee urges States parties to address the root causes of trafficking in women by strengthening public services aimed at achieving substantial gender equality in all fields⁸⁶. In order to do so, States should create and

⁷⁸ European Institute for Gender Equality, *Trafficking in women and girls*, available at www.eige.europa.eu/thesaurus/terms/1412 [last access 27 January 2023]

⁷⁹ CEDAW/C/GR/38, *Section IV- Root causes of trafficking in women and girls*, p.5/24

⁸⁰ *Ivi*, par. 10

⁸¹ I CEDAW/C/GR/38, *Section II (B)I*, cit., par. 22

⁸² *Ivi*, par. 26

⁸³ CEDAW/C/GR/38, *Section III*, cit., par. 24

⁸⁴ *Ivi*, par. 27

⁸⁵ CEDAW/C/GR/38, *Section III*, cit., par. 28

⁸⁶ CEDAW/C/GR/38, *Section VII – Recommendations*, (A), par. 47

implement legislations regarding socioeconomic equality⁸⁷, labor rights⁸⁸, a safe migration framework⁸⁹ and an anti-trafficking regime including identification⁹⁰, assistance and protection of the victims⁹¹, access to justice comprising of remedies for the victim and investigation, prosecution and punishment of perpetrators⁹².

Final considerations on CEDAW and on the Committee's GR on migrant women

To sum up, CEDAW is a complementary useful tool to respond to discriminatory migration and asylum policies, reinforcing the international protection regimes which lack a gender perspective⁹³. First of all, it doesn't distinct its application between nationals and non-nationals: its jurisdiction is extra-territorial⁹⁴. That is, it applies to migrants, asylum seekers and refugee women too. Moreover, it establishes intersectionality as a primary concept in the understanding of migrant women's situations of concern and in the implementation and protection of their rights by States⁹⁵. Lastly, it requires a gender-sensitive interpretation of migration and asylum and instruments⁹⁶.

When it comes to GR by the Committee and although their non-binding character, they offer a significant interpretation of CEDAW with respect to migration and asylum regimes. All the GR clarify that States share the primary responsibility for the intervention against practices and policies which disproportionately

⁸⁷ Ivi, part 1

⁸⁸ Ibidem

⁸⁹ CEDAW/C/GR/38, part 2

⁹⁰ CEDAW/C/GR/38, *Section V – Assistance and protection for women and girls who are victims of trafficking*, cit., (A)

⁹¹ Ivi (B)

⁹² CEDAW/C/GR/38, *Section IV - Access for victims to justice*, (A), (B)

⁹³ C. Briddick, - *Symposium on undoing discriminatory borders- When does migration law discriminate against women?*, published online by Cambridge University Press, 2021, p.338

⁹⁴ CEDAW Committee on the Elimination of Discrimination against Women, *General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of all Forms of Discrimination against Women*, 16 December 2010, para. 12

⁹⁵ Ivi, para. 18

⁹⁶ Briddick, *When does migration law discriminate*, cit., p. 358

disadvantage migrant women. Furthermore, they all recognize that States are also the main actors perpetrating such discriminatory system, which lacks from a gender-perspective: it is the case of family reunification schemes⁹⁷, border control policies⁹⁸, asylum procedures⁹⁹ and access to services¹⁰⁰.

What the Committee is missing, though, is a coherence between the interpretation of the CEDAW contained in the GR, and its application¹⁰¹. In fact, it demonstrates to give a wide margin of discretion to States because of its unclarity on what they have to do practically to establish and eliminate discrimination against migrant women and because the recommendations are too vague, creating a normative hole¹⁰² which must be addressed as soon as possible, so that migrant women are able to challenge migration and asylum policies and practices.

2.1.2 Other documents of transversal relevance: the WPS Agenda

The Security Council Resolution 1325 of 2000¹⁰³ gave birth to the Women, Peace and Security agenda (WPS). It expanded through other seven Security Council (SC) resolutions followed by regional and national plans, and it established a platform of action for the prevention and protection of women in conflict situations, as well as for their participation in the governance of peace and security during post-conflict reconstruction. In doing so, the WPS officially recognized the subjectivity of conflict-affected women and the need for their protection and inclusion by States¹⁰⁴. Although its relevance in the political context of that time and the meaning it

⁹⁷ CEDAW/C/GR/26

⁹⁸ CEDAW/C/GR/38

⁹⁹ CEDAW/C/GR/32

¹⁰⁰ Ibidem

¹⁰¹ C. Briddick, *Unprincipled and unreleased: CEDAW and discrimination experienced in the context of migration control*, in *International Journal of Discrimination and the Law*, Vol.22(3) Oxford, Sage Publications, 2022, pp. 224-243

¹⁰² Ivi, p. 235

¹⁰³ UN Security Council, *Resolution 1325*, 31 October 2000

¹⁰⁴ A. Holvikivi, A. Reeves, *The WPS agenda and the "refugee crisis": missing connections and missed opportunities in Europe*, London, LSE Women, Peace and Security, 2017, p.1

carries, the WPS framework is now challenged and rediscussed with the aim of implementing and extending its content.

After the refugee crises, it became evident that the WPS has at least one great gap: it misses to include in its framework conflict-affected women that flee their country and enter in the category of migrant women, asylum seekers and, ultimately, refugees. It only rarely intersects with the issue of refugee protection, in fact only two resolutions out of eight mention forced displacement as an aspect to consider when dealing with the protection of women¹⁰⁵. It is the case of the SC Resolution 1325¹⁰⁶ and the SC Resolution 1889¹⁰⁷: They mention the obligations that UN agencies have to protect women from SGBV in UN managed refugee camps and the duty for the parties in conflict to respect the humanitarian nature of refugee camps, but nothing more. In other words, WPS recognizes forced displacement as a gender-sensitive matter of concern, but only in conflict areas, where the obligations do not extend to UN members States¹⁰⁸.

As a result, migrant, asylum-seeking and refugee women are not fully recognized nor integrated in the WPS framework¹⁰⁹. The more they move out from the conflict zone, the more they become ignored and invisible. Moreover, this exclusion ignores the long-term impact of war on the lives of women¹¹⁰. Despite the fact National Action Plans (NAPs), especially from EU member States, expanded the WPS framework to include refugee women in different ways¹¹¹, such a discretion on the issue cannot be allowed, because the risk is that States do not implement the WPS with the inclusion of migrant women in their NAPs (when they have one). This is

¹⁰⁵ Ivi, p.2

¹⁰⁶ SC/RES/1325, para. 12

¹⁰⁷ UNSC, Resolution 1889, 5 October 2009, para. 12

¹⁰⁸ A. Holvikivi, *The WPS*, cit., p.2

¹⁰⁹ G. Lawreen, S. Madita, S. Saskia, *The Women, Peace and Security Agenda in EU Border Management*, Vienna, Austrian Institute for International Politic, 2021, p. 3

¹¹⁰ A. Holvikivi, A. Reeves, *Women, Peace and Security after Europe's "refugee crisis"*, in *European Journal of International Security*, Vol.5, Cambridge, Cambridge University Press, 2020, p. 139

¹¹¹ A. Holvikivi, *The WPS*, cit., p. 2

the case of Croatia, Estonia, Lithuania, Portugal, Romania and Sweden¹¹², which contains no mention on the topic.

We can argue that this gap in the WPS framework is a case of dynamic violence, in that the narrow scope of its policies has the effect of marginalizing migrant women and it creates a normative void that prevents their rights from being protected and perpetuates their subalternity. In order to implement the provisions, a more intersectional approach should be used: first of all, the definition of conflict should be expanded to include the continuum of violence outside and beyond the geographical understating of what a conflict is¹¹³. Secondly, conflict -affected women on the move should be given the recognition and inclusion as new political subject of WPS¹¹⁴, holding the right to asylum and political participation.

2.2 The regional level

2.2.1 The Council of Europe Framework on GBV and migrant women

The CoE was founded in 1949 and it unifies 46 member States for the promotion of human rights, democracy and the rule of law. It also leads human rights organization in the continent¹¹⁵. All member States have signed the European Convention on Human Rights¹¹⁶. Among its several Conventions on different human rights issues, the Convention on preventing and combating violence against women and domestic violence (known as the Istanbul Convention) is the tool to combat different forms of GBV and reaffirm the due diligence of State to protect

¹¹² A. Holvikivi, *Women, Peace and Security*, cit., p. 146

¹¹³ Ivi, p. 140

¹¹⁴ A. Holvikivi, *Women, Peace and Security*, cit., p. 138

¹¹⁵ Council of Europe, About the Council of Europe, available online at www.coe.int/en/web/yerevan/the-coe/about-coe#:~:text=Founded%20in%201949%2C%20the%20Council,action%20throughout%20the%20whole%20continent., [last access 31 January 2021]

¹¹⁶ Ibidem

women's rights¹¹⁷. Indeed, it is the first instrument to set specific legally binding standard to prevent GBV, protect the survivors and prosecute perpetrators¹¹⁸. The European Union signed the Convention in June 2017.

Chapter IX of the Istanbul Convention established the monitoring mechanism through the creation of a body of independent experts called GREVIO, with the aim to follow and supervise the implementation of the Convention by member States¹¹⁹. It publishes reports evaluating legislative and other measures taken by States parties and has the power of initiate special inquiry procedures and adopt general recommendations on themes treated by the Convention¹²⁰.

Migrant, asylum-seeking and refugee women are mentioned in the Convention in article 4, on "Fundamental rights, equality and non-discrimination". Indeed, paragraph 3 states that the provisions of the Convention must be applied following the principle of non-discrimination on the grounds of, among others, migration status, refugee or other status¹²¹. Moreover, with the recognition that migrant and asylum-seeking women with or without documents are particularly exposed to GBV¹²² and face structural barriers in overcoming violence¹²³, Chapter VII sets obligations for member States for the attribution of the refugee status and during the asylum determination process. It has the objective of giving a practical

¹¹⁷ CoE, *Istanbul Convention*, cit.

¹¹⁸ European Parliament, *The Istanbul Convention: A tool for combating violence against women and girls*, available online at [www.europarl.europa.eu/thinktank/it/document/EPRS_ATA\(2021\)698801](http://www.europarl.europa.eu/thinktank/it/document/EPRS_ATA(2021)698801), [last access 31 January 2023]

¹¹⁹ CoE, *Istanbul Convention*, cit., Chapter IX

¹²⁰ CoE, *About GREVIO – Group of Experts on Action against Violence against Women and Domestic Violence*, available at www.coe.int/en/web/istanbul-convention/grevio, [last access 31 January 2023]

¹²¹ CoE, *Istanbul Convention*, cit., art. 4

¹²² Council of Europe, *Protecting migrant women, refugee women and women asylum seekers from gender-based violence*, Strasbourg, Council of Europe, 2019

¹²³ Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5, art. 3

dimension and complementarity to the Geneva Convention on the status of refugees¹²⁴ and to article 3 of the European convention of human rights¹²⁵.

States should apply a gender-sensitive interpretation of the asylum determination procedures to address the “gender blindness” in granting refugee status¹²⁶. GBV is recognized as a form of persecution affecting women as a “particular social group”¹²⁷ on the basis of which international protection should be granted¹²⁸. In addition, an independent residence permit should be granted to victims of GBV, irrespective of the status of the partner in the event of the dissolution of the marriage¹²⁹. This is of fundamental importance for example in the case of the European family reunifications scheme, which can be the cause for women to stay with their abusive husband because the dependency of their residence permit on that one of the perpetrators¹³⁰.

Examples of gender-sensitive procedures are¹³¹:

- Individual interviews separate from family members;
- Separate and independent claims for international protection;
- Gender-sensitive interviewers and interpreters with the possibility for the applicant to express the preference for the sex of the staff;
- Elaboration of gender guidelines of asylum claims and trainings;

¹²⁴ UNGA, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series - Vol.189

¹²⁵ Council of Europe, *Explanatory to the Council of Europe Convention on preventing and combating violence against women and domestic violence*, Council of Europe, Treaty Series - n.210, 2011, para. 310 p.53

¹²⁶ Parliamentary Network “Women Free from Violence”, the Committee on Migration, Refugees and Displaced Persons of the Parliamentary Assembly of the Council of Europe and the United Nations High Commissioner for Refugees (UNHCR), *Refugee women and the Istanbul Convention – Preventing and combating sexual and gender-based violence*, Strasbourg, Council of Europe, 2013, p. 11

¹²⁷ CoE, *Protecting migrant women*, cit.

¹²⁸ CoE, *Istanbul Convention*, cit., art. 60 par. 1

¹²⁹ Ivi, art. 59 par 1

¹³⁰ See Chapter 3 for an explanation of the legislation on the family reunification scheme

¹³¹ CoE, *Explanatory*, cit., para.317 pp-54-55

Although the Istanbul Convention mostly concentrates on the refugee status determination and specifically on GBV as a reason to grant asylum, it also clarifies that migrant women need specific protection during the process in terms of gender-sensitive reception procedures and support services¹³². The Explanatory to the Council of Europe on the Convention includes examples of good practices¹³³ that are worthy of mention:

- The identification of victims of VAW as soon as possible in the process;
- Separate accommodations between single men and women;
- Separate toilets facilities;
- Adequate lighting in the reception centers;
- Trained staff and guards to gender-specific needs;
- Accessible information on GBV to women and girls
- Access to assistance services, included those for the intervention and protection from GBV;
- Psycho-social and crises counseling;
- Medical care related also to sexual and other forms of abuse;

All these measures should have the objective of empowering women and help them to actively rebuild their life¹³⁴.

To conclude, the Convention calls for the involvement of all actors (institutional and private)¹³⁵ to take positive action without distinction between migrant women, undocumented and asylum-seeking women¹³⁶, during all the process from the moment of arrival at the borders in accordance with the principle of non-refoulement¹³⁷.

The CoE also included the protection of migrant, refugee and asylum-seeking women in its Gender Equality Strategy for the years 20218-2023. The strategic

¹³² CoE, *Istanbul Convention*, cit., art. 60 par. 3

¹³³ CoE, *Explanatory Report*, cit., para 314 p. 54

¹³⁴ Ibidem

¹³⁵ CoE, *Istanbul Convention*, cit., art. 7

¹³⁶ CoE, *Explanatory*, cit., para. 289 p. 50

¹³⁷ CoE, *Istanbul Convention*, cit. art. 61

objective 5 points out the specific risks that women face especially when traveling alone, pregnant or with children, including GBV upon arrival in Europe¹³⁸. It calls for a prompt identification, reporting system and referral mechanisms, as well as the implementation of supports aimed at preventing women from GBV, sexual abuse, trafficking and exploitation¹³⁹. In order to do so and to encourage the access to freedom, housing, healthcare, education, social protection and information, States have to rely on international and regional instruments such as the Convention on the Status of Refugees, the Istanbul Convention, the Convention on Action against trafficking in human beings among others¹⁴⁰.

2.2.2 The European Union legal framework on GBV and migrant women

The following section is divided in two parts: the first part discusses the EU framework on GBV with the lens of migration, while the second part underlines missed opportunities for the implementation of the WPS agenda in terms of protection of migrant, asylum seeking and refugee women. Both sections are treated with a critical analysis of the gaps, missed opportunities but also good practices.

At the regional level, the EU framework on sexual violence and migration is composed of a series of provisions which developed through the years to become more inclusive with respect to the issue of migration and vulnerable persons. The first relevant document is the “*EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings*” of 2005¹⁴¹. It is the first step in the recognition of the need for gender-specific prevention measures for vulnerable groups victims of trafficking, although the target is narrow, and it refers to unaccompanied minors. One year later, in 2006, the European Parliament creates

¹³⁸ Council of Europe, *Gender Equality Strategy 2018-2023*, Council of Europe, 2018, para. 62

¹³⁹ Para. 63, 66

¹⁴⁰ Ivi, para. 64

¹⁴¹ European Council, *EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings*, Official Journal of the European Union, 2005/C 311/01

a resolution on violence against women and future actions to combat it¹⁴²; this document is important in that it calls on member States for protect migrant victims of domestic violence and for a comprehensive European approach on combating female genital mutilation (FGM) as a human rights violation.

Besides, the 2009 Stockholm Programme for an open and secure Europe mentions the specific vulnerability of victims of FGM and GBV in member States of which they are not citizens or residents¹⁴³. In the same year, the European parliament adopts a resolution on the elimination of VAW containing important statements on specific vulnerabilities of migrant women and refugees¹⁴⁴, and one year later it stresses the duty of prevention and protection services to safeguard all women from GBV, regardless of their legal status¹⁴⁵.

Despite the different resolutions adopted in those years, it is only from the 2011 that all the statements are translated into binding obligations for member States: they put in place strategies to combat trafficking and trainings of officials in a gender perspective¹⁴⁶ and they recognize sexual violence and harassment as forms of sexual violence beyond rape, trafficking and FGM¹⁴⁷, even if there is no mention to migrants but only to non-nationals of member States. However, it is worth noticing that the EU only signed and adopted the Istanbul Convention in 2017 and despite the growing framework there are still few implementations by member

¹⁴² European Parliament, Resolution on the current situation in combating violence against women and any future action, Official Journal of the EU, P6_TA (2006)038

¹⁴³ European Council, *Stockholm Programme – An open and secure Europe serving and protecting citizens*, Official Journal of the EU, 2010/C 115/01, p. 9

¹⁴⁴ European Parliament, *Resolution on the elimination of violence against women*, Official Journal of the EU, P7_TA (2009) 0098

¹⁴⁵ European Parliament, *Resolution on social integration of women belonging to minority ethnic groups*, Official Journal of EU, P7_TA (2010) 0305

¹⁴⁶ European Council, *Directive on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA*, Official Journal of the EU, 2011/36/EU

¹⁴⁷ European Council, *Directive establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA*, Official Journal of the EU, 2012/29/EU

States¹⁴⁸. Indeed, there are still some gaps that as to be filled both at the regional EU level and at the national implementation one.

As far as EU is concerned, its legal framework for combating GBV and migration still focuses too much on the victimization of women in their country of origin¹⁴⁹, probably also due to the reductive idea of Europe as “safe”¹⁵⁰. Moreover, it often ignores the most vulnerable (notably migrants) missing the intersectional approach, and it has a limited area of concern, concentrating on tackling trafficking and FGM as forms of GBV, but leaving aside all other types of GBV that burden migrant women¹⁵¹, as a result of this normative void, prevention policies become inadequate to respond to real needs of migrant women¹⁵².

Furthermore, no particular legal instrument addresses specifically VAW at EU level, even if the topic is transversal in several directives and regulations¹⁵³. This is one of the main reasons why more recently, in March 2022, the European Commission (COM) adopted a proposal for a directive on combating violence against women and domestic violence¹⁵⁴. The proposal has the primary aim of harmonizing minimum level of protection across EU¹⁵⁵ and it fits in Title V of the Treaty on the functioning of the European Union (TFUE) in the area of freedom, security and justice. In line with the Istanbul Convention, the EC advocates for the criminalization of rape based on lack of consent, FGM and cyber violence¹⁵⁶.

¹⁴⁸ I. Keygnaert, A. Guieu, *What the eye does not see: a critical interpretive synthesis of European Union policies addressing sexual violence in vulnerable migrants*, in *Reproductive Health Measures* 23:46, published online by Taylor & Francis group, 2015, p. 50

¹⁴⁹ *Ibidem*

¹⁵⁰ A. Holvikivi, *The WPS*, cit., p. 4

¹⁵¹ I. Keygnaert, *What the eye does not see*, cit., p. 51

¹⁵² *Ivi*, p. 52

¹⁵³ European Commission, *Ending gender-based-violence*, available at https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/gender-equality/gender-based-violence/ending-gender-based-violence_en, [last access 8 February 2023]

¹⁵⁴ European Commission, *Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence*, Strasbourg, European Commission, 2022/0066, 2022

¹⁵⁵ COM, *Ending gender-based violence*, cit.

¹⁵⁶ COM 2022/0066, p. 4

Moreover, it wants to strengthen the provisions on support for survivors, access to justice, prevention, and coordination between different State and non-state actors.

Article 35 of the draft directive concentrate on focused support for victims with specific needs and groups at risk¹⁵⁷. Among women at increased risk of VAW, the COM includes “undocumented migrant women, women applying for international protection, women fleeing from armed conflict, homeless women and women with minority ethnic background, women sex workers, women detainees (...)”¹⁵⁸. According to the proposal, they should all be granted access to support services¹⁵⁹.

However, gender-sensitive approach which takes into account intersecting forms of discrimination is no adopted in the draft¹⁶⁰: migrant and asylum-seeking women can have more than one vulnerability apart from the fact of being migrant/fleeing armed conflict/asking for international protection; in the country of arrival, they are at greater risk of detention, sexual exploitation, homelessness and racism. Moreover, GBV is not recognized as a human rights violation¹⁶¹ and many forms of VAW are not covered, such as for example stalking and sexual harassment and violations of women sexual and reproductive rights¹⁶².

Implementation of international instruments by the EU

The EU, with its member States, is both part of the CEDAW and the Istanbul Convention. Moreover, it is also the first who formally recognized the WPS agenda

¹⁵⁷ Ivi, *Chapter 4 - Victims support*, art. 35

¹⁵⁸ Ivi, para. 1

¹⁵⁹ Ivi, para. 2

¹⁶⁰ European Women’s Lobby, *Violence against women and domestic violence: a first step towards a Europe free of male violence against women and girls – EWL response to the Proposal DIRECTIVE on combating violence against women and domestic violence*, May 2022, available online at <https://www.womenlobby.org/EWL-Analysis-of-the-Commission-Proposal-for-a-Directive-on-Combating-Violence?lang=en>, [last access 8 February 2023], p. 8

¹⁶¹ Women Against Violence Europe, *Advocacy Update: Proposal or EU Directive on combating violence against women and domestic violence*, available at <https://wave-network.org/advocacy-update-proposal-for-eu-directive-combating-violence-against-women-and-domestic-violence/>, 23 November 2022, [last access 8 February 2023]

¹⁶² Ivi, p. 10-11

in the context of the Common Security Defense Policy (CSDP)¹⁶³, and in 2019 it developed its Action plan on Women, Peace and Security for the years 2019-2024¹⁶⁴. The document contains short, medium and long-term actions that the EU will take in order to increase gender mainstreaming of all its internal and external policies, women's participation, prevention, protection and recovery from GBV suffered in conflict-affected areas¹⁶⁵. However, the limited application of the WPS when it comes to the understanding of conflict and the exclusion of migrant women from the agenda, it is reflected also in the EU Action plan.

In the Action plan migrant, asylum-seeking and refugee women are marginalized if not even mentioned. Indeed, the application of the WPS framework by the EU policies on managing migration is extremely limited¹⁶⁶ and there is actually a tendency to exclude refugee, migrant and asylum-seeking women¹⁶⁷. The WPS framework is understood as a tool in foreign policy and for the intervention in third-countries, both because of the tendency of the EU to externalize its borders¹⁶⁸ and because of the paternalistic idea that the need for action is outside Europe, whereas the domestic context is perceived as peaceful and gender-sensitive¹⁶⁹. It is in fact true that the EU has a robust policy framework in addressing GBV and protecting women when they are in one of its member States¹⁷⁰, however this only reinforces the idea that the insecurities faced by migrant women at the borders and in the country of first arrival when this latter is Greece are the product of a political will with the primary scope to discourage and ultimately stop people from entering and even reaching the borders.

¹⁶³ L. Gyan-Addo, M. Standke-Erdmann, S. Stachowitsch, *The Women, Peace and Security Agenda in EU Border Management*, Vienna, Österreichisches Institut für Internationale Politik, 2021, p. 15

¹⁶⁴ General Secretariat of the Council, *Eu Action plan on Women, Peace and Security*, Council of the European Union, EEAS (2019)747 - 11031/19, 5 July 2019

¹⁶⁵ Ivi, pp. 7 – 8 – 10 – 11 – 12

¹⁶⁶ P. Kirby, *Sexual violence in the border zone*, cit., p. 1226

¹⁶⁷ A. Holvikivi, *Women, Peace and Security*, cit. p. 135

¹⁶⁸ P. Kirby, *Sexual violence in the border zone: the EU, the Women, Peace and Security agenda and the carceral humanitarianism in Libya*, in *International Affairs* 96:5, Oxford, Oxford University Press, 2020, p. 1225

¹⁶⁹ A. Holvikivi, *Women, Peace and Security*, cit., p. 150

¹⁷⁰ Ivi, p. 151

This separation between migrant women and the WPS agenda in Europe is very problematic in the outcomes for policies and practices¹⁷¹, leading to their exclusion and consequently exposing them to further risks of suffering from GBV. It is also very contradictory in the practice with the statements of the EU Council, defining the protection of refugees, asylum-seekers as well as gender-based violence needs of women and girls as the foundation principles of the EU policies on human rights¹⁷².

2.3 The national level: the case of Greece

2.3.1 Greek implementation of international and regional instruments

Greece signed the CEDAW in 1982. Currently, the country is in its 8th reporting cycle of the 2020 year's session under the Convention. The elements emerged prior to the session and in view of Greece's report and the Committee's concluding observations are highlighting a critical situation with respect to the risks of suffering from GBV, these latter connected to the precarious conditions in which migrant and asylum-seeking women live in Greece, with a focus on refugee camps.

The report of the Working Group on discrimination against women and girls on the visit to Greece on April 2019 points out that there are serious challenges and gaps in the protection of migrant and refugee women as vulnerable group¹⁷³. Indeed, the current migration policies of containment in the camps “exacerbate the vulnerability of women”¹⁷⁴, especially because of the lack of gender-sensitivity in

¹⁷¹ A. Holvikivi, *The WPS*, cit., p. 4

¹⁷² European Commission (2015) *Joint Communication to the European Parliament and the Council. Action Plan on Human Rights and Democracy (2015-2019). Keeping human rights at the heart of the EU agenda*, 28 April 2015

¹⁷³ Human Rights Council, *Visit to Greece – Report of the Working Group on discrimination against women and girls*, Forty-four session, UNGA, A/HRC/44/51/Add.1, 2020, para. 65 p. 15

¹⁷⁴ Ivi, para. 66 p. 15

the repletion system. Women do not feel safe in common spaces and toilets, in particular during the night¹⁷⁵. Actually, according to the Greek legislation on refugee camps, women should have separate shelters sections, nevertheless a huge amount of them lives in mixed areas with men, where they feel unsafe and often experience sexual harassment¹⁷⁶.

Moreover, although the Law No. 45/31 of 2018 is a positive development as it establishes the rights for undocumented persons to report cases of GBV without fear of deportation, survivors continue to lack access to support and protection, especially in refugee camps¹⁷⁷. They encounter difficulties in accessing medical care (especially if undocumented) and GBV services, which are limited and do not work in practice, because of the lack of awareness of police officers, the unavailability of female police and the lack of confidentiality for the survivors¹⁷⁸.

Greek institutions created a protocol with guidelines for the transfer of vulnerable women from camps to the mainland¹⁷⁹. However, this measure is not enough, and further provisions to improve the conditions inside the camp must be taken. Greece must ensure, among others:

- The improvement of institutional procedures¹⁸⁰;
- A systemic response holding institutions accountable¹⁸¹;
- A gender sensitive approach which considers intersectional discriminations¹⁸²;
- High quality services for migrant women¹⁸³;

¹⁷⁵ A/HRC/44/51/Add.1, cit., para. 69 p. 15

¹⁷⁶ Human Rights Watch, *Submission of the Committee on the Elimination of Discrimination against women – List of issues for the Review of Greece*, Human Rights Watch, 2020, p. 1

¹⁷⁷ A/HRC/44/51/Add.1, cit., para. 66 p. 15

¹⁷⁸ Ivi, para. 70 p. 16

¹⁷⁹ A/HRC/44/51/Add.1, cit., para. 68 p. 15

¹⁸⁰ Ivi, para. 71 p. 16

¹⁸¹ Ibidem

¹⁸² A/HRC/44/51/Add.1, cit., para. 89(a) p. 20

¹⁸³ Ivi, para. 89(c) p. 20

- Access to services included medical care and shelters for survivors of GBV¹⁸⁴;
- Appropriate mechanism for reporting violence and persecution of perpetrators¹⁸⁵;

What, on the contrary, the different reports of the 8th session are missing, is a perspective on the situation in the mainland, specifically in Athens, where most of migrant, asylum-seeking and refugee women are transferred after having spent some years in the island. Indeed, in Athens the conditions of living are as critical as in the camps on the island, as it will be discussed in chapter 4.

The review is not completed yet, since Greece still has to deliver its report and the same for the concluding observation of the Committee of CEDAW. Nevertheless, the Greek national commission for human rights gave some information on the situation and actions taken by the government, which actually appear to be reductive and rushed: after having recognized the harsh conditions of the camps, it just mentioned the relocation of a “significant number of vulnerable people” to the mainland and on the advocacy for the abolition of the administrative detention measure imposed on vulnerable groups¹⁸⁶.

As far as the international level is concerned, it is worth noting that in the framework of the WPS agenda and among 105 countries which have adopted a National Action plan on WPS (as February 2023)¹⁸⁷ Greece still does not have finalized its NAP for the years 2020-2024. I think this is serious and emblematic at

¹⁸⁴ Ivi, para. 98 (b) p. 20

¹⁸⁵ Human Rights Watch, *Submission of the Committee on the Elimination of Discrimination against women – List of issues for the Review of Greece*, Human Rights Watch, 2020, p. 2

¹⁸⁶ Greek National Commission for Human Rights, *Information relevant to the implementation of the Convention on the Elimination of all Forms of Discrimination against Women – CEDAW*, Hellenic Republic, 2020, p. 8

¹⁸⁷ Women’s international league for peace & freedom, *National action plans: at a glance*, available at <https://1325naps.peacewomen.org/>, [last access 7 February 2023]

the same time for a country that host at least 119,700¹⁸⁸ asylum seekers many of which are conflict-affected women on the move¹⁸⁹ suffering from GBV.

To conclude, at the regional level Greece ratified the Istanbul Convention in 2018, and it submitted its latest report to GREVIO in March 2022, in the context of the country's monitoring work. GREVIO is now about to publish its report in 2023, after the evaluation visit to Greece conducted in autumn of 2022. According to the report submitted by Greece, the measures taken to protect migrant women from GBV in compliance with the Convention are to be considered sufficient and improving. It states that separate accommodations for women are present, in accordance with a Ministerial Decision¹⁹⁰, and that the Reception and Identification Service (RIS) collaborates well with the European Agency for Asylum (EASO) to individuate vulnerable people in need of specific management¹⁹¹. Furthermore, according to the government, gender-sensitive trainings for staff and officials are organized on a regular basis¹⁹². More in general, Greece reports that asylum-seekers have access to “appropriate reception conditions” and to services included those for women survivors of GBV¹⁹³, ensured by the collaboration with stakeholders and NGOs¹⁹⁴.

Greece’s statements are in open contradiction with reports from NGOs and from country visits of monitoring bodies. The publication of GREVIO’s report will give another view of the situation and open spaces for debate and solutions.

¹⁸⁸ International Rescue Committee, *Greece*, <https://www.rescue.org/uk/country/greece> [last access 7 February 2023]

¹⁸⁹ Because of the absence of disaggregated data, we can’t say precisely how many migrant and asylum-seeking women are now in Greece at the moment of the writing of the present thesis. However, in chapter 4 I will try to estimate that on the basis of the data collected

¹⁹⁰ Ministerial Decision related to the General regulations of the sites function, 23/13532/2020

¹⁹¹ Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), *Report submitted by Greece pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report)*, GREVIO/Inf(2022)4, 31 March 2022, Section C(a) p.70

¹⁹² Ibidem

¹⁹³ GREVIO, *Report submitted by Greece*, cit. p. 73

¹⁹⁴ Ivi, p. 74

2.3.2 National legal framework for the protection of migrant women from GBV

The following paragraph analyzes the national legislation for the protection from gender-based violence against migrant women. In 2016 Greece developed its “*National Action Plan on Gender Equality 2016-2020*”, which does not mention migrant women, yet it contains the goal of “social inclusion and equal treatment of women facing multiple discrimination” which implies the integration of a gender-perspective in the legislation on vulnerable groups and the respect of equality and non-discrimination for women suffering multiple disadvantages through targeted policies¹⁹⁵.

On this basis, the Greek government elaborated a second NAP for the years 2021-2025. This latter addresses the protection of migrant women’s rights more in depth, setting some important objectives and practical action for the implementation of gender equality. It includes:

- Prevention and protection from stalking, FGM and early forced marriages¹⁹⁶;
- Prevention and combat of trafficking and survival sex with the conduction of a pilot study on survival sex in Athens¹⁹⁷;
- Protection of the rights of immigrant women, refugee women and asylum seekers and girls with particular attention to GBV and protection mechanisms¹⁹⁸;
- Gender mainstreaming in legislation on vulnerable groups¹⁹⁹;

¹⁹⁵ General Secretariat for Gender equality (GSDFPGE), *Combating discrimination against women and girls – National Action Plan on Gender Equality 2016-2025*, Ministry of Interior, 2016, para. 1 (i)(ii)(iii)

¹⁹⁶ General Secretariat for Gender equality, *Combating discrimination against women and girls – National Action Plan on Gender Equality 2021-2025*, Ministry of Interior, 2021, objective 1.4

¹⁹⁷ Ivi, objective 1.4 - action 1.4.3

¹⁹⁸ GSDFPGE, *National Action Plan*, cit., objective 4.3. Such as joint referrals procedures by state bodies, guidelines for professionals working with survivors of GBV, information regarding GBV and access to justice available for survivors

¹⁹⁹ Ivi, *Social inclusion and Equal Treatment of Women who suffer multiple discriminations*, objective 1

- Creation and dissemination of gender-disaggregated data²⁰⁰.

To achieve these goals, the Department for Social Protection and Combating of Multiple Discriminations was established under the Ministry of Interior, with the tasks of promoting measures for social inclusion and for the promotion anti-discrimination practices against vulnerable groups, including migrant women²⁰¹.

Moreover, recent changes in the Greek legislation implemented the regime for the protection of migrant women and to combat GBV. First of all, now the Penal Code on SGBV applies to everyone in Greece, without distinction between migrants and Greek citizens²⁰². Secondly, according to the Greek Immigration Code article 19a (1c) of Law 4361, emended by Law 4332/2015, third-country nationals' victims of domestic violence in the Greek territory can apply for residence permits²⁰³. These changes, together with the new NAP, certainly mark an improvement in the objectives and awareness of Greek institutions and government about the intersectional and gendered problems faced by migrant women in Greece. Nevertheless, wanting to identify shortcomings, there is no mention of strategies to solve the root causes exacerbating the risk of GBV in the island and in the mainland: reception conditions, housing, access to services and legal status.

Final considerations

Migrant and asylum-seeking women are marginal in binding international documents on combating GBV against women. It is the case of the CEDAW, which do not contain any explicit reference to the topic, or the Women, Peace and Security

²⁰⁰ Ivi, objective 2

²⁰¹ GREVIO, *Report submitted by Greece*, cit., p. 141

²⁰² International Organization for Migration (IOM), *Mapping Report on Legal Framework and Assistance Available to Migrant Victims of Sexual and Gender-Based Violence (SGBV)*, International Organization for Migration, 2019, p. 38

²⁰³ Greek Parliament, Law N° 4332/2015, *amending the provisions of the Code of Greek Citizenship and the provisions of Law N° 4251 of 2014 for the purposes of harmonizing the Greek legislation with the European Parliament and Council Directives 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, and 2014/36/EU on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, and other provisions*

resolution 1325 (WPS), where the protection and participation of women in conflict and post-conflict areas do not take into account the long-term effects of wars and the inclusion in the provisions of conflict-affected women on the move, that is migrant and asylum-seeking women. It is also the case of the EU, which tends to marginalize migrant women from the framework on the protection against GBV. However, through international recommendations, regional and national implementations, different actors tried to fill this gap by bringing to the attention the importance of an intersectional approach when dealing with GBV, that includes the migratory dimensions. Several international and regional instruments suggest practical actions for States to protect women from the continuum of violence they are subjected to, during the journey and after their arrival in third countries, using the framework on GBV as a complementary tool to the one on asylum. To be able to protect women and diminish the risk of GBV, a further expansion of the regime is required

CHAPTER III

THE ASYLUM FRAMEWORK FROM A GENDER PERSPECTIVE: ON WOMEN'S HUMAN RIGHTS AND MIGRANT WOMEN'S VULNERABILITY

The following Chapter discusses the degree at which gender mainstreaming has been developed in the international, regional and national asylum frameworks. It has the aim of assessing if asylum policies and consequently practices are adopting a gender-sensitive approach, by analyzing the provisions for the protection of migrant and asylum-seeking women from GBV. Gender mainstreaming means “integrating a gender equality perspective into policies, programmes and projects, at every level”¹ taking into account the differences in access between women and men in terms of access to power, resources and justice system, with the aim of reaching gender equality². In light of this, I analyze and discuss the main international instruments: the Geneva Convention on the status of refugees and the UNHCR guidelines focusing on women-asylum seekers specific needs; secondly, I present the position of the CoE and its efforts to push for more gender-sensitivity in the asylum provisions; lastly, I explore the EU framework on asylum from a gender perspective, as well as its implementation at the national level of Greece, focusing on the lacks and gaps of the provisions composing the CEAS in terms of gender sensitivity.

3.1 The international level

¹ A. Pandea, *Gender matters*, cit., p. 41

² Ibidem

3.1.1 Women in the Geneva convention on the Status of Refugees

The 1951 Refugee Convention and its 1967 Protocol are the international legal basis for the protection of refugees. The Convention, at the time of its creation, was thought to address cases of people fleeing from the former Soviet Union³, typically male dissident. Thus, it was written from a male perspective and has a rigid interpretation of what constitutes persecution, with the consequence of ignoring women interests and ultimately their right to international protection⁴. Although the document states the “membership of a particular social group” as one of the five grounds for granting international protection⁵, it is the ground with less clarity⁶ and fails in gender-mainstreaming.

It is starting from the ‘90s that the gender-neutrality of the convention is put into question with the UNHCR guidelines, which assert the need to insert gender-specific persecution in the refugee determination status (RDS) and clarify that women are to be considered as members of a particular social groups⁷, because they share “common characteristics other than their risk of being persecuted [...] who are perceived as a group by the society. The characteristics will often be one which is innate, unchangeable, or which is fundamental to identity, conscience or exercise of one’s human right”⁸. This document was a good start for the assessment of women’s claims for international protection, however the definition has been revealed to be too homogeneous and restrictive at the same time, with the consequence of not taking into account the individual experiences of women. It is

³ J. Freedman, *Mainstreaming gender in refugee protection*, in Cambridge Review of International Affairs Vo. 23 No. 4, Cambridge, Routledge Taylor&Francis, 2010, p. 590

⁴ N. Valji, L.A. de la Hunt, H. Moffett, *Where Are the Women? Gender Discrimination in Refugee Policies and Practices*, in Agenda: Empowering Women for Gender Equity No. 55 “Women, the invisible refugees”, pp. 61-71, Taylor&Francis group, 2003, p. 62

⁵ Geneva art 1 a para. 2

⁶ UN High Commissioner for Refugees (UNHCR), *Guidelines on international protection: “Membership of a particular social group” within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*”, 7 May 2022, HRC/GIP/02/02, Section I, para. 1

⁷ Ibidem

⁸ Ivi, Section II(B), para. 11

urgent to refrain refugee protection from a gender perspective⁹, also because the lack of gender sensitivity in the recognition of the refugee status results in a discrimination in the application procedures, potentially leading to the rejection of the claim and the exposure to more violence¹⁰.

Beyond the debate on the concept of “membership of a particular social group” and the one for the recognition of GBV as a form of persecution. It has been argued that the term “gender” is used to define women ‘experiences, while it should actually be understood as “experiences arising from gendered power relations” in order to be able to address claims which do not include gender specific forms of harm¹¹. Persecutions on the grounds of race, nationality, religion, or political opinion have a gender dimension, for example women can be persecuted on the grounds of political opinion regarding gender roles for not conforming to society’s traditional norms and expected roles¹².

3.1.2 The UNHCR guidelines for the protection of migrant, asylum-seeking and refugee women

The UNHCR UN Refugee Agency was created in 1950 and is dedicated to the protection of refugee, forcibly displaced communities and stateless people¹³. From the beginning of the ‘90’s the Agency created several Guidelines for the protection of refugee and asylum-seekers, among which some document pointing out the specificity of migrant women’s experiences, the risk they face, and the protection needs that must be addressed by States, giving suggestions on how to implement national policies and practices. In 1999, it identified refugee women as a policy

⁹ N. Valji, *Where are the women?*, cit., p. 61

¹⁰ The situation of undocumented migrant women whose claim was rejected but are still in Greece will be analyzed in chapter 4

¹¹ A. Anderson, M. Foster, *International Refugee Law – Reflections on the Scholars Field, Ch.3 A Feminist Appraisal of International Refugee Law*, in *The Oxford Handbook of International Refugee Law*, Oxford, Oxford University Press, 2021, p. 2

¹² Committee of Ministers, *Recommendation CM/Rec(2022)17 on Protecting the rights of migrant refugee and asylum-seeking women and girls*, Council of Europe, 20 May 2022, p. 4

¹³ UNHCR, About us, available at <https://www.unhcr.org/about-us.html>, [last access 13 February 2023]

priority¹⁴, yet the non-binding character of its guidelines and its dependence on external donors, mostly States, prevent the agency from being totally independent and make the UNHCR largely controlled by States, with the consequence that its action are less oriented to the protection and tend more to the control of refugees and asylum-seekers¹⁵. Nevertheless, its guidelines are relevant as far as they state clearly which are the problems and the needs of migrant women and what are the actions States should take in order to protect them during all the asylum process, addressing the types of GBV suffered by women in this context.

In the next section, I analyze two UNHCR guidelines, among a multitude. Most of them give suggestions concentrating on the assessment of international protection on various basis related to article 1(A) of the Geneva Convention, whereas the two documents I selected also speak about GBV experienced by women in the country of arrivals because of poor reception conditions and lack of access to the services, and this is the justification for my choice of treating them instead of others.

Guidelines on the Protection of Refugee Women

The UNHCR guidelines of 1991 contain recommendations for the identification of specific problems and risks that refugee women face and protect them during the determination process¹⁶. It recognizes the specificity of women needs on the basis of their gender and the risk they may face for that, such as “manipulation, sexual and physical abuse and exploitation, sexual discrimination in the delivery of good and services”¹⁷. In order to protect refugee women from those risks, the guidelines cover both the assessment process for the international protection¹⁸, the kind of protection needs, both from the point of view of physical security and legal

¹⁴ UNHCR, *Global Report 1999 – Trust Funds: Refugee Women*, Geneva, 1999

¹⁵ J. Freedman, *Mainstreaming gender*, cit., p. 596

¹⁶ UNHCR, *Guidelines for the Protection of Refugee Women*, Geneva, July 1991

¹⁷ Ivi, Section I, para. 3

¹⁸ UNHCR (1991), *Guidelines*, cit., Section II

problems¹⁹, and the improvements that States should make to prevent abuses at the borders, in refugee camps, in the access to services²⁰.

This is why these Guidelines are so relevant, as far as my work is concerned: while the current debate on the Geneva convention focuses on the inequality of the asylum assessment and the need to insert gender and gender-related crimes (first of all sexual violence) as a form of persecution²¹, the problem must also be addressed during and after the asylum process, in the design of refugee camps and in the access to services in the country of arrival, which is often ignored, as the lack of disaggregated data confirms. Indeed, the short-term and long-term choices made in the assistance sector “have profound effect in the protection of refugee women”²². Firstly, the design and organization of the camp is crucial, and it has to take into account the gender dimension:

- Mixed or communal housing do not provide privacy for women and represent a risk for their safety, especially if they are traveling alone²³;
- A distant location of basic services and facilities (e.g. toilets) increases the risk for women to be attacked²⁴;
- The construction of barriers is also another aspect that puts women in danger since they prevent from a safe circulation²⁵.

Besides that, access to food, other goods, water and firewood can also bring additional problems to women in the camp, because of different barriers they face: UNHCR notes that male leaders usually decide for the distribution of food²⁶, or as in the case of Greece in the European system of asylum, the distribution of food card is to the male component of the family considered to be the “head” of the

¹⁹ Ivi, Section III

²⁰ Ivi, Section IV

²¹ N. Valji, *Where are the women?*, cit.

²² UNHCR (1991), *Guidelines*, cit., Section IV, para. 77

²³ Ivi, para. 79

²⁴ Ibidem

²⁵ Ibidem

²⁶ UNHCR (1991), *Guidelines*, cit., Section IV, para. 83

family, aggravating the dependency of women²⁷. Furthermore, accessibility to health care services well designed is of primary importance: the lack or inappropriacy of these services is an obstacle for women's health and for the health of their family member²⁸. When they exist, they are not gender-sensitive and they are not specific, as in the case of the absence of psychological support and GBV counseling programs²⁹, or they are located to distant in a way that prevent women from reaching them in the case they have children or because they must cross insecure areas³⁰.

Another fundamental aspect that arises from the guidelines is the importance of the participation of asylum-seekers and refugee women in the decision-making about the settlement of the camps, the planning and implementing of assistance services including those for survivors of GBV, and in general in every decision affecting their security³¹.

Guidelines for Prevention and Response to GBV against Refugees, Returnees and Internally Displaced persons

These guidelines offer a comprehensive knowledge for the protection from GBV in that they contain a wide definition of what SGBV and GBV are, with their cause and consequences, by which actor they can be perpetrated, and in which phases of the life and migratory cycle they can happen³². Furthermore, they put in place guiding principles and practical suggestions and strategies for the prevention, protection and recovery of survivors, stressing the importance of a multi-sectoral approach.

²⁷ J. Freedman, *Mainstreaming gender*, cit., p. 599

²⁸ UNHCR (1991), *Guidelines*, cit., Section IV, para. 91

²⁹ Ivi, para. 98-100

³⁰ Ivi, para. 101

³¹ Ivi, para. 44

³² UNHCR, *Sexual and Gender-Based violence against Refugees, Returnees and Internally Displaced persons*, 2003

Although it dates back to 2003 and should be definitely updated, its in-depth analysis of SGBV and GBV in the framework of migration offer us an important structure. The types of GBV listed here are collected in the four same analyzed in Chapter 1 in the framework of the CoE, plus one: sexual violence, physical violence, emotional and psychological violence, harmful traditional practices and socio-economic violence³³. According to UNHCR sexual violence include rape or attempted rape, sexual abuse, sexual exploitation, forced prostitution, sexual harassment, sexual violence as a weapon of war and torture. Physical violence includes physical assault and trafficking, slavery. Emotional and psychosocial violence can take the form of abuse/humiliation, confinement. Among harmful traditional practices there are FGB, early and forced marriage, denial of education for girls and women. Finally, socio-economic violence consists in discrimination or denial of opportunities such as access to services, social exclusion and obstructive legislative practices for the enjoyment of fundamental rights³⁴.

In the case of asylum-seeking and refugee women all these acts of violence can be perpetrated, like for everyone else, by family members, intimate partners, relatives, community members, with the addition of security forces/soldiers including peacekeepers, humanitarian aid workers and institutions³⁵. In the county of arrival, women risk

Sexual attack, coercion, extortion by persons in authority; sexual abuse of separated children in foster care; domestic violence; sexual assault when in transit facilities, collecting wood, water, etc.; sex for survival/forced prostitution; sexual exploitation of persons seeking legal status in asylum country or access to assistance and resources, resumption of harmful traditional practices.³⁶

³³ Ivi, p. 15

³⁴ UNHCR, *Sexual and Gender-Based*, cit., pp. 16-18

³⁵ Ivi, pp.14-15

³⁶ UNHCR, *Sexual and Gender-Based*, cit., p. 20

Even though GBV is rooted in societal norms and in the distribution of power, additional factors contribute to exacerbate it in the context of migrant women and the country of arrival, among which the UNHCR recognize the legal framework and practices in host countries: the absence of legal protection, discrimination practices, lack of trust in the law enforcement and consequent poor reporting, low number of prosecutions, inaccessible services and facilities, geographical location and structures of the camps, absence of NGOs in the camps, and predominantly male camp leadership³⁷ are only some of them.

Among the strategies suggested from UNHCR to prevent and protect women from GBV there is the empowerment of refugee women through the promotion of programs in the fields of education, employment and participation³⁸; the planning of effective services and facilities that could respond to the needs and deficiencies listed above³⁹; the implementation of reproductive health programs⁴⁰, and in general the implementation of gender-sensitivity in all provisions and practices, as well as a more gender-balanced system which contributes to make women independent. In order to do so, the collection and analysis of data on SGBV and GBV reports and acts is stressed as a fundamental aspect together with multi-sectoral collaboration.

Final considerations

The international refugee law is actually missing gender-mainstreaming in its core aspects. The Geneva Convention is dated, and despite UNHCR clarifications many are calling for a reform of the Convention that takes gender into account as a form of persecution, including in cases where persecution falls in the normative category of religious, political or ethnic grounds⁴¹. On the other side, UNHCR guidelines are for sure an instrument for raising awareness, yet there is no consistent

³⁷ Ivi, p. 22

³⁸ Ivi, p. 37

³⁹ Ivi, p. 42

⁴⁰ Ivi, p. 45

⁴¹ A. Anderson, *A Feminist Appraisal*, cit., p. 5

implementation⁴², because of their informative and advisory nature which can't oblige a State to implement legal policies towards refugee women⁴³. Moreover, both UNHCR guidelines suggest increasing the participation of women in the planning, designing and implementation of camps, services and activities, however their participation remain limited, also in the UNHCR organization itself⁴⁴.

In 2022 the UNHCR presented its Strategic Directions for the years 2022-2026⁴⁵, which contains as a targeted action the need to strengthen GBV prevention, risk mitigation and response⁴⁶ through the promotion of specialized programs for prevention and response intervention, as well as the reinforcement of survivor-centered approach by improving the access to specialized services for GBV survivors, with an integrated approach across different areas of work⁴⁷. This plan of action reconfirms that GBV continues to be one of the major human right's violations that migrant women continue to suffer from.

3.2 The regional level

3.2.1 The Council of Europe: a gender-sensitive approach to asylum policies

The CoE does not have any binding document regulating migration and asylum policies, however it provides member States with a series of recommendations and reports addressing the need for an integration of a gender-perspective approach in all regional and national frameworks on migration and asylum. All suggestions are made on the basis of international documents on asylum such as the Geneva

⁴² J. Freedman, *Mainstreaming gender*, cit., p. 598

⁴³ M. D. Smith, *Rethinking gender in the international refugee regime*, in *Forced migration Review*, available online at <https://www.fmreview.org/community-protection/smith>, [last access 21 February 2023]

⁴⁴ J. Freedman, *Mainstreaming gender*, cit., p. 597

⁴⁵ UNHCR, *UNHCR Strategic Direction 2022-2025*, Geneva, 2022

⁴⁶ Ivi, p. 5

⁴⁷ Ivi, p. 22

Convention, the UNHCR guidelines, as well as on international and regional instruments for the protection of women's rights such as the CEDAW and its Istanbul Convention, and on reports mainly made by GREVIO after country visits.

For example, in 1979 the Committee of Ministers formulate a recommendation concerning women migrants special needs: member States have the duty to ensure equal social, cultural, educational, living and working conditions taking special measures to reach them⁴⁸. After 30 years from that, in 2019 the Committee of Ministers made another recommendation on preventing and combating sexism, where it refers to migrant women as targets of multiple intersecting forms of sexism, suggesting a series of measures both to prevent and combat sexism⁴⁹. Moreover, a resolution of the Parliamentary Assembly of the CoE recommends special measures to facilitate the integration of migrant women, for example with the promotion of their empowerment facilitating the access to education and work⁵⁰. Besides, the Council of Europe Human Rights Commissioner released a paper in 2017 concentrating on the importance of granting an autonomous residence permit to married women in the context of the family reunification scheme⁵¹.

More recently, in the context of the Gender Equality Strategy, the CoE released a document pointing out the systemic weaknesses in response to the risk faced by women migrating to and within Europe⁵². It marks how the risk of GBV is particularly higher for unaccompanied girls, pregnant women, women with small children and women suffering from intersectional discriminations⁵³. The Geneva Convention is an instrument with relevant gaps also in its interpretation and also

⁴⁸ Committee of the Ministers, *Recommendation No. R (79) 10 of the Committee of Ministers to Member States concerning Women Migrants*, Council of Europe, 29 May 1979

⁴⁹ Committee of Ministers, *Recommendation CM/Rec (2019) of the Committee of Ministers on preventing and combating sexism*, Council of Europe, 27 March 2019

⁵⁰ Parliamentary Assembly, *Resolution 2244(2018) Migration from a gender perspective: empowering women as key factor for integration*, Council of Europe, 11 October 2018, para. 8.2

⁵¹ Council of Europe Human Rights Commissioner, *Issue Paper on "Realizing the right to family reunification of refugees in Europe"*, Council of Europe, 2017

⁵² Council of Europe *Gender Equality Strategy, Protecting the risk of migrant, refugee and asylum-seeking women and girls*, Council of Europe, 2019

⁵³ Ivi, p. 2

for this reason there is an urgent need for gender-sensitive migration and asylum policies which take into account the need for specific protection support mechanism⁵⁴. Furthermore, European Countries do not have a same degree of gender-sensitive asylum policies, procedures and practices⁵⁵, but they all share severe gaps in the protection of women migrating, especially when it comes to law enforcement, availability of shelters, prevention and protection programs and services for survivors of GBV, trafficking and sexual exploitation, safety of sanitary facilities and spaces, availability of information on asylum and on GBV for women, training programs and finally disaggregated data on women aspects of migration in Europe⁵⁶.

Besides, it recognizes that because of cumulative intersectional discrimination such as gender stereotypes and racism, women find more difficult to get their skills recognized when it comes to work, usually confined in domestic and care jobs, they find more difficult to access to services and are at greater risk of being victims of forced prostitution⁵⁷. It also underlines the further risk that undocumented migrant women face, which I analyze at the end of Chapter 4. On this basis too, the CoE also included migrant women in its Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe for the years 2021-2025⁵⁸, highlighting 4 pillars to ensure the respect of their human rights: protection by States, access to justice, participation and cooperation among States and non-States actors⁵⁹. It also sets some important action that the CoE will take for the protection of women in the sphere of vulnerability screening and safeguard, such as for example the draft of a recommendation on migrant and refugee women and the promotion of practical tools to safeguard women in transit reception centers⁶⁰.

⁵⁴ Ivi, p. 3

⁵⁵ Ivi, p. 9

⁵⁶ Ivi, p. 6

⁵⁷ CoE, *Gender Equality Strategy*, cit., pp. 10-12

⁵⁸ CoE, *Council of Europe Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe (2021-2025)*, Council of Europe, 2021

⁵⁹ Ivi, p. 9

⁶⁰ Ivi, p. 11

Following these developments, in 2022 the Committee of Ministers has adopted a new recommendation on protecting the rights of migrant, refugee and asylum-seeking women and girls⁶¹, which contains guidance to member States on women's needs in terms of social services, employment, education and participation to ensure their full empowerment and integration⁶². It brings together the existing provisions of the CoE and the international framework, reiterating the concepts of the previous documents and of UNHCR guidelines seen before, but adds some more accurate details of significance. Generally speaking, it stresses the introduction of a gender-sensitive method in every provision related to migration and asylum, also when it comes to artificial intelligence⁶³. More than that, migrant, refugee and asylum-seeking women, constitute half of the migrant population in Europe, yet for many aspects they form a diverse group for which States should adopt an intersectional approach in all of their measures⁶⁴.

The recommendation also emphasizes the development of specific measures to combat sexual exploitation, the granting of an effective access to shelters for victims of GBV and a multi-agency victim centered approach to deal with such cases⁶⁵. With respect to transit and reception facilities, the CoE adds an important aspect which is the fact that reception accommodation and facilities should be located in places close to women's services, which must include "health, sexual and reproductive health, social and legal assistance, education and essential shopping facilities"⁶⁶ as well as "services related to experiences of violence against women"⁶⁷. I will come back to this provision when speaking about the location of refugee camps in Greece and the additional obstacles that it creates to the lives of migrant women. Furthermore, States should grant access to all those services also

⁶¹ CM/Rec(2022)17, cit.

⁶² CoE, *Newsroom – protecting the rights of migrant, refugee and asylum-seeking women and girls: Council of Europe recommendation adopted*, 20 May 2022, available at <https://www.coe.int/en/web/portal/-/protecting-rights-of-migrant-refugee-and-asylum-seeking-women-and-girls-council-of-europe-recommendation-adopted>, [last access 15 February 2023]

⁶³ CM/Rec(2022)17, cit., Section II, para. 22

⁶⁴ Ivi, para. 5

⁶⁵ Ivi, para. 33,35,39

⁶⁶ CM/Rec(2022)17, cit., para. 47

⁶⁷ Ivi, para. 68

to undocumented migrant women⁶⁸. Despite its non-binding character, this recommendation is the most detailed document on the issue, and it is important because it brings to light all the problems and shortcomings of asylum systems in detail.

3.2.2 The Common European Asylum System: gaps increasing women's vulnerabilities

To be able to analyze the Common European Asylum System (CEAS) and to subsequently deal with it at the national level in Greece, a normative clarification must be done. The laws and provisions of the European Union are divided into two categories of primary and secondary law⁶⁹. Primary law is composed by the treaties which define the distribution of power, responsibilities and competences between the EU and the member States; on the other side, regulation, directives, decisions, recommendations and views constitute secondary law. Moreover, the EU is ruled by two fundamental principles regarding its relationship with member States: the principle of direct effect and the principle of supremacy⁷⁰. The first provides that EU law is directly effective within the legal order of each Member State; this means that for a rule to be valid and applicable, it is not necessary for a member State to transpose it into its legal system by means of acts of ratification. According to the Treaty on the functioning of the European Union (TFUE)⁷¹, primary law always has direct effect, as well as regulation in secondary law, while directives have direct effect if, in addition to meeting the criteria of clarity, precision and unconditionality, they have not been transposed by the recipient countries within the prescribed period; in this case they are called "self-executing". Decisions have direct effect from the moment they are notified to the addressees, whereas opinions and

⁶⁸ Ivi, para. 7

⁶⁹ F. Fabbrini, *Introduzione al diritto dell'Unione europea*, Bologna, Il Mulino, 2018, p. 125

⁷⁰ Court of Justice, *Decision on cause 26/62 Van Gend & Loos*, 5 February 1963; Court of Justice, *Decision on cause 6/64 Costa v. ENEL*, 15 July 1964

⁷¹ European Union, *Consolidated version of the Treaty of the Functioning of the European Union*, Official Journal of the European Union, C 202/1, 7 July 2016

recommendations are not in themselves legally binding and therefore have no direct effect.

With the Treaty of Lisbon, which entered into force in 2009, the previous Treaties (the 1952 Single European Act, the 1997 Treaty of Amsterdam and the 2001 Treaty of Nice) have been subjected to a strong reworking and the phenomenon of migration has been framed among the objectives of shared policy. Lisbon therefore marks the transition from a minimum harmonization system for asylum and immigration policies to a uniform system throughout the EU⁷². The goal was to develop "a common policy on asylum, immigration and external border control, based on solidarity between Member States and fair to third-country nationals"⁷³ providing "appropriate status to any third-country national in need of international protection and ensuring respect for the principle of non-refoulement"⁷⁴.

Second generation CEAS

It is on this legal basis that the CEAS has been progressively created. The CEAS to date is thus composed of the "second generation asylum package"⁷⁵, that is to say of various norms of secondary law, for the majority reformed with respect to the precedents: the qualification directive, the reception directive and asylum procedure directive, the Dublin III regulation and the Eurodac regulation, as well as the European Union Agency for Asylum (EASO), listed in chronological order. However, it has been argued that this attempted harmonization results in lowering the standards for protection to a common denominator characterized by the reduction of the number of refugee status granted and an externalization and securitization of EU borders, actually exacerbating the insecurities faced by migrant

⁷² E. Benedetti, *Il diritto di asilo e la protezione dei rifugiati nell'ordinamento comunitario dopo l'entrata in vigore del trattato di Lisbona*, Vicenza, Dott. Antonio Milani, 2010, p. 181

⁷³ EU C 202/1, *TFUE*, cit., art. 67

⁷⁴ *Ivi*, art. 78

⁷⁵ M. Marchegiani, *La riforma del sistema comune europeo di asilo: verso una procedura comune e uno status uniforme?*, in *Rivista di diritto pubblico* Vol. 26 No. 1, Bologna, Il Mulino, 2020, p.

women⁷⁶. This theory is not only confirmed by practice, as will be seen in Chapter 4, but also by the legislative package that makes up this second generation CEAS, first of all the Dublin Treaty.

In fact, the Dublin regulation fixes the criteria and mechanisms determining the member State responsible for the examination of an application for international protection lodged by a third-country national or a stateless person⁷⁷, and the procedures for taking charge of the claim⁷⁸. On the basis of Schengen, Dublin III states that the duty to examine asylum applications lies with the first European Union country that the migrant has entered (the so-called "country of first arrival")⁷⁹. The goal was to avoid one person to make multiple asylum claims in different States⁸⁰, however the country of first arrival's responsibility has created serious problems since the beginning of the migration crisis in 2015, because the very high number of asylum applications weighs heavily on the border countries of the EU, including Greece.

On the other hand, this concept has a greater impact on migrants seeking asylum in Europe, especially for migrant women. Indeed, the lack of gender and gender-related forms of persecution as grounds to obtain the international protection in the Geneva Convention (as discussed above), led to a difference in EU member States in the interpretation of gender-related claims, with some countries more receptive than others in accepting them⁸¹. This means that it is reasonable, and also safer, for

⁷⁶ J. Freedman, *Women's Right to Asylum: Protecting the Rights of Female Asylum Seekers in Europe?*, in *Human rights Review* 9 (4), Springer Science + Business Media B.V., 2008, pp. 426, 428

⁷⁷ European Parliament and the Council, *Regulation (EU) No. 604/2013 of the European Parliament and of the Council, of 26 June 2013 laying down the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person*, Official Journal of the European Union, 180/31, 26 July 2013, Section III – Criteria for the determination of the competent member States

⁷⁸ Ivi, Section IV

⁷⁹ Ivi, art. 13, para. 1

⁸⁰ J. Woelk, F. Guella, G. Pelacani, *Modelli di disciplina dell'accoglienza nell'emergenza immigrazione – La situazione dei richiedenti asilo dal diritto internazionale a quello regionale*, Università degli studi di Trento, 2016, p. 60

⁸¹ J. Freedman, *Women's Right to Asylum*, cit., p. 426

women to ask for international protection in a member State where gender-related forms of persecution are recognized as valid grounds to obtain the refugee status, but Dublin III prevents it with its country of first arrival concept. Besides, the regulation ignores the importance for women to get in a country where they may have some contacts in terms of community or a network of people from their own country, given the social and economic barriers they face during the journey to and once arrived in the EU⁸², as well as the possibility to ask for international protection in a country where their own language is spoken, as for example in French-speaking countries for sub-Saharan women.

As regards the directives, the qualification Directive establishes minimum regulatory standards for the granting of the status of beneficiary of international protection to third-country nationals or stateless persons, a uniform status for refugees or persons entitled to subsidiary protection, and the content of the protection⁸³. It identifies women, under the reasons for persecutions, the membership of a particular social group, clarifying that considerations on gender must be taken into account⁸⁴. The procedure Directive regulates the process of an application for asylum, better defining the examination procedures and timing⁸⁵; it contains the concept of “safe third countries”⁸⁶ that brings particular concerns and serious negative outcomes when it comes to human rights violations.

What is more, in the case of asylum-seeking women, this concept ignores the gender dimension: the safety of the country is based on a public-private division, where private acts of violence are ignored, and on the majority of the citizens experience,

⁸² Ibidem

⁸³ European Parliament and Council, *Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on the qualification of third-country nationals or stateless persons as beneficiaries of international protection, on a uniform status for refugees or persons entitled to subsidiary protection and on the content of the protection granted (recast)*, Official Journal of the European Union, L 337/9, 20 February 2011

⁸⁴ Ivi, art. 10 (d)

⁸⁵ European Parliament and Council, *Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for the recognition and withdrawal of international protection status*, Official Journal of the European Union, L 180/60, 29 July 2013

⁸⁶ Ivi, art. 38

totally dismiss substantial minority gender-based persecutions⁸⁷. Finally, the reception Directive contains common rules on the reception of asylum seekers in the member States, in order to guarantee fundamental human rights⁸⁸. It sets standards for material conditions and sanitary assistance (*inter alia* psychological assistance)⁸⁹ that States member have the duty to provide, taking into consideration gender differences⁹⁰. They also call for States to implement appropriate measures to prevent SGBV and GBV in accommodations, including sexual harassment and assault⁹¹.

Special procedures for vulnerable persons

The former European Asylum Support Office (EASO), substituted by the European Union Agency for Asylum (EUAA) in 2022, starts from article 21(1) of the EU Charter⁹² to give a definition of vulnerable persons in the context of the asylum system in the EU⁹³. From there, a list of particular categories of vulnerable persons is drawn up, among which pregnant women, single parents with minor children, gender identity, victims of trafficking, survivors of rape and sexual violence and of other serious forms of psychological or physical violence appear⁹⁴. These categories are also contained in a list of “applicants with special reception needs” in the reception directive⁹⁵, and the procedure directive mentions gender, rape and other forms of violence as grounds to grant special procedural guarantees⁹⁶. Vulnerable

⁸⁷ J. Freedman, *Women’s Right to Asylum*, cit., p. 427

⁸⁸ European Parliament and Council, *Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down rules on the reception of applicants for international protection*, Official journal of the European Union, L 180/96, 29 July 2013

⁸⁹ Ivi, art. 19 para. 2

⁹⁰ Ivi, art. 18 para. 3

⁹¹ Ivi, art. 18 para. 4

⁹² European Union, *Charter of the Fundamental rights of the European Union*, Official Journal of the European Union, C 326/391, 26 October 2012

⁹³ European Asylum Support Office, *Judicial analysis – Vulnerability in the context of applicants for international protection*, Luxembourg, European Asylum Support Office, 2021

⁹⁴ Ivi, p. 17-18

⁹⁵ Dir. 2013/33, cit., art. 21

⁹⁶ Dir. 2013/32, cit., recital 29

persons must be identified by national authorities, however, there is no further clarification on what those needs consist of.

For people falling in those categories, member States are required to put in place special procedural guarantees comprising of individual assessments to identify specific reception needs, psychological support⁹⁷, as well as special guarantees in case of detention⁹⁸. Yet, a large margin of appreciation has been given to member States on how to implement these provisions, representing a further problem for the implementation of the framework. Moreover, it has been pointed out that there is much ambiguity on the term of “special reception needs” and a great confusion between the term “special needs” and “vulnerability”, since they sometimes indicate the same categories of people and sometimes they appear as separate terms both present in the same provision⁹⁹; in addition, the list is not even exhausting¹⁰⁰.

The confusion and inaccuracy have the potential to create stereotypes¹⁰¹, and the effects of the missed harmonization of a vulnerability approach in the CEAS¹⁰² are necessarily having a negative impact on women and their protection. Indeed, the lack of clarity in the provisions and the lack of national implementation are both systemic failings which prevent from the identification of vulnerable people, their registration and access to services¹⁰³.

Because of the various inefficiencies of the second generation CEAS, in 2016 the European Commission proposed a reform of the system consisting in a new Dublin

⁹⁷ European Parliament, *Briefing – Gender aspects of migration and asylum in the EU: An overview*, European Parliament Research Service, 2016, p. 9

⁹⁸ Dir. 2013/33, art. 11

⁹⁹ E. La Spina, *Especially Vulnerable Categories in the Context of Migration and Asylum: Theoretical Regulatory Challenges*, in *Migration Letters* Vol. 18 No. 5, London, Transnational Press London, 2021, p. 540

¹⁰⁰ Ivi, p. 541

¹⁰¹ Ivi, p. 533

¹⁰² T. Gazi, *The New Pact on Migration and Asylum: Supporting or Constraining Rights of Vulnerable Group?*, in *European Papers* Vol. 6 No. 1, European Forum, 2021, p. 168

¹⁰³ Human Rights Watch, *Greece: Chaos, Insecurity in Registration Center*, 2015, available at <https://www.hrw.org/news/2015/10/12/greece-chaos-insecurity-registration-center>, [last access 18 February 2023]

regulation based on a repartition of asylum request according to a “corrective allocation mechanism”¹⁰⁴, and in the change of qualification and procedures directives into regulations, in order to put an end to delays in the transposition of the directives and thus solving the problems of the lack of harmonization among member States. The proposal was rejected by the Council in 2018, however, under a new proposal of the European Commission, in September 2020 the so-called New Pact on asylum was published. Yet, instead of containing measures to ensure the protection and inclusion of asylum-seekers and refugees, the new pact is characterized by an increase in border controls and return procedures¹⁰⁵.

Despite some positive changes such as the broadening of the definition of family for the purpose of reunifications in the new Dublin Regulation proposal, the proposals contained in the New Pact appear to increase the risks associated with vulnerable people rather than offer them greater protection. In fact, the proposal for a screening regulation at the borders foresees the identification of the vulnerabilities directly at the border, providing in such case to offer the adequate support "where relevant"¹⁰⁶; however, “ if it is clear from the circumstances that such examination is not needed, in particular because the overall condition of the person appears to be very go”¹⁰⁷ the evaluation should not take place. This calls for authorities to analyze vulnerability based only on observation, ignoring the multifaceted nature of vulnerability and inevitably discriminating against groups whose vulnerability is not obvious or apparent, such as victims of psychological trauma, human trafficking¹⁰⁸, and various forms of GBV.

¹⁰⁴ European Commission, *Proposal for a Regulation of the European Parliament and of the Council, establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)*, Brussels, 4 May 2016

¹⁰⁵ J. Freedman, *Immigration, Refugees and Response*, in *Journal of Common Market Studies*, University Association for Contemporary European Studies and John Wiley & Sons Ltd, 2021, p. 7

¹⁰⁶ European Commission, *Proposal for a Regulation of the European Parliament and of the Council introducing a screening of third country nationals at the external borders and amending Regulation (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817*, COM 2020/612, Bruxelles, 29 September 2020, art. 9(2)

¹⁰⁷ Ivi, Recital 26

¹⁰⁸ T. Gazi, *The New Pact*, cit. p. 173

Finally, the New Pact calls for an asylum procedure regulation containing instructions for shorter asylum procedures¹⁰⁹. Vulnerable persons are excluded from accelerated procedures at the borders in case where adequate support can't be provided¹¹⁰, nevertheless it has been proven that in the case of Greece, asylum authorities states as a general rule that enough support is given to those requiring special procedural needs during fast track border processes in the Aegean islands¹¹¹, thus increasing the risk of procedural errors¹¹² and the risk for vulnerable people, including asylum-seeking women, not to receive the appropriate support established by law.

3.3 The national level

3.3.1 Overview of Greek legal framework on asylum and the latest changes

The situation of migrant and asylum seekers in Greece has been critical since the beginning of the migratory “crisis” in 2015 and the latest reports of international organizations show that it only gets worse. New democracy is the conservative party currently detaining the majority in the Greek government, and the positions on migration are more and more restrictive and discriminatory: Greece’s migration minister, Notis Mitarachi, in March 2022 defined Ukrainians refugees fleeing from the conflict with Russia as “real refugees”, compared to others who he calls “irregular migrants”¹¹³. Irregular pushbacks at sea and land borders with Turkey, informal returns, systematic detention of asylum-seekers, surveillant systems in

¹⁰⁹ European Commission, *Amended proposal for a Regulation of the European Parliament and of Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU*, COM/2020/611, Bruxelles, 29 September 2020

¹¹⁰ Ivi, art 24(3)

¹¹¹ Refugee Support Aegean, *Comments on the amended Commission proposal for an Asylum procedures Regulation*, 2020, available at rsaegean.org, [last access 19 February 2023]

¹¹² T. Gazi, *The New Pact*, cit. p. 174

¹¹³ Human Rights Watch, *Country report 2023: Greece*, 2023, available at <https://www.hrw.org/world-report/2023/country-chapters/greece#:~:text=Greece%20fell%2038%20positions%20within.media%20freedom%20in%20the%20country.>, [last access 20 February 2023]

reception centers are only some of the worrying measures being taken by Greece, measures that, in the context of the present work, violate the human rights of asylum-seeking women and aggravate their situation on the territory¹¹⁴.

In 2019 the new law on asylum L. 4636/2019, known as the International protection act (IPA), was issued. Several human rights and civil society organizations denounced a lowering of the protection standards with unnecessary complicated procedures creating additional pressure on the already overloaded Greek system¹¹⁵. Furthermore, the law was amended in 2020, exacerbating even more the punitive measures for asylum seekers, introducing strict requirements that easily exclude them from international protection and increasing arbitrary detention¹¹⁶. In Chapter 4 I will deepen three measures that restrict migrants' freedoms in general and place women asylum seekers in greater danger: the online pre-registration platform, the new policies on camps, and the amendment on housing.

3.3.2 Greece's implementation of the CEAS with regard to vulnerable persons

As a member of the EU, Greece transposed Dublin III and the directives composing the CEAS in its national legal framework, not without misconducts and deficiencies. This section analyzes the very transposition of EU provisions with respect to asylum-seeking women in the context of vulnerable groups. In general, we can say that the minimum harmonization and the fact that most of the secondary laws composing the CEAS are directives leaves too much discretion to the states. This, in the case of Greece, where transposition failures, partial transposition or delays in transposition result in lower protection standards and respect of human rights¹¹⁷.

¹¹⁴ Ibidem

¹¹⁵ European Council on Refugees and Exile (ECRE), *Country Report: Greece*, Asylum Information Database (AIDA), 2020, p. 19

¹¹⁶ Ibidem

¹¹⁷ M. Marchegiani., *La riforma del sistema comune europeo di asilo: verso una procedura comune e uno status uniforme?*, in *Rivista di diritto pubblico* vol.26 n.1, Bologna, Il Mulino, 2020, p. 86

As seen before, the procedure and reception directives, as well the EASO, make clear that the category of persons with specific vulnerabilities incorporates gender, single parents with minor children, as well as survivors of GBV. These persons should be granted with specific procedural guarantees, which actually the transposition into the Greek framework and the IPA miss to ensure. Article 39(5) and 58(1) of IPA recognizes among vulnerable persons pregnant women, single parents with minor children, victims of human trafficking, victims of GBV. However, Greece has more recently narrowed the category of vulnerable people, deleting persons with post-traumatic stress disorder (PTSD)¹¹⁸, following consistent pressure from the EU in the form of multiple communications to reduce the number of “vulnerable” asylum seekers, including survivors of SGBV and GBV¹¹⁹.

Many of the people we served at the Meraki Centre during my training were diagnosed with PTSD, with no surprise in view of the serious difficulties and human rights violations people face in traveling to Europe. Therefore, the decision to remove PTSD from vulnerabilities does not surprise, since it clearly falls in the scope of massively reducing the number of people who have special needs under the law. However, their vulnerabilities remain and the inadequacy of individuating it only aggravate the situation of asylum-seekers.

Moreover, the procedure directive has been transposed into article 81(1) IPA exceeding the permissible grounds for applying the accelerated procedures by submitting to fast track procedures at borders also vulnerable persons who receive adequate support¹²⁰. Indeed, as seen before, authorities state as a general rule that

¹¹⁸ ECRE, Country Report: Greece – Identification, updated version 2022 available at <https://asylumineurope.org/reports/country/greece/asylum-procedure/guarantees-vulnerable-groups/identification/>, last access 21 February 2023]

¹¹⁹ Human Rights Watch, *EU/Greece: Pressure to Minimize Number of Migrant Identified as “Vulnerable” - European Pressure Affecting People with Disabilities*, 2017, available at <https://www.hrw.org/news/2017/06/01/eu/greece-pressure-minimize-numbers-migrants-identified-vulnerable>, [last access 21 February 2023]

¹²⁰ ECRE, *Country Report: Greece*, cit., updated version 2022, available at <https://asylumineurope.org/reports/country/greece/annex-i-transposition-ceas-national-legislation/> [last access 21 February 2023]

enough support is given to those requiring special procedural needs during fast track border processes, with the result that the accelerated procedures are applied to persons in need of a special procedural guarantee too in most of the cases, mining their special protection needs. What is more, persons with vulnerabilities are required to be identified “within a reasonable time” according to article 67(1) IPA; this period usually translates in 2/3 days, a time limit that is not enough to really assess less evident vulnerabilities as for survivors of GBV, and combined with the lack of training, it results in missing the identification of people with special needs, including victims of SGBV and GBV¹²¹. In this situation, NGOs play a major role in the identification and referral of vulnerable persons, together with the assistance of former EASO¹²².

When persons with special needs are individuated, they are entitled to be given priority in the asylum procedure and to be transferred to the mainland, mainly in Athens, where they can have easier access to services. However, as seen above, the Greek authorities argue that at the border and on the islands, there is adequate support for vulnerable people, although several human rights organizations have been denouncing for years the serious conditions of camps and the lack of access to services. In this way, they effectively prevent the transfer to the mainland and block vulnerable persons in the camps¹²³. Besides, as stated by the reception Directive, people deemed as vulnerable should be granted specific accommodation conditions, yet the problems in the identification and the lack of appropriate reception places for vulnerable applicants prevent them from enjoying this right¹²⁴,

¹²¹ HRW, *EU/Greece*, cit.

¹²² Ecre cit. p. 25 p 30

¹²³ ECRE, *Country Report: Greece – Guarantees for vulnerable groups*, available at <https://asylumineurope.org/reports/country/greece/asylum-procedure/guarantees-vulnerable-groups/identification/>, [last access 21 February 2023]

¹²⁴ ECRE, *Country Report: Greece – Special reception needs of vulnerable groups*, available at <https://asylumineurope.org/reports/country/greece/reception-conditions/special-reception-needs-vulnerable-groups/>, [last access 21 February 2023]; see also ECtHR, *M.S.S.v. Belgium and Greece* [CG], Application No 30696/09 Judgment of 21 January 2021

as in the case of victims of SGBV who have been reported to stay in the same tent as their perpetrator¹²⁵.

Finally, there is a huge data gap concerning vulnerable groups in Greece. Institutional sources do not provide neither for the number of asylum seekers registered by the Asylum Service as vulnerable in 2021/2022, nor for disaggregated data, with the exception of data on minor children¹²⁶. Asylum-seeking women with vulnerabilities are completely absent from statistics and evidence.

Final considerations

In conclusion, generally speaking, the harmonization of the CEAS is still too minimal, mainly because of the deep political and strategic differences between member States with regard to the phenomenon of migration and asylum. This leads to the persistence of disparities between national legislations, making the national legal systems differ widely in terms of efficiency, procedural time, quality of reception and respect for human rights¹²⁷. Moreover, expenditure, which depends mainly on the internal budget (albeit with the help of EU funds), is the most important burden in this respect, with the result that, above all, the countries in economic difficulties fail to fulfill their obligations¹²⁸. This has a particular impact on Greece, a country already in economic difficulty after the crisis of 2008, on whose asylum system the Dublin III regulation mechanism has weighed heavily and negatively.

In the case of asylum-seeking women, the attempted harmonization undertaken with the latest changes of the CEAS is actually creating more insecurities for them. This is mainly due to the lack of a gender sensitive approach to asylum provisions

¹²⁵ Médecins Sans Frontières, *Constructing Crisis at Europe's Border: The EU plan to intensify its dangerous hotspot approach on Greek Islands*, 2021, available at <https://bit.ly/3tVzwFg>, [last access 21 February 2023]

¹²⁶ European Council on Refugees and Exile, *The concept of vulnerability in European asylum procedures*, Asylum Information Database (AIDA), 2017, p. 20

¹²⁷ M. Marchegiani, *La riforma del sistema*, cit., p. 86

¹²⁸ P. Bonetti, *Accoglienza nell'emergenza: la recente evoluzione*, in G. Pelacani, *Modelli di disciplina dell'accoglienza*, cit., p- 121

and practices in the second-generation CEAS, as well as to the missed reform of the system, which left states with still too much scope of discretion¹²⁹. The failure of the conversion of the directives into regulation means that implementation gaps of the EU provisions still persist. The result of all of these elements combined is a greater disparity and less protection for migrant women seeking asylum¹³⁰. Likewise, the lack of political will, both at national and European level, to tackle the phenomenon of migration in a structural way and with a view to protecting the rights of asylum seekers must be added as another component. Indeed, the New Pact on migration and asylum promoted by the European Commission shows that EU policy is increasingly moving towards the securitization and externalization of its borders, criminalizing migration and humanitarian aid.

In addition, when the legislation specifically refers to asylum-seeking women, it lacks specificity. The notion of vulnerability is not clear in its meaning and application in practice. Its interchangeable use with the term “people with special protection needs” confuses, and the system lacks of uniform criteria that States and nonstate actors in the ground can use for the screening, identification and prioritization of persons with specific needs, in this case specifically with the aim of preventing and responding to GBV¹³¹.

¹²⁹ As for example in the case of the use of vague terms such as “when necessary” and “within a reasonable time” (DIR 2013/33 art. 19(2); DIR 2013/32 art. 24)

¹³⁰ J. Freedman, *Women, Peace and Security*, cit., p. 151

¹³¹ UNHCR, UNFPA; Women’s Refugee Commission, *Initial Assessment Report: Protection Risks for Women and Girls in the European Refugee and Migrant Crisis – Greece and the former Yugoslavia Republic of Macedonia*, UNHCR, 2019, p. 10

CHAPTER IV

GENDER-BASED VIOLENCE AGAINST SUB-SAHARAN MIGRANT WOMEN IN GREECE – EVIDENCE FROM MERAKI COMMUNITY CENTER

In this Chapter, the first section is dedicated to an introduction on Vasilika Moon Onlus with which I did my internship and on the Meraki project in Athens, where I had the opportunity to collect the testimonies of sub-Saharan migrant women asking for international protection in Greece. Next, with their testimonies, I bring evidence of the GBV suffered by sub-Saharan asylum-seeking women at different steps of the asylum system: GBV at the borders, during the asylum determination process, and once they are out of the system.

4.1 Evidence background: Meraki community center

Vasilika Moon Onlus is an NGO operating in Greece since 2016. It was founded by a group of volunteers working with migrants and asylum seekers in the camp of Vasilika, and in the camp of Diavatà, near Thessaloniki, in Greece. After the Covid-19 pandemic started, Vasilika Moon opened two other mission currently active, in collaboration with other two NGOs (One bridge to Idomeni and Aletheia): one near the camp of Korinthos, and the other one based in Athens, where it opened a community center called Meraki. The aim of the missions is to bring support to migrants and asylum-seekers stuck in Greece.). The center, which officially opened in January 2021, provides social help desk for guidance and accompaniment to the services of the territory, educational and socialization activities, basic and specialized medical assistance service, food distribution and basic necessities to migrants, asylum-seekers, refugees and persons outside the asylum system.

4.1.1 Case data of sub-Saharan migrant women part of the project

In its first 10 months, workers carried out 700 interviews, with the identification of emergency situations and with 361 people being specifically supported¹. About half of the people helped were migrant and asylum-seeking women, either single or with dependent minor children, and the most frequently cases were people living on the streets and/or in unstable housing situations², as well as cases of violence, including SGBV and GBV more in general. The service offered consists of an initial interview with the user, to understand the situation and needs of the people who arrive at the center. Subsequently, if there is the possibility, the part of case management starts, with the orientation of the person to the services in order to offer them support during the asylum application procedure, for health issues, for attending courses, in the case of dependent minors and through the distribution of food, basic necessities and clothing. All this thanks to the partnership and cooperation with several other organizations, including Action for Women³, which deals specifically with care and case management of migrant and asylum-seeking women survivors of GBV.

I had the opportunity to do an internship at the Meraki community center in Athens from the beginning of June until the end of July 2022. During these 2 months, our team supported 92 new cases besides those that have continued to follow from the previous months⁴. Each of us was in charge of cases management; specifically, I worked with 47 cases. The figure below shows the percentages of couples with children, single mothers with dependent minors, single women and single men in cases I addressed.

¹ Vasilika Moon Onlus, *What a Moon - News Letter*, November 2022

² The living situation of the cases supported in the first 10 month were divided as follows: 35% of homelessness, 28% of government housing, 35% in the camps (illegally), 9% of other accommodations, 8% in camps (legally), 6% of private housing, 1% of hostels, *ibidem*

³ Action for Women, <https://afw.ngo/> [last access 25 February 2023]

⁴ All data collected are part of the Meraki project of Vasilika Moon Onlus and have been elaborated thanks to the work of all the volunteers and the coordinator of the mission in Athens

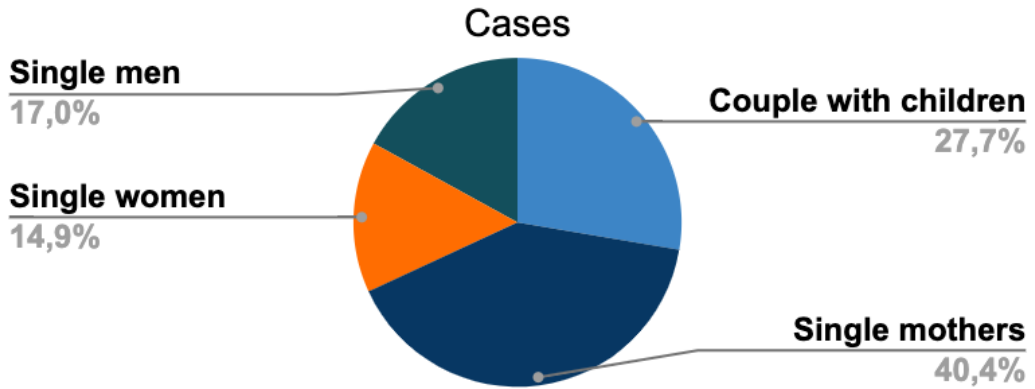


Figure 1: Distribution of types of beneficiaries in cases managed

Out of 47 persons, 26 were women, constituting the 55,3%. Of these, 19 were women alone with their children, 7 were single women one of which was pregnant. The rest of the cases was composed by 13 couples with children and 8 single men. The following graphic illustrates the legal situation of the 26 women (between single mothers and single women) at the time of my internship.

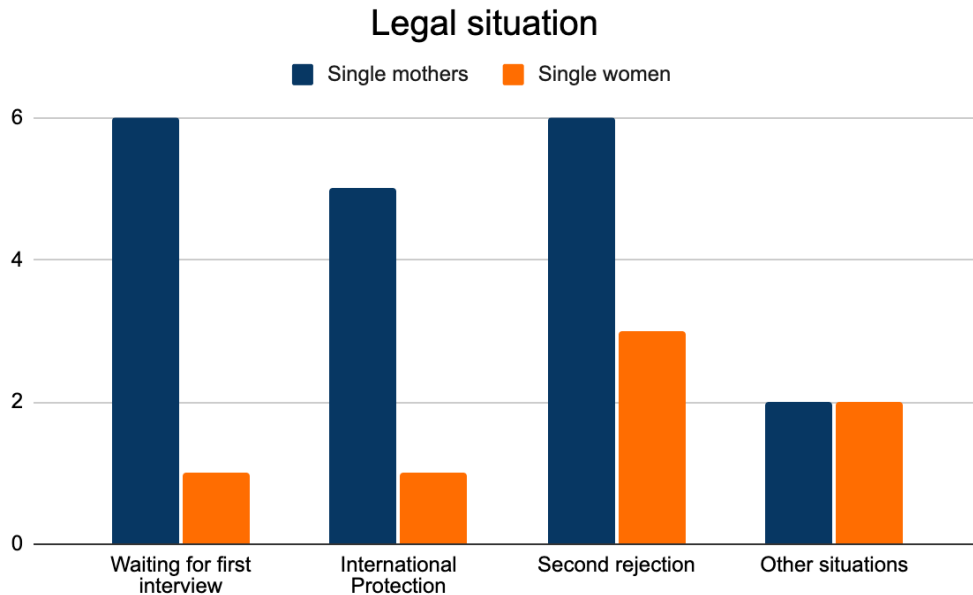


Figure 2: Legal situation of single mothers and single woman in cases managed

All the 26 women asked for international protection and have been in Greece for different periods of time (mostly years). As the figure shows, the majority of single mothers with children either received a second rejection⁵ of their claim (6), in spite of the vulnerability of their situation, or were still waiting to do the first interview (6), while 5 of them received the international protection and the residence permit. On the other hand, out of 7 single women, the majority received a second rejection (3), among which a pregnant woman, 1 was still waiting for the first interview and 1 received the residence permit linked with the international protection. Finally, when speaking of 4 other situations, I refer to cases that do not fall under the previous categories: one single mother never received the answer from the interview because she left illegally the hotspot in Samos⁶; for a single woman the refugee status document expired before she could renew it; one single mother never did the interview; a single woman was not registered in the system because she arrived in Athens by land, crossing the borders with the Evros river in Turkey, after she was pushed back by the reek coast guard. Hence, she did not follow the regular procedure that starts from the identification and registration in the hotspots.

Lastly, the diagram below picture aggregated data of the living conditions of the 26 asylum-seeking and refugee women in cases managed.

⁵ I explain the asylum procedure in Greece in third section of this Chapter, when dealing with GBV during the asylum determination process

⁶ According to a geographical restriction, asylum seekers must stay where they asked for international protection (usually the hotspots) and wait there for the response. It is possible to transfer a dossier from the island to the mainland; however, the procedure requires the intervention of a lawyer and a lot of time. Since it is not certain that the procedure will be successful, as a rule the person must return to the island to receive the answer, which is actually impossible for obvious reasons: the reluctance of asylum seekers to return to places of segregation and violence, lack of money and more

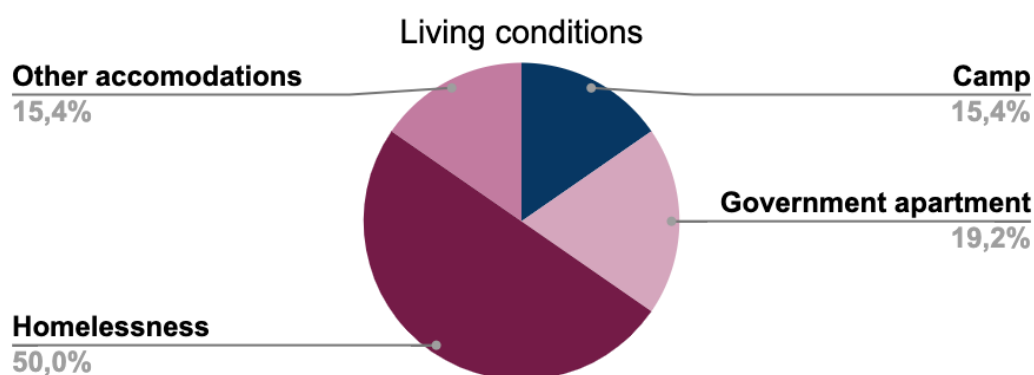


Figure 3: Living conditions of women in cases managed – Athens and surroundings areas

About 50% of asylum-seeking and refugee women did not have a proper accommodation at the time of my internship. Out of 13 cases of homelessness, 10 were single mothers and 3 were single women, among which one pregnant woman. They were either living “illegally” at “friend’s apartment”, or at someone else’s apartment (unknown person) (11), or in squats (2)⁷. Besides, 4 single mothers and 1 single woman were living in government apartments but were about to lose it because of the closing of the ESTIA housing project by the government. Only 4 women (2 single mothers and 2 single women) were living in refugee camps, in Athens or in the surrounding areas, while 4 women (2 single mothers and 2 single women) had other types of accommodation: private rented apartments, NGOs accommodations.

In the following sections I bring the experiences and testimonies of 8 women among the 24 I had the possibility to work with. Four of them are single mothers, one of them was pregnant at the time, and four of them are single women. They all come from the Democratic Republic of Congo, expect for one woman who is from Cameroon. Besides, they all have been in Greece for several years: 5 of them are in Greece since 2019, 2 since 2021 and 1 since 2017. They all arrived firstly in the island, expect for one single woman who crossed the land borders between Turkey

⁷ Occupied buildings with people living in it without the legal right to do so. This type of accommodation is very common in Athens and in Greece in general

and Greece. After different periods of time, they have been transferred or came alone to the mainland and to Athens. With respect to their legal situation, at the time of my internship 3 of them received the international protection status and the residence permit, 2 of them had two rejections and 3 of them were still waiting for the decision, for different reasons. To ensure anonymity their names have been replaced with a capital letter, so that I will refer about them with *A.*, *M.*, *M.M.*, *Z.*, *L.*, *B.*, *B.M.*

4.2 Border-crossing violence

The concept of border and its implication has long been discussed by anthropologists, philosophers, politicians and, in the context of migration, by humanitarian actors and NGOs. The significance of border changes over time, from being understood as a territorial limitation defining political entities and legal subjects⁸, to a social dynamic and fluid construct, increasingly selective and diversified⁹. According to Baumann, the frontiers “operate in highly gendered, racialized and classed ways”¹⁰. This is certainly the case of the EU understanding of its frontiers through its border policy, which from the beginning of the migratory “crisis” has more and more evolved into a strategy of exclusion of certain categories of people on the basis of their country of origin.

4.2.1 The consequences of the EU externalization and securitization of its borders for sub-Saharan migrant women

The EU policy of securitization and externalization of its borders takes two direction: on one side, it increases the controls at the frontiers by enhancing the

⁸ D. Fassin, *Policing Borders, Producing Boundaries. The Governmentality of Immigration in Dark Times*, in Annual Review of Anthropology No. 40, New Jersey, Annual Reviews, 2011, p. 214

⁹ S. Pickering, B. Cochrane, *Irregular border-crossing deaths and gender: Where, how and why women die crossing borders*, in Theoretical criminology Vol. 17 No. 1, Sage publications, 2012, p. 28

¹⁰ Z. Baumann, *Wasted Lives: Modernity and Its Outcasts*, Cambridge, Polity Press, 2004, in ibidem

collaboration between the European border and Coast Guard Agency (FRONTEX)¹¹ and the coastguards of the member States and it expands the expenses for sophisticated technological tools in order to prevent irregular border crossing¹². On the other side, the externalization consists in the transfer of the border management to third countries considered “safe” according to the notion contained in the asylum procedure Directive¹³. This practice is exemplified by the bilateral agreements with Libya and Turkey¹⁴, whereby the European Union undertakes to pay large sums of money (about €6 billion for the agreement with Turkey), and in exchange these States hold migrant persons trying to cross the borders in their territory. The result is a massive human rights violation of migrants and asylum seekers occurring in those States, which do not guarantee the protection of human rights, as largely documented by NGOs¹⁵, and the violation of the right to ask asylum contained in the Geneva Convention of 1951.

These practices, the absence of policies creating legal channel of migration, the criminalization and illegalization of migration, as well as the Dublin III policy of the first country of arrival, are an example of *dynamic violence* committed against

¹¹ Frontex is currently under investigation for illegal deportation of people at the borders between Greece and Turkey against the principle of non-refoulement

¹² Frontex expenses in 2021 amounted to 84 million euros for the implementation of surveillance services at the borders and in the crossing areas of migrants. The agency also provides state with organizational support technologies, such as control and surveillance equipment, drones. Source: J. Kilpatrick, *The use of technology in the violation of rights; the case of Frontex, surveillance and analysis of risks*, International conference “The confinement camps in the 21st century and the responsibilities of the European Union”, RiVolti ai Balcani, 7 May 2022

¹³ Dir. 2013/32/EU, art. 38

¹⁴ *Memorandum of Understanding in the fields of development, the fight against illegal immigration, human trafficking and fuel smuggling and on reinforcing the security of borders between the State of Libya and the Italian Republic*, 2 February 2017; European Council, *EU-Turkey statement*, 18 March 2016

¹⁵ Amnesty International, *Libya: New evidence shows refugees and migrants trapped in horrific cycle of abuses*, available at <https://www.amnesty.org/en/latest/press-release/2020/09/libya-new-evidence-shows-refugees-and-migrants-trapped-in-horrific-cycle-of-abuses/#:~:text=Amnesty%20International's%20research%20revealed%20that,opportunity%20to%20challenge%20their%20deportation.>, [last access 28 February 2023]; United Nation Human Rights Office (OHCHR), *Libya: UN human rights report details violations of migrants' rights amid “assisted return” programmes*, available at <https://www.ohchr.org/en/press-releases/2022/10/libya-un-human-rights-report-details-violations-migrants-rights-amid>, [last access 1 March 2023]; *UN, Libya: human rights abuses must be addressed, says UN prob*, available at <https://news.un.org/en/story/2023/01/1132967>, [last access 1 March 2023]; Human Rights Watch, *Turkey: Hundreds of Refugees Deported to Syria*, available at <https://www.hrw.org/news/2022/10/24/turkey-hundreds-refugees-deported-syria>, [last access 1 March 2023]

migrants and asylum seekers, including women, by the EU. The effect is that it is increasingly more difficult for people to cross the borders and reach a safe country in EU where to ask for asylum, with the result that they are pushed to search for smugglers and traffickers¹⁶. For women, the implications are even more problematic: they are at greater risk of being survivors of GBV, and they disproportionately die in global frontiers (both while crossing physical lands and sea) as proved by a study¹⁷.

They may engage in transactional sex practices, which can be defined as “a non-marital, non-commercial sexual relationship motivated by an implicit assumption that sex will be exchanged for material support or other benefits”¹⁸. It is different from sex work in the sense that women do not self-identify as sex workers, the exchange of money or goods is implicit in the relationship and there also can be some shared emotional intimacy¹⁹, and researches place it between rape and a survival strategy²⁰. In the case of sub-Saharan migrant women, they may engage in transactional sex to get money or favors from men, for example to procure fake passports or a spot on the boat to Greece²¹. Moreover, when they get a passage in a boat, research shows how women and children are more likely to be located below deck of the boat, where they are exposed to fumes, leaking water and hazards²². Lot of times women are also pregnant, either because of the high levels of SGBV occurring during the border crossing phases²³, or because the pregnancy is seen as a possible advantage to receive the international protection once the EU²⁴.

¹⁶ E. Tastsoglou, *The Gender-based Violence*, cit., p. 8

¹⁷ S. Pickering, *Irregular border-crossing*, cit., p. 44

¹⁸ UNAIDS, *Transactional sex and HIV risk: from analysis to action*, Geneva, Joint United Nation Programme on HIV/AIDS and STRIVE, 2018, p. 5

¹⁹ Ibidem

²⁰ E. Tastsoglou, *The Gender-based Violence*, cit., p. 8

²¹ S. Pickering, *Irregular border-crossing*, cit., p. 44

²² UNHCR, *Sexual and gender based violence (SGBV) prevention and response*, Emergency Handbook, UNHCR, 2021

²³ S. Pickering, *Irregular border-crossing*, cit., p. 33

²⁴ Ivi, p. 34

²⁴ E. Tastsoglou, *The Gender-based Violence*, cit., p. 8

Further, pushbacks and abuses from the Greek coast guard and Frontex add to the risk of suffering violence, as widely reported²⁵. *D.* is a single woman coming from the Democratic Republic of Congo. The first time she tried to reach Greece was in December 2021. She attempted crossing the borders by sea, in a boat with seven other people, but they were victims of an illegal pushback committed by the Greek coastguard in the island of Rhodes, violating the right of *non-refoulement* of the Geneva Convention on the Status of Refugees, and sent back to Turkey. From Turkey she tried again to reach Greece, this time crossing the natural land border of Evros river, and she managed to arrive in Athens. Because she has been prevented from presenting the asylum request, she arrived in the capital without following the registration path, causing her bureaucratic and living conditions problems that will be further analyzed in the following section. *D.* also has health issues, specifically problems at her eyes and Hepatitis B, but because of the illegal practice of pushback her vulnerabilities have not been identified.

The precarity at the external borders of the EU, exacerbated by its policies, leads to different types of violence whose greatest impact is always on the most vulnerable people, as in the case of *D.* Lastly, the absence of disaggregated data on gender and border crossing contributes to prevent the phenomenon from being looked at precisely and therefore to act with a structural and systematic approach aimed at preserving the right to ask asylum as well as all the human rights.

4.3 Gender-based violence against sub-Saharan migrant women during the asylum determination process

The asylum determination process in Greece is implemented according to the CEAS and can be divided into regular applications (not subjected to the Eu-Turkey statement) and fast-track borders procedures. The first procedure is managed by

²⁵ European Council on Refugees and Exiles, *Greece: Increase of Pushbacks with Impunity*, available at <https://ecre.org/greece-increase-of-pushbacks-with-impunity-amid-ongoing-crackdown-on-solidarity-turkiye-considered-safe-by-greek-authorities-sets-new-record-of-deportations-thousands-of-vulnerabl/>, [last access 1 March 2023]

the Asylum Service on the territory, at the border or from detention centers, and takes place according to the Dublin III regulation. Once a person asks for international protection, there can be two types of examination: the regular procedure which should take maximum six month, or the accelerated procedures for vulnerable groups which should take maximum 30 days. If the decision is positive, the person receives the refugee status or the subsidiary protection with the residence permit, whereas if the decision is negative, the person has the possibility to appeal. If the decision coming from the appeal is a second rejection, the last possibility is to open what is called a “subsequent application” which is a new asylum claim that, as later discussed, costs 100€ per person in Greece²⁶.

On the other hand, the fast-track border procedure is applied on the Eastern Aegean islands subjected to the EU-Turkey statement. Here, the interviews are conducted by the former EASO in 1 day and the applicants should receive the decision in 5 days²⁷. Vulnerable groups and Dublin families should be exempted from this procedure; however, as seen before, vulnerabilities are not identified by the Greek officers at the borders: authorities state as a general rule that enough support is given to those requiring special procedural needs during fast track border processes, with the result that the accelerated procedures are applied to persons in need of a special procedural guarantee too in most of the cases, mining their special protection needs. What is more, persons with vulnerabilities are required to be identified “within a reasonable time” according to article 67(1) IPA; this period usually translates in 2/3 days, a time limit that is not enough to really assess less evident vulnerabilities as for survivors of GBV, and combined with the lack of training, it results in missing the identification of people with special needs, including victims of SGBV and GBV²⁸.

²⁶ European Council for Refugees and Exiles, *Flow Chart of Asylum procedures – Greece*, available at <https://asylumineurope.org/reports/country/greece/asylum-procedure/general/flow-chart/>, [last access 2 February 2023]

²⁷ Ibidem

²⁸ HRW, *EU/Greece*, cit.

4.3.1 Gender-based violence occurring in reception centers: hotspots, camps and other types of accommodations

During the assessment of their case, applicants have the right to be granted an accommodation. The reception Directive contains common rules on the reception of asylum seekers in the member States, in order to guarantee fundamental human rights²⁹. It sets standards for material conditions and sanitary assistance (*inter alia* psychological assistance)³⁰ that States member have the duty to provide, taking into consideration gender differences³¹. It also calls for State to implement appropriate measures to prevent SGBV and GBV in accommodations, including sexual harassment and assault³². In the Greek legislation, article 55(1) IPA provides that competent authorities in collaboration with other actors ensure the provision of reception condition, and applicants are entitled to this right for the time their asylum procedure³³.

In Greece refugee camps are divided into hotspots and camps. The hotspots approach, also known as “crisis point method” was introduced by the European Commission in 2015 within the framework of the European Agenda on Migration and was thought as a temporary measure. However, after the EU-Turkey statement in 2016 they became “*de-facto* containment centers of the Greek islands to implement the fast-track border procedures and limit the number of new arrivals to Greek islands”³⁴. Hotspots are located in external border areas where migratory pressure is concentrated; in the case of Greece the five islands of Lesbos, Leros, Samos, Kos and Chios. Moreover, they are based on a multi-agency

²⁹ European Parliament and Council, *Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down rules on the reception of applicants for international protection*, Official journal of the European Union, L 180/96, 29 July 2013

³⁰ Dir. 2013/33, art. 19 para. 2

³¹ Ivi, art. 18 para. 3

³² Ivi, art. 18 para. 4

³³ European Council for Refugees and Exiles, *Criteria and restrictions to reception conditions, Greece Country report*, available at <https://asylumineurope.org/reports/country/greece/reception-conditions/access-and-forms-reception-conditions/criteria-and-restrictions-access-reception-conditions/>, [last access 2 March 2023]

³⁴ Médecins Sans Frontières, *Constructing crisis at Europe’s borders – The EU plan to intensify its dangerous hotspots approach on Greek islands*, Médecins Sans Frontières, 2021, p. 5

approach³⁵: the European union regional task force (EURTF), composed of officials from FRONTEX, the EUAA and Europol coordinate them, in cooperation with the Greek Asylum Office and the local authorities. They currently held nearly 10.000 people, with a sever situation of overcrowding³⁶.

On the other hand, mainland camps are mainly controlled and managed by the Greek government. The camp of Ritzona, Korinthos, Larissa, Diavatà and Eleonas are only some of them, located far from the urban centers with the exception of the one in Korinthos and in Eleonas, in spite of several recommendation according to which “reception and accommodation facilities should be located in areas where women and girls are safe and can access relevant services and information with respect to health, including sexual and reproductive health, social and legal assistance, education and essential shopping facilities”³⁷. Different NGOs and international organization such as for example Human Rights Watch (HRW) produced several reports denouncing the harsh living conditions inside the camps and the absence of adequate protection devices including gender-sensitive accommodation and organization of spaces. Greek authorities are confining asylum-seeking women with unrelated men in containers and tents, exacerbating the risk of SGBV and GBV. Moreover, lack of lighting, locking doors and safe access to toilets contributes to put women at more risk of sexual harassment and sexual violence³⁸.

Moreover, with the entry into force of the IPA, on 1 January 2020, the Police Authorities or the Asylum service may impose geographical restrictions to the freedom of movement of applicants for the monitoring of the international protection process. According to that, applicants cannot leave the place until they receive the decision on their claim. In theory it should be applied to persons falling under the EU-Turkey statement and for fast-track border procedures, nevertheless

³⁵ D. Neville, S. Sy, A. Rigon, *On the frontline*, cit., p. 34

³⁶ Médecins Sans Frontières, *Constructing crisis*, cit., p. 17

³⁷ Committee of Ministers, *Recommendation CM/Rec(2022)/17 to member States on protecting the rights of migrant, refugee and asylum-seeking women and girls*, Council of Europe, 2022, para. 47

³⁸ Human Rights Watch, *Submission to the Committee on the Elimination of Discrimination against Women – list of Issues for the Review of Greece*, HRW, November 2020

the restriction is applied “indiscriminately, *en masse* and without any prior individual assessment” in the Eastern Aegean islands of Lesbos, Rhodes, Samos, Leros, Chios and Kos³⁹. The impact on the physical and mental health of applicants is so severe, that a lot of them try to leave the islands before they receive the decision, also given the conditions of the camp, together with the long waiting times of the asylum procedures.

All these factors push them to illegally leave the islands in spite of the geographical restrictions. *M.M* arrived in Samos in September 2019 and had her first interview there, but she never received her decision because she moved illegally by ferry to Athens in February 2020, probably when she was already pregnant; *L.* arrived in Kos in October 2019 and left it illegally before her first interview, in August 2020; *Z.* moved illegally from Moria to Athens after receiving the first rejection in 2021, after 3 years living in the camp; *B.* stayed in Moria from 2019 to 2020, when she illegally left the island with her 6 years old son to move to Athens. This has constituted a problem for those who left the islands before doing the big interview or after doing it but before receiving the decision, as their dossiers remained in the islands, preventing them from continuing with the practice: in the first case they were forced to return to the islands to support the interview, while in the second case they never received the decision. Moving the dossiers from the islands to Athens is possible, but it is a bureaucratically slow and difficult procedure that requires the intervention of a lawyer. Meanwhile, they were left without institutional help.

Sub-Saharan migrant women survivors of GBV in the camps

As stated by the reception Directive, for people deemed as vulnerable member States are required to put in place special procedural guarantees comprising of

³⁹ European Council for Refugees and Exiles, *Freedom of movement – Greece Country Report*, available at <https://asylumineurope.org/reports/country/greece/reception-conditions/access-and-forms-reception-conditions/freedom-movement/>, [last access 2 March 2023]

individual assessments to identify specific reception needs, psychological support⁴⁰, as well as special guarantees in case of detention and specific accommodation conditions. However, competent authorities fail to identify them and available data on vulnerability registration when it comes to the mainland and the Attika region⁴¹. As vastly reported, because of the speed and superficiality of the screening process, less visible vulnerabilities such as health conditions or certain types of violence are not identified⁴². Further, a lack of access to reliable information and legal support has been pointed out⁴³. Specifically, the EU response is unable to tackle GBV in Greece, there are no prevention programs, limited access to service, limited capacity and expertise⁴⁴ among competent authorities.

A. is a 30 years old single mother with a 2 years old child coming from Cameroon. She arrived in Greece alone in June 2019, in the hotspot of Samos. There, she was victim of rape and got pregnant from the abuse. When still in Samos, she decided to go to the police to denounce the violence, but after a gynecological test they decided not to believe her. In spite of her vulnerable situation and in spite of the fact that she was victim of SGBV, she did not receive any appropriate help: she did not have appropriate special accommodation and she did not leave the camp until the officers decided to transfer her because of health problems related to the pregnancy, specifically she was suffering from anemia and blood loss. At that point, after 3 months from her arrival in Samos, she was transferred to Athens where she gave birth through cesarean birth, which still today gives her health problems. Indeed, for persons belonging to vulnerable groups in need of special reception conditions are not subjected to the geographical restriction and can be transferred to the mainland, as in the case of *A.* but also of *M.* when it is not possible to give appropriate support⁴⁵.

⁴⁰ European Parliament, *Briefing – Gender aspects of migration and asylum in the EU: An overview*, European Parliament Research Service, 2016, p. 9

⁴¹ European Council for Refugees and Exiles, *Identification - Country report Greece*, available at <https://asylumineurope.org/reports/country/greece/asylum-procedure/guarantees-vulnerable-groups/identification/>, [last access 3 March 2023]

⁴² Médecins Sans Frontières, *Constructing crisis*, cit., p. 18

⁴³ Ivi, p 20

⁴⁴ UNHCR, *Initial Assessment Report*, cit. pp. 7-8

⁴⁵ ECRE, *Country report – Greece*, cit., p. 158

The absence of gender-sensitive approach and structural programs to prevent, protect and provide access for asylum-seeking women at risk or survivors of GBV is evident at Eleonas camp, in Athens. *L.* is a single woman who arrived alone in Greece, in the island of Kos, from the Democratic Republic of Congo back in October 2019. She is 40 years old and she had severe health issues: after being raped back in Congo, the perpetrator hurt her neck with a knife, and as a result now she has a big scar that is causing her a lot of pain and prevents her from sleeping during the night. She left illegally Kos and arrived in Athens in August 2020, where she has been victim of rape, certificated by Médecins sans frontières (MSF)⁴⁶. After a while she was officially registered in Eleonas camp, the only one present in the capital, but the conditions of the camp, especially the accommodation in the containers were not safe for her. Indeed, during all the two months of my internship, she was victim of stalking: a man was threatening her that new where she was living in the camp and called and looked for her often. The last time he tried to reach her was one week before she came to Meraki community center, threatening her to post photos of her naked, committing nonconsensual pornography crime.

Although fortunately the threats did not result in violence, her request for help was not sufficiently taken into account by the Eleonas camp's social services, so much so that she was never transferred for as long as I was in charge of her case. *L.* also reported it to the police services. Meraki center did everything in its power to help her with all possible legal and psychological solutions, but it cannot substitute the institutional role, so that the obvious bureaucratic limits end up exacerbating the danger an asylum-seeking woman face.

Latest changes and their implications for sub-Saharan migrant women

⁴⁶ Médecins sans frontières offers medical, humanitarian and mental healthcare to migrants in Athens and in the islands of Lesbos and Samos. Their activities include sexual and reproductive healthcare, treating chronic disease and providing care for survivors of sexual violence, physiological support and health promotion activities. For more information: MSF, *Greece*, <https://www.msf.org/greece>, [last access 2 March 2023]

From 2021 until now, Greece is implementing the so-called “closed-control access centers” (CCAC), founded by the EU⁴⁷. The first CCAC built was in Samos back in 2020 and has a capacity of 2 thousand people, while other two CCAC opened in September 2022 in Leros and Kos and other two are expected to open in 2023 in Lesbos and Chios⁴⁸. They are prison-like spaces surrounded by barbed wire and are part of a larger containment strategy aimed at segregating asylum-seekers more and more distant from public life and communities⁴⁹. This is a case of structural and dynamic violence that affects the mental health as well as the protection risks for migrants and asylum-seeking, especially vulnerable people including women. Indeed, they are located outside the towns (in one case the closest town is in 14 km), usually in forests, without proper public transportation to reach other places and without access to services. Moreover, despite being fully identified and registered, asylum-seekers cannot leave the camp, at least for the first 25 days from the arrival⁵⁰, forced to stay segregated in a space lacking essential strictures of living and with decreasing humanitarian assistance, becoming more and more invisible⁵¹.

Indeed, the Greek government is criminalizing solidarity accusing NGOs to cooperate with smugglers and in September 2020 the Ministerial Decision 10616/2020 stated that Greek and foreign NGOs must be registered and be certificated in order to operate in activities related to asylum, migration and social inclusion, not respecting the right to association and being incompatible with European standards, says the expert Council on NGOs⁵². In this context, the Greek

⁴⁷ Greek Council for Refugees, Oxfam, Save the children, *Greece – Bimonthly bulletin on refugees and migrants*, Greek Council for Refugees, Oxfam, Save the children, 2022, p. 7

⁴⁸ Amnesty International, *One year since Greece opened new “prison like” refugee camps, NGOs call for a more human approach*, available at <https://www.amnesty.eu/news/one-year-since-greece-opened-new-prison-like-refugee-camps-ngos-call-for-a-more-humane-approach/>, [last access 3 March 2023]

⁴⁹ Ibidem

⁵⁰ Oxfam, *Bimonthly bulletin on refugees*, cit., p. 6

⁵¹ Médecins Sans Frontières, *Constructing crisis*, cit., p. 8

⁵² Council of Europe, Newsletter – Expert Council on NGO Laws calls Greece to restriction on the registration and certification of NGOs, available at [https://www.coe.int/en/web/special-representative-secretary-general-migration-refugees/newsletter-november-2020/-](https://www.coe.int/en/web/special-representative-secretary-general-migration-refugees/newsletter-november-2020/)

government launched a pre-registration platform for asylum applications following months during which persons who entered Greece without having undergone first the reception procedures had no access to the asylum procedure⁵³. However, the new platform leaves some serious doubts with respect to the protection and well-being of asylum-seekers: they have to book an appointment online for their registration, which takes place in the two camps of Malakasa and Diavatà (near Thessaloniki) far from urban centers without any provision for their transportation. What is more, they are deprived of their freedom of movement since it is stated that they cannot leave the camps for 25 days once arrived and until the first instance decision has been taken⁵⁴.

The new provision together with the long waiting times to have an appointment has left more and more asylum-seekers undocumented and vulnerable to detention⁵⁵. This is what happened to *D.*, who arrived in Athens by illegally crossing the land border with Turkey, after she was victim of an illegal pushback by the Greek coast guard. Because of that, she was not officially identified and registered with the regular or border procedures and for this reason she was undocumented. Being a single woman without any document and proper accommodation in Greece is already constituting a great vulnerability, and in addition to that she also had health issues that required treatment such as Hepatitis B and eyes problems. However, because of her undocumented situation, she could not receive the proper treatment at the hospital.

In order to get registered in the asylum system and receive the so-called “carte bleu” in the waiting of receive a decision on her case, she eventually filled the online pre-registration form, according to which she had to go to Malakasa camp (near Thessaloniki) and undertake the new procedures. Since she was followed by an NGO lawyer and by the doctors from Meraki center for her health issues, she was

[/asset_publisher/cVKOAOroBOtI/content/expert-council-on-ngo-law-calls-greece-to-revoke-restrictions-on-the-registration-and-certification-of-ngos](#), [last access 4 March 2023]

⁵³ Oxfam, *Bimonthly bulletin on refugees*, cit., p. 9

⁵⁴ Ivi, p. 10

⁵⁵ Ibidem

really worried about leaving Athens and be transferred to a camp far away from the urban centers and from many services, as well as about the obligation to stay there for 25 days, without knowing anyone and without any information on how to get there and on her accommodation once arrived.

Besides the precarious conditions for asylum-seekers, and besides the insufficiency of the reception system, with many people left without an accommodation, the Greek government started closing urban centers-closed camps and housing programs in 2022. Part of the residents of Eleonas camp, in Athens, started to be transferred to other camps, far away from the city, in mid-August, despite their protests, while it remains unclear where other asylum-seekers will end up⁵⁶. Furthermore, when the Emergency Support to Integration & Accommodation (ESTIA) programme for vulnerable asylum seekers and refugees terminated in August 2022, the Greek government was planning to transfer people part of the programme to camps, in spite of their vulnerability and of the unsuitable conditions of camps⁵⁷.

The discriminatory decision to close the ESTIA programs leaves thousands of vulnerable asylum-seekers and refugees without adequate accommodation⁵⁸, as in the case of A. Her first interview was fixed for December 2022, meanwhile she received the PA.A.Y.PA⁵⁹ and she was living with her son in a government apartment under ESTIA programme. However, because of the imminent closure, she was supposed to be transferred in a camp, without knowing where and when. However, she was seriously worried and did not want to live in a camp because of the traumatic experience of SGBV in Samos. Eventually, she was transferred to Larissa camp, but she left it with her son after a while and found a temporary and

⁵⁶ Oxfam, *Bimonthly bulletin on refugees*, cit., p. 8

⁵⁷ Ivi, p. 9

⁵⁸ European Council on Refugees and Exiles, *Greece: Thousands of Vulnerable Refugees Left Without Adequate Accommodation After Closing of ESTIA Programme*, available at <https://ecre.org/greece-increase-of-pushbacks-with-impunity-amid-ongoing-crackdown-on-solidarity-turkiye-considered-safe-by-greek-authorities-sets-new-record-of-deportations-thousands-of-vulnerabl/>, [last access 5 March 2023]

⁵⁹ It is the provisional document attesting that the person has made an asylum claim and she/he is legally staying in the country while waiting for the decision

precarious accommodation in the Congolese Church of Athens. In spite of her strong vulnerability (being a survivor of rape and a mother with a minor children), she was left alone by the government, without receiving adequate accommodation and support, with the result of increasing the risk of GBV against her.

Access to services: sexual and reproductive rights

The UNHCR defines socio-economic violence in the context of migrant and asylum-seeking women as:

Discrimination and/or denial of opportunities and services, obstructive legislative practices which can consist on exclusion, denial of access to education, health assistance or remunerated employment, denial of property rights, denial of access to exercise and enjoy civil, social, economic, cultural and political rights, mainly to women. It can be perpetrated by family members, society and community, institutions and organizations, government actors and State⁶⁰.

In general, services and facilities have been reported to be insufficient to respond to asylum-seekers' needs in Greece⁶¹. With respect to my case study, all women interviewed had legal, health, psychological, educational and employment needs. Either they were not followed by a lawyer to help them with their case, they had no psychological support in spite of their vulnerabilities, or they did not have access to any educational, job-training courses even if they were in possess of the P.A.A.Y.P.A. The government has been found completely absent in providing services, especially taking into account the specific needs of asylum-seeking women, such as the need for hygiene products (undergarments, menstrual pad), as well as sexual and reproductive health care and GBV services.

⁶⁰ UNHCR, *Sexual and Gender-Based Violence*, cit., p. 26

⁶¹ UNHCR, *Initial assessment report*, p. 10

Several humanitarian organizations have denounced the lack of provisions on health care, nutrition and bedding for migrant women pregnant and new mothers, who are many, which do not meet the international standards, constituting additional barrier to the access to important services⁶². This concerns lack of information, accommodation in overcrowded mixed places, and lack of female doctors⁶³. It is the case of Z., who arrived in Moria back in 2019. In 2021 she moved illegally to Athens after receiving her first rejection, while no governmental organization or NGO helped her with the preparation for the interview. When we had the interview at Meraki community center, she was 5 months pregnant and alone. She had no accommodation and was illegally staying at “a friend’ house”. Besides, she had not yet done any medical check-up for the pregnancy and was not followed by any doctor. We referred her to a local NGO specialized in health care, nutrition and bedding for migrant women pregnant and new mothers, since she did not receive any type of information about that kind of service.

Moreover, a general lack of clinical care closed to camps and accommodations puts pregnant women and SGBV survivors at higher risk. Pregnant women are reluctant to go to the hospital for medical care because they are scared to be separated from their family, while victims of SGBV have no access to information on the topic, which is often unfamiliar for them⁶⁴. The UNHCR found that in Greece migrant women have limited access to SGBV services and prevention programs, and they find several challenges in accessing medical facilities, especially in the camp of Eleonas⁶⁵, as the case of L. showed. The consequence is that they are prevented from accessing the proper medical care such as post-exposure prophylaxis, antibiotics and emergency contraception⁶⁶. In Athens, if they are able to do so, it is thanks to NGOs such as MSF or Action for women, among others, which provide free access to medical and psychological care.

⁶² HRW, *List of issues*, cit.

⁶³ Ibidem

⁶⁴ A. Alam, *Migrant, refugee and asylum-seeking women*, cit., p. 22

⁶⁵ UNHCR, *Initial assessment report*, p. 8

⁶⁶ A. Alam, *Migrant, refugee and asylum-seeking women*, cit., p. 22

To conclude, although several recommendation and UNHCR guidelines strongly suggest that States find alternatives to camps, in particular to closed camps and detention centers, after more than ten years from the beginning of the migratory “crisis”, not only are camps still the first form of accommodation, despite serious shortcomings for the integrity and dignity of asylum seekers, but the latest policies are moving towards the implementation of prison-like camps and the closure of programs for vulnerable people, aggravating the housing situation of people seeking protection. The lack of a gender perspective in the accommodation organization also reflects in the absence of gender sensitive services and related information, especially when it comes to sexual and reproductive rights, as well as GBV services. The general gender-blindness of the EU asylum policies and their implementation in Greece is thus exacerbating the risks of GBV for sub-Saharan migrant women.

4.3.2 The structural and dynamic gender-based violence of asylum interviews

During the asylum interviews, several guidelines seen in Chapter 3 suggest interviewers to make more breaks and in general to have a gender-sensitive interview when it comes to the examination of women’s claims. It should consist on:

- The right for women to have an independent asylum claim and to be interviewed separately, without family members⁶⁷. Indeed, for example, the husband may be the source of the complaints and his presence would prevent the woman from presenting her case⁶⁸;
- The use of gender-sensitive techniques and procedure for the interviewers⁶⁹. This may include the presence of same sex interviewers⁷⁰, with the possibility for the applicant to express the preference for the sex of the staff;

⁶⁷ CEDAW/C/G/32R, cit. *Section IV*, para. 50 (a)

⁶⁸ Ivi, para. 16

⁶⁹ Par. 50 (d)

⁷⁰ Par. 16

- Elaboration of gender guidelines of asylum claims and trainings⁷¹, according to the UNHCR Guidelines on international protection⁷²;

However, at the EU level the minimum harmonization of its directive and their lack of specificity has the consequence of preventing women asylum-seekers from enjoying their rights during asylum interviews. First of all, all 8 women whose cases I am presenting were not receiving legal assistance from the government and were in contact or Meraki helped them getting in contact with legal NGOs providing them with lawyers. This is particularly serious taking into consideration that to prepare an interview for an asylum claim legal help is essential in the reconstruction of the story. Secondly, the times to have the first asylum interviews and to receive the answer are extremely disproportionately and, in some cases, so long that can take 3 years from the identification and registration of the applicants, strongly affecting the physical and mental health of asylum-seekers and resulting in what has been called “violent uncertainty”: the “deleterious impact of insecure immigration status on the health of migrants”⁷³.

Only 3 out of 8 women I take as a case study did the first interview after few than 5 months from their identification and registration. The other 6 did their first interview after an average of 3 years from their arrival in Greece and their asylum claim. Moreover, at least 4 of them should have been considered vulnerable, either because of health issues (2), pregnancy at the time of arrival (1), SGBV suffered or because they are mothers with minor children (1). According to the EU law, vulnerable groups are entitled to receive primary access to the asylum procedures and shorter times for the examination of their claim, yet only 2 of them had their first interview in less than 5 months, while the other 2 waited 3 years. In addition, these women waited for all those years in refugee camps whose conditions were

⁷¹ CoE, Explanatory, cit., para.317 pp-54-55

⁷² UNHCR, *Guidelines for international protection: gender-related persecution within the context of the article 1A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, May 2022, in CEDAW/C/GR, *Section IV*, cit., para. 47

⁷³ J. Phillimore, S. Y. Cheung, *The violence of uncertainty: Empirical evidence on how asylum waiting time undermines refugee health*, in *Social Science & Medicine* No. 282, Elsevier, 2021

presented above and whose absence of gender-sensitivity puts women in serious danger of suffering from GBV.

The violence continues during the asylum interviews. As it has been argued, the ways in which claims are heard exacerbate the already existing legal and judicial barriers⁷⁴. First of all, usually women are not informed about their right to be heard by a female officer, and the fact of having to explain their stories of violence to male officer can be so difficult that prevents them to talk about their persecution, especially when it comes to SGBV⁷⁵. Moreover, due to the high number of asylum applications and the inability of Greece to handle them, together with the lack of a gender approach to interviews, there is increasing skepticism in listening to women's stories, who are accused of telling the same stories about rape to get the international protection. This involves a credibility assessment through the demand for evidence that is often difficult to give, especially for women who have undergone SGBV⁷⁶.

This phenomenon is what has been called “the burden of proof”⁷⁷: the obligation to provide increasingly intrusive and difficult to obtain evidence, since most of the time women do not report rape, for various reasons including cultural reasons or lack of trust in institutions. Consequently, having no certificates, and often telling similar stories because similar are the dynamics of sub-Saharan women arriving in Greece, they are not believed, and their applications are rejected despite their vulnerabilities and without taking into consideration their psychological health.

This is what happened to *M.*, who left Congo because she was raped and firstly went to Turkey. There, she was forced into prostitution until she managed to escape from her perpetrators and arrived in Greece through boat, in the island of Kos. The decision from her first interview was negative, despite she had both gynecological and health problems at her leg, where she had a big scar caused by the violence

⁷⁴ J. Freedman, *Women's right to asylum*, cit. p. 421

⁷⁵ Ibidem

⁷⁶ Ivi, pp. 422-423

⁷⁷ Ivi, p. 421

suffered. Not even the physical evidence of violence was enough for the Greek Asylum Office to grant her protection. What is more, she never received the decision because she was officially transferred to the mainland due to the gynecological problem, and by the time she became aware of the rejection, the time for appeal had already expired. This is only one example of how the cost of institutional and bureaucratic malfunctions is played by the most vulnerable.

Furthermore, the stress connected to the burden of proof can prevent women to present a “logical” story and even to finish their interviews, as it happened to *A.*, who did not finish the first session of the big interview because she was not able to tell her story. This does nothing but prove that the interviews do not take into account the real situations of migrant women, are not sensitive to the gender issue and require high levels of performance.

Finally, the practice of interviewing married couples together can be very risky for women who are victims of violence, as they may find themselves unwilling or unable to report their partner. That is why it is important that the interviews are conducted individually and that the residence permits are also granted on an individual basis, because the current regime creates for the woman a dependency to her husband, such that she may not leave the circle of violence for fear of losing her documents and consequently her right to stay in Europe.

4.4. Gender-based violence against sub-Saharan migrant women outside the asylum system

Undocumented migrant women and refugee women in Greece face additional risks. They both share the lack of safe accommodation and housing, since in the first case, migrant women who received a negative decision do not have the right for an accommodation anymore⁷⁸, and in the second case, paradoxically, the right to housing automatically cease as soon as they receive the international protection

⁷⁸ Unless they proceed with the appeal in the case of a first instance decision or decide to open a subsequent application in the case of two rejections.

status⁷⁹. This policy puts sub-Saharan migrant women in serious danger of being forced into prostitution in exchange for a place to stay, or to live in occupied buildings or makeshift shelters with the risk of SGBV. Moreover, for undocumented migrant women the risk of being caught and detained in a detention center is very high in Athens, and because of their illegal status they cannot access health care.

4.4.1 Specific barriers for migrant women with irregular status

In a lot of cases, sub-Saharan migrant women who received two rejections wanted to open a subsequent application, which is a completely new asylum request, allowing them to have provisional documents and enter again the asylum system, in this way having the right to an accommodation, health care and other services. However, Greece is the only EU member State imposing a fee of 100 € per person to lodge a subsequent application⁸⁰. This policy is a case of structural violence and a serious discrimination, in which it prevents the access to asylum procedures to asylum seekers, often considered as part of vulnerable groups, who cannot afford to pay such amount of money. This happens especially for migrant women with dependent minors who, because they are not working or their remuneration is very low, do not have enough money to pay an amount that rises above at least 200 euros. Besides, to open a subsequent application “new and substantial elements” are required. Yet, in most cases the Asylum Service incorrectly interprets this concept and dismisses relevant subsequent applications as inadmissible⁸¹.

GBV in detention centers

M. received two rejections in spite of her story of violence and her health problems. In June 2022, she was arrested because found undocumented by the Greek police, and she has been detained in the detention center of Amygdaleza for more than one month, despite she had documents proving her gynecological issue. Meraki center

⁷⁹ ECRE, *Country report: Greece*, cit. p. 245

⁸⁰ Ivi, p. 136

⁸¹ Ibidem

was in touch with her for all the detention period, and we prepared packages with food, primary goods, clothes and hygiene products since she was requesting that because official authorities were not providing them. Indeed, the conditions of the detention centers in Greece have been denounced by different actors, including the Greek Ombudsman, which pointed out the following issues after a visit in June 2021⁸²:

- Overcrowding in detention, especially in police stations;
- Lack of doctors, nurses, psychologists and social workers;
- Total lack of interpretation services;
- Lack of entertaining activities;
- Poor structures, hygiene conditions and lack of lighting and heating;
- Inadequate cleaning
- Lack of clothing
- Lack of limited possibility of access open air spaces.

The administrative detention is used in this case and in several others, as a systemic tool to criminalize asylum⁸³, it ignores all the vulnerabilities of the people detained and in the case of migrant women it has also been reported that they share the cell with men, completely ignoring the gender dimension and the implication of this type of management. In addition, the IPA extends the period of time that asylum-seekers can be detained from 3 to 18 months (the maximum allowed in the EU).

Barriers to access to health care

The right to access health services for undocumented migrant women in Greece is severely limited. In theory, according to law every refugee and asylum seekers in Greece has the right to free access to primary, secondary and tertiary health care in Greece⁸⁴. In practice, they face various barriers linked to their status, because of

⁸² ECRE, *Country report: Greece*, cit., p. 195

⁸³ C. Schmoll, *Le dannate*, cit., p. 125

⁸⁴ UNHCR, *Access to health care*, available at <https://help.unhcr.org/greece/living-in-greece/access-to-healthcare/#:~:text=Access%20to%20healthcare%20services%20for,secondary%20and%20tertiary%20health%20care.>, [last access 9 March 2023]

complex administrative requirements, costs, or the risk of being denounced by hospital to immigration authorities⁸⁵. Moreover, EUDAIMONIA, an NGO offering interpreting and accompanying to the hospital services, and collaborating with Meraki, witnessed and reported several episodes of racism in the hospitals: medical staff are reluctant to speak in English and often address sub-Saharan migrant women badly, without seriously considering their cases, and the medical reports are written in Greek, without any translation in a language they can understand.

M. had serious gynecological problems resulting of the abuses in Congo and of the sexual exploitation in Turkey: in particular, she had a fibroma that needed to be operated as soon as possible, but because of the fact that she was undocumented, she could not access health care treatment at the hospital, having denied her right to health and medical care and in spite of the law. In addition, she has another great vulnerability that has passed, invisible: she is unlettered, unable to read or write, and for this reason she would need further support. Moreover, it becomes a problem for her when it comes to understanding the medical reports or other important communication in this respect, such as for example medical prescriptions or appointment booking. If it were not for the NGOs working in Athens, *M.* would not have received any support from the State.

4.4.3 The policy on housing and its consequences for refugee women and women with irregular status

Both undocumented sub-Saharan migrant women and those who received the international protection and share the common problem of housing. On one side, according to article 30 IPA, beneficiaries of international protection should enjoy the same rights as Greek citizens by receiving social assistance. However, the lack of action by the State, together with lack of law-implementation and bureaucratic

⁸⁵ A. C. Smith, M. LeVoy, T. Mahmood, C. Mercer, , *Migrant women's health issues: Addressing barriers to access to health care for migrant women with irregular status*, WHO, 2016

barriers, prevent them from the enjoyment of those rights⁸⁶. Besides, an amendment of the asylum laws in early March 2020 specifies that

“After the issuance of the decision granting the status of international protection, material reception conditions in form of cash or in kind are interrupted. Said beneficiaries residing in accommodation facilities, including hotels and apartments have the obligation to leave them, in a 30-days period since the communication of the decision granting international protection”⁸⁷

This goes completely against several recommendations according to which the State has a responsibility towards women granted asylum status when it comes to helping them to find proper accommodation, training and/or job opportunities, providing legal, medical, psychosocial support for victims of trauma and offering language classes and other measures facilitating their integration⁸⁸. Moreover, it has serious consequences on the lives of Sub-Saharan migrant women beneficiaries of international protection, and it is a case of dynamic violence exposing women to more abuses. Indeed, they are legal in the country, but since they have few resources and are left without any help from the institutions, it is very hard for them to be independent, pay the rent of an apartment or even decide to leave Greece. Finding a well-paid job is also very difficult for sub-Saharan migrant women, as they are often relegated to nursing or low-skills jobs because of the intersecting discrimination of ethnicity, gender, class. This produces such a vulnerable situation, since the result is the tremendous difficulty, if not the impossibility, to find an accommodation independently. As a consequence, they become homeless.

B.M. and *B.* are both two single mothers with children and they both received the international protection after having been in Greece for more than 5 years. Moreover, they share their condition of homelessness and exposure to GBV. Indeed, in spite of their vulnerability, after receiving the refugee status they did not

⁸⁶ ECRE, *Country report: Greece*, cit., p. 161

⁸⁷ Article 114 L. 4636/2019, as amended by Article 111 L. 4674/2020. Said ministerial Decision, issued on 7 April 2020 (JMD No 13348, Gov. Gazzetta B' 1190/7-4-2020)

⁸⁸ CEDAW/C/GR/32, para. 24

get any institutional support. *B.M.* is 20 years old and she arrived in Samos in 2017, In 2018 she came to Athens and stayed at a friend's house, until they both obtained the international protection and her friend left Greece in 2021. Her child was born in 2021, the father is unknown. She eventually managed to find another accommodation by a couple, there, the husband raped her, and she had the strength to report to MSF, which followed her from that moment on. In spite of their legal situation, she was forced to stay illegally in a place and eventually she was thrown out of the house and started living in a squat. The conditions of squats are so dangerous and without control, that she was raped again, in July 2022. At that point she arrived at the center, and the doctors took all appropriate exams and redirected her to MSF.

B. is a single mother with a 5 years old child. They arrived in Moria in 2019 and moved legally to Athens in 2020. After 3 years, they were able to receive the international protection. They used to live in a government apartment, but when her asylum claim was approved, they were forced to leave the house. When she came to Meraki, she was sleeping in a squat with her child in Athens, after a history of living in the street and in other camps. The living condition of the squat is so dangerous and uncontrolled, that she was sleeping few hours per night, and every morning she was forced to leave the building at 4 AM because the police unused to carried out evictions and round-up operations.

It was urgent for both of them to find an accommodation. However, in Athens, the problem of housing and homelessness is a very serious one. Nevertheless, given the vulnerability of their situation, we managed to find them both accommodation with the Mother Teresa organization, where they stayed until they obtained their passports and were able to leave respectively for France and Germany. No institutional help was given.

On the other hand, as long as applicants have the status of asylum-seekers, meaning they are inside the asylum system and in possession of the P.A.A.Y.P.A, they are entitled to have an accommodation in camps or in government apartments, whereas

undocumented migrant women who became illegal either because they have been rejected and have not appealed yet, or because they received two rejection and are not able to open a subsequent application, lose the right for an accommodation as soon as their P.A.A.Y.P.A expires. Hence, they usually try to stay in camps or government apartment as long as they can or seek makeshift accommodations at friends' homes or at worst, in squats, eventually finding themselves in homelessness.

The dynamic violence of these policies and the resulting forced homelessness puts women in sever risk of suffering from GBV, such as increased risk of rape, forced prostitution and/or transactional sex in exchange for a place to stay. *M.M.* is a single mother with one child, born in 2021. As said before, she arrived in Greece in 2019, in Samos, and at the beginning she did not receive the first decision on her case because she moved illegally to Athens, in the attempt to escaping the conditions of the camp in Samos. For this reason, she did not have any official accommodation, she only had an unofficial contact with other Congolese people who provided an accommodation for her, but after few days they forced her into prostitution in exchange. After a while she had the strength to leave the apartment, without receiving any institutional help. When she gave birth to her child, whose father is unknown, in 2021, she was living in the street. Meraki tried to contact Madre Teresa, a catholic organization of nuns offering accommodation, but they also have really strict criteria, including not hosting male children older than 1 years old.

Eventually, we found her a temporary accommodation while waiting for the first instance decision, which resulted negative in June 2022. Despite her new accommodation, her mental condition was deteriorating, as she was not able to understand our text messages. Later on, we got to know that she was receiving medical treatment. Because of the sever problems she was facing and her instability, we lost contact with her for some weeks in June, until she wrote us for another meeting. At that point, we discovered that in that period she was raped by a man every day in exchange for a place to live, certificated by MSF, and she was followed by one of their psychologists. Meanwhile, her legal situation did not change, and

her multiple and continue experience of violence in Greece was not constituting new proof for the Asylum Service.

CONCLUSIONS

With the present thesis I tried to understand if there is a causal link between the policies and practices of the European Union towards asylum on one hand, and different types of gender-based violence suffered by sub-Saharan migrant women once arrived in Greece, on the other. In particular, I tried to answer the question whether the European asylum policy in the context of the Common European Asylum System is exacerbating the risk of gender-based violence against sub-Saharan migrant women.

To be able to answer my research question, the literature review in the first Chapter offers a perspective on theoretical considerations with the aim of providing useful tools to understand and analyze gender-based violence and its declinations in the migration context. After defining gender-based violence the concepts of gendered structural and dynamic violence are introduced, with the aim of understanding how institutions can play a role in perpetrating or exacerbating such a violence. From the analysis of these concepts, it appeared that political, social and economic systems of organization, institutions and laws can exacerbate the both pre-existing inequalities of gender social norms and the risk of experiencing violence through the means of law. Furthermore, it became clear during the analysis how these notions need to be read and interpreted through the lens of intersectionality when talking about migrant women of sub-Saharan origin. Indeed, they can be considered subjects for which multiple discriminations interact and intersect in their lives, in this case those related to gender and race. Intersectionality is a fundamental approach capturing the consequences of the interaction of different axes of subordination and the way in which structural and dynamic violence is exercised against sub-Saharan migrant women. The sum of these discriminations results in what has been called a 'continuum of violence', characterizing sub-Saharan migrant women experiences before, during and after their arrival in Greece.

In the second and third Chapters, I give an overview of the main legal documents on gender-based violence and asylum. Here, the literature review served to give an interpretation of the legal framework on gender-based violence and the legal

framework on asylum, from the international to the regional and national level, with the aim of understanding the state of the art and whether, and if so which, shortcomings there were in the protection of migrant women. What has emerged is the lack of a gender perspective in asylum policies, which are in need of extensive reform that would include the integration of gender mainstreaming strategies.

As far as the European Union is concerned, asylum is a matter of shared competence with the Member States. This means that the Union legislates in conjunction with the States. In addition, shared responsibility and burden-sharing is enshrined. However, the Common European Asylum System, also due to the lack of reforms, is too unspecific and the resulting minimal harmonization leaves too much margin of discretion to members. Besides, as far as migrant women are concerned, the Dublin III regulation and the directives on the granting of refugee status, on procedures and on the reception of asylum seekers are not adequate to protect migrant women from the specific risks they face with regard to gender-based violence and on the contrary expose them to more violence. The regulation ignores the importance for women to get in a country where they may have some contacts in terms of community or a network of people from their own country, given the social and economic barriers they face during the journey to and once arrived in the EU, as well as the possibility to ask for international protection in a country where their own language is spoken, as for example in French-speaking countries for sub-Saharan women. The reception directive introduces the concept of “safe third country”, totally dismissing substantial minority gender-based persecutions, while the confusion and inaccuracy on the concept of vulnerable groups has a negative impact on women and their protection. Indeed, the lack of clarity in the provisions and the lack of national implementation are both systemic failings which prevent from the identification of vulnerable persons, their registration and access to services.

In the fourth and final Chapter, the practical implications of the European asylum system in Greece, both in the islands and in the mainland in Athens, have been discussed. The discourse is based on the evidence from the testimonies of 8 sub-Saharan migrant women interviewed and with whom I had the pleasure to work with, also thanks to Meraki community center and Vasilika Moon Onlus. The

growing policy of externalization and securitization of borders results in illegal pushbacks and in the failure to identify highly vulnerable persons, such as in, this case, migrant women alone or with children. Moreover, they are likely to engage in transactional sex as a survival strategy in order to be able to cross the borders. During the asylum determination process, the policy of hotspots, camps and closed camps lacks from a gender-sensitive approach, so much that women are exposed to sexual gender-based violence, rape, stalking, unwanted pregnancies, as well as socio-economic violence represented by the lack of access to services. The location of camps far from urban centers, the absence of sexual and reproductive health care, and the inadequacy of GBV prevention and protection services are some of the main severe gaps. The asylum interviews are another example of dynamic violence: the lack of qualified and female personnel, of access to information, along with the “burden of proof” and the difficulty of being believed exacerbate the challenges and sufferance women face. Finally, for sub-Saharan migrant women outside the asylum system the lack of protection is dramatic: both undocumented women and women who have obtained the international protection lose their right to housing. As a result, they are exposed to forced prostitution, rape in exchange for a place to stay, or find themselves living, even with their own children, in occupied buildings and precarious conditions. Besides, undocumented migrant women face additional risk with respect to the impossibility to access to health care and the violence occurring in detention centers.

To conclude, the EU asylum policies are not necessarily directly oriented against migrant women, however the absence of a gender-sensitive approach and of political will, as well as the incorrect or incomplete Greek national implementation, intersect with women’s background conditions of vulnerability and inequality. For sub-Saharan migrant women, the pre-existing vulnerabilities deriving from intersecting oppressions such as racism, colonialism and the gender dimension (structural discrimination) interact with conditions of disadvantage originating from the asylum policies (dynamic discrimination) and anti-immigration sentiments, aggravating the risk to suffer from gender-based violence.

Finally, I would like to remark and reclaim the subjectivity of sub-Saharan migrant women, who are active political agents of their own migratory project and of their

own story in all respects. To be able to assist them, work with them and talk about them, it is fundamental to take this into account.

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