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Protection of refugee women in hotspots in Greece; rights under fire

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Abstract

The present study is an effort to examine the situation of refugee women and girls in the Greek reception centers. By citing the International, European and National legislation and case law, the task is the better understanding of the Refugee law. The study is focusing on the internal situation in the reception camps in Greece and in particular on the rights and legal protection of refugee women, conducting also a field research in Samos Island.

Keywords: refugee women, Greece, protection, Refugee law, reception camps, Samos Island

Acronyms

| | |
|-------|--|
| CEAS | Common European Asylum System |
| CEDAW | Convention on the Elimination of all forms of Discrimination against Women |
| CRC | Convention on the Rights of the Child |
| EASO | European Asylum Support Office |
| ECHR | European Convention on Human Rights |
| ECtHR | European Court of Human Rights |
| ERC | European Research Council |
| FMG | Female Genital Mutilation |
| LGBTQ | Lesbian, Gay, Bisexual, Transgender, Queer |
| NAP | National Action Plan |
| NGO | Non-Governmental Organization |
| PD | Presidential Degrees |

| | |
|-------|--|
| SGBV | Sexual Gender-Based Violence |
| UNHCR | United Nations High Commissioner of Refugees |
| WPS | Women, Peace and Security |

Objectives

The objectives of the present study are to present holistic and real image of the prevalent situation in the Greek reception centers, focusing on refugee women. In the first part, there is a legal approach of the matter, at International, European and National level, in order to be legally analyzed from every aspect. The second part concerns an overview on the refugee situation in Greece and a field research is conducted in Samos Island. Aim of this research is a more realistic approach of legal rights of refugee women in Greek camps.

Methodology

The methodology used in this study is the developing of the research questions and after the finding of the requiring literature. The selective information from the literature, there were gathered and used for the writing of the first part of the study. Furthermore, it is used as a tool the field research, in order to gather more information from primary sources and from observation. Finally, the conclusion is a result from the assessing of the data.

Preface

This study is carried out in the context of the course “Human Rights” and its aim is to examine the legal aspect of refugee women’s rights in the Greek reception centers. The topic of the study had difficulties, because of the worldwide financial and health crisis this year. The pandemic COVID-19 has created a lot of obstacles, rendering the research more difficult than ever.

Living in person the hard time of refugee crisis in Samos Island, the selection of the topic is an issue to be solved from 2015. Nowadays, refugees and women are in the spotlight of human rights. The combination of these two constitutes an important and intractable problem. Refugee women simultaneously gather all the noted problems that a woman can have, such as domestic violence, SGBV, health care problems, non sensitive legal policy and others. The poor and unsanitary conditions in the reception camps, the different culture and the violence make their daily life miserable, without remarkable improvements.

Moreover, in 2020 Greece constitutes the borders between EU and Turkey, hosting a mass number of refugees. Greek islands have become a kind “prison”, receiving more people than can have in their reception centers. Samos Island is one of them, facing a hard situation.

For this reason, this topic has been selected, in order to examine this entire situation in Greece from a legal perspective. Refugees are dealing with difficult living conditions, especially women and unaccompanied children who are unprotected from the human and imponderable factor.

Introduction

Facing already a financial crisis, Greece is called to deal with mass influx in its borders in 2015. This refugee crisis has founded the State legally and organizationally unready, creating an impact in social and financial level of the country. Furthermore, the refugees are facing many difficulties regarding the living conditions and their rights, especially refugee women as part of vulnerable groups.

Assessing the internal situation in Greece, it is important to examine also the refugee crisis in other European States. The crisis has a great impact in EU, by hosting a mass number of people in reception camps. For instance, in Italy, Germany, France, UK and others EU member States are facing difficulties on refugees. The pandemic has also brought repercussions to reception centers in EU, rendering them cell of COVID-19, since the transmission is much easier in closed facilities. In Calais of France the situation is out of control, due to the fact that police has become more aggressive¹. In Italy the same conditions prevail for refugee women as in the rest of EU; unsanitary conditions, poor facilities and risks of SGBV². In Germany, refugee women are feeling unsafe, because they are more vulnerable to sexual abuse and there is no privacy³.

In Greece the living conditions are the same and maybe worst for two reasons; there is no capacity in the reception centers in the Greek islands, since the number of the refugees is the triple than the number of the camp beds. The second is that a mass influx of refugees is hosted on the Greek islands in where the residents are just the double number of the migrants and the reception camps are outside the main town,

¹ DW, *The pandemic is a new ordeal for the refugees in Calais*, 10 May 2020, <https://www.dw.com/el/%CE%B7-%CF%80%CE%B1%CE%BD%CE%B4%CE%B7%CE%BC%CE%AF%CE%B1-%CE%BD%CE%AD%CE%B1-%CE%B4%CE%BF%CE%BA%CE%B9%CE%BC%CE%B1%CF%83%CE%AF%CE%B1-%CE%B3%CE%B9%CE%B1-%CF%84%CE%BF%CF%85%CF%82-%CF%80%CF%81%CF%8C%CF%83%CF%86%CF%85%CE%B3%CE%B5%CF%82-%CF%83%CF%84%CE%BF-%CE%BA%CE%B1%CE%BB%CE%B1%CE%AF/a-53383267>, retrieved in 10/09/2020

² Swiss Refugee Council, SFH-OSAR, *Reception conditions in Italy- Report of the current situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees*, Berne, October 2013, p.10

³ Infomigrants, Mara Bierbach, *How are women protected in Germany refugee shelters?*, 05 September 2019, <https://www.infomigrants.net/en/post/19299/how-are-women-protected-in-german-refugee-shelters>, retrieved in 10/09/2020

such as in Samos. For this reason, many problems are creating in a regular base, without any particular improvement, putting vulnerable groups at risk.

It is a fact that conditions have not changes since 2015, especially for women. Single, mothers or young girls are facing the same risks, being surrounded by men who believe that they have the power to do what they want to them. Moreover, legal domestic system of international protection for women needs to adopt a more sensitive policy, in order to really protect vulnerable groups, such as women.

COVID-19 has also triggered more problems not only to the world community but particularly inside the camps of refugees. Leaving in such bad conditions and in poor facilities, people are more vulnerable to the fatal virus. In addition, the insufficient health care and the overcrowding camps exacerbate the situation for the migrants. According to Helena Dalli, European Commissioner for Equality, the virus has a gender dimension, since it “has disproportionately hit women, racial minorities, disabled people and those living in poverty”⁴, representing a massive percentage of refugee women.

The study is divided in two parts; the theoretical and the practical. To understand better the whole situation, it is necessary to examine the international, European and national legislation in favor of women and refugees in general. Thus, the legal prospect of the matter is complete and the next step is the examination of the internal situation in the State, so as to create a holistic view about the conditions and the problems, regarding female refugees. The conditions are not only about the daily live and the risks in the camps, but also about the legal perspective of their rights as asylum seekers. Finally, aim of this process is to lead to conclusion, including some suggested solutions on this matter.

In conclusion, the refugee crisis has a great impact on EU member States since 2015. In particular, the Greek islands have become the border for the EU and the

⁴ Hutchinson L., *Helena Dalli interview: Striving for a Union Equality*, published at The Parliament-Politics, Policy and People Magazine, 21 December 2020, <https://www.theparliamentmagazine.eu/news/article/helena-dalli-interview-striving-for-a-union-of-equality>, retrieved in 28/03/2021

central entrance for people from Asia or Africa who are seeking for a better life. The caused problems are many for both, Greece and refugees, especially for women and unaccompanied children who are facing risks en route to Greece and inside the camps.

PART I

Legislation and case law; what law makes provision for refugees

Chapter I

International Law

In the opinion of the English philosopher Jeremy Bentham, “International Law is a collection of rules governing relations between states”⁵. After the decolonization and World War II, International Law focused more on human rights⁶. This has brought a development in a range of international subjects and has created new international rules.

It is known that every state has the responsibility to defend and protect the rights of their citizens⁷ via an internal legal system, which depends from state to state. Nevertheless, in some occasions states are unable or unwilling to protect the rights of their citizens, forcing people to seek better living conditions and safety in another state⁸. Then it is the duty of this state to provide them international protection via a legal procedure, in order to obtain the status of refugee.

Finally, this procedure is in accordance with the International Law and every country has the responsibility to adjust its legal system to it. Therefore Refugee Law is branch of International Law and provides all the legal procedures to people who are in need of international protection⁹.

⁵ Malcolm Shaw, *International Law*, Encyclopedia Britannica, <https://www.britannica.com/topic/international-law>, retrieved 11/10/2020

⁶ Shaw, *ibid*

⁷ UNHCR, *A guide to international refugee protection and building state asylum systems*, Handbook of Parliament No 27, Great Britain, 2017, p. 15

⁸ UNHR, *ibid*, p.15

⁹ Diakonia International Humanitarian Law Center, *Principles of Public International Law*, <https://www.diakonia.se/en/IHL/The-Law/International-Law1/Principles/>, retrieved 11/10/2020

1.1: International Refugee Law

International Refugee Law is linked to Public International Law. Its object is the protection of refugees' rights, the asylum system and the adjustment of host states' regulations about refugees.

The basic principles of International Refugee Law are the right of asylum¹⁰ and the principle of non-refoulement¹¹. Regarding the right of asylum is guaranteed only in article 14 of the Universal Declaration of Human Rights in 1948 and in article 18 of the Charter of Fundamental Rights of EU¹². In accordance with the principle of non-refoulement, no states can deport or send refugees whose life is in danger back to their country because of religious, political, national or social reasons¹³. This principle is guaranteed by the Geneva Convention of 1951¹⁴. The case of ECtHR "*Hirsi Jamaa and others v. Italy*"¹⁵ and the advisory opinion of UNHCR in 2007¹⁶ indicate that the principle of non-refoulement is applied in all persons who are under the power or the effective control of the state¹⁷.

However, it is important to understand the evolution of International Refugee Law through all these years and the international refugee crisis of 2015. For this reason the first references to international protection of refugees and the implementation of such international convention are essential, in order to clarify the progression of Refugee Law and of the International Law in general.

¹⁰ Marouda M.-D. – Saranti V., *Refugee Law*, published by The Law Library, Athens, 2016, p. 12

¹¹ Marouda – Saranti, *ibid.*, p. 13

¹² Marouda – Saranti, *ibid.*, p. 12

¹³ Marouda – Saranti, *ibid.*, p. 13

¹⁴ Geneva Convention 1951: 1. *No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.*

¹⁵ European Court of Human Rights, *Case of Hirsi Jamaa and others v. Italy*, Application no. 27765/09, 23 February 2012, [https://hudoc.echr.coe.int/spa#{%22itemid%22:\[%22001-109231%22\]}](https://hudoc.echr.coe.int/spa#{%22itemid%22:[%22001-109231%22]}), retrieved in 11/10/2020

¹⁶ UNHCR, *Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol*, <https://www.unhcr.org/4d9486929.pdf>, retrieved in 11/10/2020

¹⁷ Marouda – Saranti, *ibid.*, p. 14

1.1.1: From the Geneva Convention 1951 to the New York Declaration 2016

The first and most important international convention is Geneva Convention of 1951, which constitutes the basis for Refugee Law¹⁸. The Geneva Convention refers to refugee status and its aim is to oblige states to protect applicants of this status more¹⁹.

An essential part of the Geneva Convention is the New York Protocol of 1967. The Geneva Convention covered the refugees who received the status before 1 January 1961²⁰. So, its task was that “equal status should be enjoyed by all refugees covered by the definition in the Convention irrespective of the dateline in January 1951”²¹. “This Convention was adopted in the immediate post-World War II period, when the refugee problems confronting the international community, were mainly those of refugees of European origin”²². Moreover, it was a progressive convention for that period and it set the conditions of refugees in host states. However, nowadays many researchers and academic people believe that this convention has to be revised, since it refers to totally different situation compared to the situation now²³.

The next move for the refugee status was in 2016 with the New York Declaration. “The New York Declaration includes a set of commitments for refugees and migrants, and elements towards the achievement of a *Global Compact on Refugees* and a *Global Compact for Safe, Orderly and Regular Migration*.²⁴” The refugee crisis triggered the adoption of this Declaration and in 2016 the UN set the refugee problem foreground. The main goal of this declaration is that it recognizes the cooperation between the country of origin, the reception country and third countries or

¹⁸ Marouda – Saranti, *ibid.*, p. 8

¹⁹ Marouda – Saranti, *ibid.*, p. 8

²⁰ Protocol related to the Status of Refugees, 4 October 1967, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolStatusOfRefugees.aspx>, retrieved in 11/10/2020

²¹ Protocol related to the Status of Refugees, *ibid.*

²² The Refugee Convention 1951, *The Travaux Préparatoires analyzed with a commentary by Dr Paul Weis*, p. 4

²³ Marouda – Saranti, *ibid.*, p. 8

²⁴ New York Declaration, 19 September 2016, <https://www.ohchr.org/EN/Issues/Migration/Pages/NewYorkDeclaration.aspx#:~:text=On%2019%20S,september%202016%2C%20the,Summit%20for%20Refugees%20and%20Migrants>), retrieved in 12/10/2020

international organizations²⁵. At the same time, racism, xenophobia and hate crimes are convicted by this declaration of 2016²⁶.

To conclude, all states agree that the pillar of International Refugee Law will always be the Geneva Convention of 1961 and its Protocol of 1967, encouraging states, which are not party to them, to adopt and ratify them without reservations. For instance these countries could be Turkey, Lebanon and Jordan, which receive big refugee flows without recognizing them as applicants of refugee status²⁷.

1.1.2: The Common European System for refugees

The EU was able to deal with refugee issues after the adoption of the Treaty of Amsterdam in 1997²⁸ ²⁹. It is worth of noting that article 78 of the Treaty on the Functioning of the EU³⁰ provides a Common European Asylum System, according to the Geneva Convention 1951³¹.

This Common European Asylum System aimed to set the same rules for the asylum to all member States of the EU. It is consisted by three pillars: creating a common line for the asylum policy for all States, cooperation between States and the EASO and finally, the enhancing of solidarity and sense of duty between all the States³². Two stages would help to evolve this common system, the first in 2005 by regulating common law systems and the second in 2013 via the “Program of Hague” which aimed for a better protection of asylum applicants³³.

The regulations in accordance to the Common European Asylum System refers to the temporary protection in cases of mass refugee inflow³⁴, to reception conditions of

²⁵ Marouda – Saranti, *ibid.*, p. 11

²⁶ Marouda – Saranti, *ibid.*, p. 11

²⁷ Marouda – Saranti, *ibid.*, p. 11

²⁸ Marouda – Saranti, *ibid.*, p. 15

²⁹ European Union, *Treaty of Amsterdam*, 2 October 1997, https://europa.eu/european-union/sites/europaeu/files/docs/body/treaty_of_amsterdam_en.pdf, retrieved in 14/10/2020

³⁰ European Union, Consolidated Version of Treaty on the Functioning of EU, C 326/58, 26 October 2012, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>, retrieved in 14/10/2020

³¹ Marouda – Saranti, *ibid.*, p. 15

³² Marouda – Saranti, *ibid.*, p. 15

³³ Marouda – Saranti, *ibid.*, p. 15

³⁴ Marouda – Saranti, *ibid.*, p. 18

2003 and 2013³⁵, to the asylum procedures of 2005 and 2013³⁶ and finally to the identification which concerns the subsidiary protection³⁷. Regarding the first regulation of the CEAS, Greece has included it in the PD 80/2006³⁸ but in 2013 an order by the Greek Police stipulated that there was the possibility to keep Syrians in detention for a few days, since their nationality could not be confirmed³⁹. The second regulation was included in the Greek legislation by the PD 4540/2018⁴⁰, the third through the Greek Law 4375/2016 which has to do with the organization and the operation of the Asylum Service⁴¹ and the forth was redrafted from PD 96/2008⁴² to the PD 141/2013⁴³ which has been repealed by the Law 4636/2019⁴⁴.

In conclusion, the EU aimed to have a common system in every member State regarding the reception, the conditions and the asylum. Greece, as a member State of the EU has included the CEAS regulations in its domestic legislation. However, there are still a lot of problems which have to be solved, since it is difficult for the EU to force a common legal system to all the member States.

³⁵ Marouda – Saranti, *ibid.*, p. 19

³⁶ Marouda – Saranti, *ibid.*, p. 20

³⁷ Marouda – Saranti, *ibid.*, p. 21

³⁸ Presidential Decree 80/2006, SGN (Sheets of Governmental Newspaper) 82/A/14-4-2006

³⁹ Marouda – Saranti, *ibid.*, p. 19

⁴⁰ Presidential Decree 4540/2018, SGN 91/A/22-5-2018

⁴¹ Law 4375/2016, SDG A 51/3.4.2016, *Organization and operation of the Asylum Service, Appeals Authority, Reception Service and Identification Establishment of a General Reception Secretariat, adaptation of Greek Legislation to the provisions of Directive 2013/32 / EU of the European Parliament and of the Council "on common procedures for granting and withdrawing international protection regime (recast) "* (L 180 / 29.6.2013), *provisions on the work of beneficiaries of international protection and other provisions*, <https://www.taxheaven.gr/law/4375/2016>, retrieved in 11/10/2020

⁴² Presidential Decree 96/2008, SDG A-152/30-7-2008

⁴³ Presidential Decree 141/2013, SDG A 226/21.10.2013

⁴⁴ Law 4636, SDG 169/A/1-11-2019

1.2: Convention on Elimination of all forms of Discrimination against Women

The Convention on Elimination of all forms of Discrimination against Women (CEDAW) was adopted on 18 December 1979⁴⁵ in New York by the United Nations General Assembly. When twenty states ratified it, it entered into force on 3 September 1981 as an international treaty⁴⁶.

In 1946 the United Nations Commission on the Status of Women had established a body to monitor the situation of women's rights worldwide. Through this work had been proved that there is a notable inequality between women and men. The outcome after all these years was a number of declarations and convention, arriving in the most important and central Convention in 1979⁴⁷ about women's rights.

This Convention is often defined as “an international bill” of rights for women⁴⁸. It describes discrimination against women as “...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, irrespective of their marital status, 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.”⁴⁹ It is worth noting that it is the only human rights treaty “which affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations.”⁵⁰ The CEDAW is consisting of 30 articles which refer to civil, reproductive, fundamental rights of women⁵¹.

⁴⁵ United Nations Human Rights- Office of the High Commissioner, *Convention on the Elimination of all forms of Discrimination against Women*, New York, 1979, <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>, retrieved in 11/10/2020

⁴⁶ United Nations Human Rights- Office of the High Commissioner, *Convention on the Elimination of all forms of Discrimination against Women*, ibid

⁴⁷ United Nations Human Rights- Office of the High Commissioner, *Convention on the Elimination of all forms of Discrimination against Women*, ibid

⁴⁸ United Nations entity for Gender Equality and the Empowerment of Women, *Convention on the Elimination of all forms of Discrimination against Women- Overview of the Convention*, <https://www.un.org/womenwatch/daw/cedaw/>, retrieved 11/10/2020

⁴⁹ The Convention on the Elimination of all forms of Discrimination against Women, A/RES/34180, Article 1, p.2

⁵⁰ United Nations entity for Gender Equality and the Empowerment of Women, *Convention on the Elimination of all forms of Discrimination against Women- Overview of the Convention*, ibid

⁵¹ UN General Assembly, *The Convention on the Elimination of all forms of Discrimination against Women*, A/RES/34/180, ibid., p.1

State-parties of the CEDAW have the responsibility to incorporate the basic lines into their internal legal systems. Furthermore it is their duty to write a national report, at least every four years, in order to further describe the progression of women's rights in each state. An annual session takes place to discuss a range of matters and to take the proper measures for the elimination of any discrimination against women⁵².

1.2.1: Greece as a state- party of the CEDAW

The CEDAW was signed by Greece on 2 March 1982 and the Greek Parliament ratified it on 30 March 1983⁵³. As it is written in the Consideration Reports of Greece by the Committee of the CEDAW in 1996 “Greece as a member State of International organizations, have accepted and ratified declarations on human rights and international conventions aiming at improving the position of the woman in all sectors of economic, political, social and cultural life of the country.”⁵⁴

According to article 28 paragraph 1 of the Greek Constitution of 1975 “The generally recognized rules of international law, as well as international conventions as of the time they are ratified by statute and become operative according to their respective conditions, shall be an integral part of domestic Greek law and shall prevail over any contrary provision of the law. The rules of international law and of international conventions shall be applicable to aliens only under the condition of reciprocity.”⁵⁵ In other words Greece, as a State party in many international treaties and conventions, integrates international rules into the domestic legal system, prevailing over all. Therefore, Greece has embodied the international rules aiming to eliminate any kind of discrimination against women and to promote equality between the sexes.

⁵² United Nations Human Rights- Office of the High Commissioner, *Convention on the Elimination of all forms of Discrimination against Women*, ibid

⁵³ Committee on the Elimination of Discrimination against Women, *Consideration Reports Submitted by State Parties under Article 18 of the Convention on the Elimination of all forms of Discrimination against Women*, Second and third periodic reports of State parties, 11 November 1996, CEDAW/C/GRC/2-3, p 3

⁵⁴ CEDAW/C/GRC/2-3, ibid., p.3

⁵⁵ Hellenic Parliament, *The Constitution of Greece, As revised by the parliamentary resolution of May 27th 2008 of the VIIIth Revisionary Parliament*, Article 28 paragraph 1, Hellenic Parliament Publication Department. Athens, 2008, p. 45

As all the member States of the CEDAW, Greece has the responsibility to send a report every four years, regarding the internal progression and possible obstacles⁵⁶. The first annual report of Greece was submitted in 1986, in which the period 1981-1985⁵⁷ was included. It is worth noting that there are references to women migrants and refugees from the first Greek report for CEDAW⁵⁸. Specifically, article 9 paragraph 288 mentions that “[...] Thus, they work illegally, while women face specific problems. Apart from the difficulties of language and adjustment to the new way of life, which create economic, social and psychological problems, when they work they become subjects of exploitation and work occasionally at jobs with small wages.⁵⁹” Moreover, in paragraph 313 it is mentioned that “Efforts have recently been made to deal with racism and xenophobia in Greece. In this framework, a committee of competent bodies was established to deal with this phenomenon, while actions were being taken and programs are being implemented, especially for refugee, immigrant and repatriated women.⁶⁰” Concluding that, going back the time, Greece had made efforts not only to ameliorate the life of inhabitants women, but also to ameliorate the life of immigrant and refugee women in Greece.

As article 18 of the CEDAW demands⁶¹, the State parties need to submit reports every four years. Greece has submitted seven reports to the CEDAW and the last one was for the period 2005-2008. Since then, there was no other report concerning this specific Convention. In the seventh periodic report, Greece has made provisions about vulnerable groups of women that face multiple discrimination and social exclusion, such as women refugees, migrants, Roma, Muslims and others⁶². More specifically, Greece has made great efforts for immigrant women, as it is mentioned in paragraph

⁵⁶ CEDAW, RES/A/34/180, Article 17 paragraph 5, 3 September 1981, p.7

⁵⁷ CEDAW/C/GRC/2-3, *ibid.*, p.3

⁵⁸ CEDAW/C/GRC/2-3, *ibid.*, p.57

⁵⁹ CEDAW/C/GRC/2-3, *ibid.*, p.57

⁶⁰ CEDAW/C/GRC/2-3, *ibid.*, p.57

⁶¹ Article 18: 1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect: (a) Within one year after the entry into force for the State concerned; (b) Thereafter at least every four years and further whenever the Committee so requests.
2. Reports may indicate factors and difficulties affecting the degree of fulfillment of obligations under the present Convention. CEDAW, RES/A/34/180, *ibid.*, p.8

⁶² Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Seventh periodic reports of State parties-Greece*, CEDAW/C/GRC/7, 14 March 2011, article 9 paragraph 154, p.37

156 “The GSGE and the Office of the United Nations High Commissioner in Greece designed and entered into (5 July 2005) the reviewed Memorandum of Understanding intended to mutually promote the rights of women and minor girls who have been provided with asylum or those who have requested humanitarian status in Greece, according to the Geneva Convention of 1951 and the PD 61/1999. On 4 July 2006, within the framework of implementing the Memorandum of Understanding terms, a meeting was held in Athens between the two agencies and the ERCs to inform and raise awareness on protection of women migrants, and to develop cooperation bonds between the aforementioned agencies in the Region. More specifically, the ERCs of Eastern Macedonia-Thrace, Central Macedonia, Northern Aegean, Southern Aegean, Crete and Attica participated in the meeting. They decided to revise an action plan by regional committees, which had begun implementation and includes visits to local detention centers and acceptance centers for refugees intended to detect problems. ERC also participated in seminars of refugee law, held in regional areas with the participation of the High Commissioner, the Hellenic Ministry of Public Order and NCPALG TI.⁶³”

In 2013, the Committee of the CEDAW concluded the observations about the seventh periodic report of Greece and it was the last document of the CEDAW referring to Greek progression about gender issues. Concerning refugee women, the Committee has mentioned that there is a severe problem in Greek prisons, since they are overcrowded and police do not categorize the detainees⁶⁴. Furthermore, it is mentioned that it is Greece’s duty to provide access to justice and fair trials to every refugee woman and girl, likewise to create educational, rehabilitative and resettlement programs⁶⁵.

In conclusion, Greece has made efforts to ameliorate gender issues internally within the state and also to improve the issue for vulnerable groups, such as refugee and immigrant women. These efforts had taken place from 1986 since 2013, but thereafter Greece has not submitted a periodic report regarding CEDAW.

⁶³ CEDAW/C/GRC/7, *ibid.*, p.37

⁶⁴ Committee on the Elimination of Discrimination against Women, *Concluding observations on the seventh periodic report of Greece adopted by the Committee as its fifty fourth session (11 February- 1 March 2013)*, CEDAW/C/GRC/CO/7, 26 March 2013, paragraph 35 (a)(c), p.9

⁶⁵ CEDAW/C/GRC/CO/7, *ibid.*, paragraph 35 (b), p.9

1.3: Convention on the Rights of the Child

Human rights of women are also linked to motherhood. Since women get pregnant and give birth to children, the legal protection of their rights is essential. Moreover, family is “the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.⁶⁶” For this reason, international legal treaties have been created in order to protect via international rules the rights of the child.

At first, the rights of the child were mentioned in the Geneva Declaration of the Rights of the Child of 1924⁶⁷ by the League of Nations. After the establishment of the United Nations, the Declaration of the Rights of the Child were adopted by the General Assembly in 1959⁶⁸ and subsequently the Convention on the Rights of the Child in 1989⁶⁹. This Convention consists of 54 articles about the rights, the protection and improving of the living condition for every child worldwide⁷⁰.

The CRC has also provisions about the rights of refugee children. According to article 22 paragraph 1 “States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.⁷¹” Thus, State parties are obligated to provide assistance and facilitate the cooperation between the United Nations and intergovernmental organizations⁷².

⁶⁶ UN General Assembly, *Convention on the Rights of the Child*, A/RES/44/25, 20 November 1989, p.1

⁶⁷ UN Documents, League of nations, *Geneva Declaration of the Rights of the Child*, 26 September 1924, <http://www.un-documents.net/gdrc1924.htm>, retrieved 15/10/2020

⁶⁸ UN General Assembly, *Declaration of the Rights of the Child*, A/RES/1386(XIV), 20 November 1959

⁶⁹ UN General Assembly, *Convention on the Rights of the Child*, A/RES/ 44/25, 20 November 1989

⁷⁰ A/RES/ 44/25, *ibid.*, p.2

⁷¹ A/RES/ 44/25, *ibid.*, article 22 paragraph 1, p.6

⁷² A/RES/ 44/25, *ibid.*, article 22 paragraph 2, p.6

It is worth noting that in accordance with article 44 of the CRC, the members States are obliged to submit periodic reports every five years. “Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfillment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.”⁷³

In conclusion, the CRC focuses on the difficulties and issues in developing countries, where the living conditions of children are inhuman⁷⁴. Children belong to vulnerable groups of society and are in need of international rules which will protect their rights and create a better future in every country worldwide.

1.3.1: Periodic reports of Greece in the CRC; focusing on refugee children

Greece is a State party of the CRC since 20 January 1990 and ratified it on 11 May 1993⁷⁵. Greece has submitted three periodic reports in CRC and its thorough initial report was in 2001⁷⁶. As a member State of CRC, Greece has also signed the two optional protocols to the Convention in 2000; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts⁷⁷ and the Optional Protocol on the Rights of the Child on the sale of children, child prostitution and child pornography⁷⁸.

⁷³ A/RES/ 44/25, *ibid.*, Article 44 paragraph 2, p.13

⁷⁴ A/RES/ 44/25, *ibid.*, p.2

⁷⁵ Committee on the Rights of the Child, *Consideration of reports submitted by State parties under article 44 of the Convention, Second and third periodic reports of States parties due in 2000, GREECE*, CRC/C/GRC/2-3, 11 April 2011, p.5

⁷⁶ Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention, Initial reports of States parties due in 1995, GREECE*, CRC/C28/Add.17, 25 June 2001

⁷⁷ Committee on the Rights of the Child, *Consideration of reports submitted by State parties under article 18, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Initial reports of State parties due in 2005, GREECE*, CRC/C/OPAC/GRC/1, 21 April 2011

⁷⁸ Committee of the Rights of the Child, *Consideration of the reports submitted by State parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of the children, child prostitution and child pornography, Initial reports of States parties due in 2010, GREECE*, CRC/C/OPSC/GRC/1, 26 January 2012

In the first report in 2001, Greece mentioned, regarding article 22 of the CRC that amendments of the domestic legislation had been made⁷⁹, in order to fulfill “its commitments as a contracting party to these international agreements⁸⁰”. These amendments concerned special provisions for refugees and “include the resolution on fundamental guarantees to protect the procedures for the examination of asylum requests and the recommendation on the minimum conditions for the reception of persons applying for asylum, and special mention is made of child asylum applicants.⁸¹”

In accordance with the second third periodic reports of Greece in 2011, refugee or asylum-seeking children have special treatment compared to adults. As it is mentioned in paragraph 378 “[...] Children are always detained in special facilities, and separately from adults, on the basis of a special accommodation and protection status.⁸²” Furthermore, for their best treatment during their stay in Greece, “Children are informed of their rights, such as the right to accommodation in special centers, access to education etc. In all instances, their cases are examined as a matter of priority with the assistance of an interpreter, in a language they understand and confidentially.⁸³”

In conclusion, Greece has not submitted any other periodic report to the CRC since 2020. As it is known, after the big refugee flow of 2015, the situation has dramatically changed without any further information about refugee minors and about the rights of the child on the Greek territory in general.

⁷⁹ Amendments in articles 24 and 25 of the Law 1975/91 (as amended to Law 2452/96)

⁸⁰ CRC/C28/Add.17, *ibid.*, article 22, paragraph 360, p. 72

⁸¹ CRC/C28/Add.17, *ibid.*, article 22, paragraph 360, p. 72

⁸² Committee on the Right of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention, Second and third periodic reports of State parties due in 2000, GREECE*, CRC/CGRC/2-3, 11 April 2011, paragraph 378, p.88

⁸³ CRC/CGRC/2-3, *ibid.*, paragraph 388, p.89

1.4: Security Council resolution 1325 on women, peace and security

In the 1970s the United Nations began to focus on raising gender equality in the world, and this was reflected in the 1979 Convention on the Elimination of All Forms of Discrimination against Women⁸⁴. In addition, the peacekeeping failures in Rwanda, Somalia and the former Yugoslavia have led to the adoption of resolution 1325 in 31 October 2000, since women have been particularly targeted for sexual crimes during the atrocities of the war⁸⁵. This revolves around two main axes. On the one hand, it deals with the disproportionate impact of armed conflict on women and girls, and on the other hand, it provides the basis for the crucial role that women must play in preventing and resolving conflict and in building peace, in what we call peace processes.

The key points of the Resolution are the highlighting of the importance of equal and full participation of women as actors in conflict prevention and resolution, peace negotiations, peacebuilding and peacekeeping⁸⁶. It is also important to adopt a gender dimension, which will take into account the special needs of women and girls during armed conflict, repatriation and resettlement, reintegration and post-conflict reconstruction⁸⁷.

Moreover, the Resolution specifically envisages some actions including the prevention of sexual and gender-based violence in armed conflict as it calls on all parties to take special measures to protect women and girls from violence in armed conflict⁸⁸. In the field of peace negotiations, the resolution calls on states to include the gender dimension in peace negotiations and to increase women's participation in them, with particular attention to supporting local women's peace initiatives⁸⁹. Finally, the Resolution calls on the Member States to increase the participation of women at

⁸⁴ United Nations Human Rights- Office of the High Commissioner, *Convention on the Elimination of all forms of Discrimination against Women*, ibid

⁸⁵ UN Women, *Preventing Conflict Transforming Justice Securing the Peace-A Global Study on Implementation of United Nations Security Council Resolution 1325*, United States, 2015, p. 326

⁸⁶ Security Council, *Resolution 1325 (2000)*, S/RES/1325(2000), 31 October 2000, paragraph 6, p.2

⁸⁷ S/RES/1325(2000), ibid., paragraph 9, p.3

⁸⁸ S/RES/1325(2000), ibid., paragraph 10, p.3

⁸⁹ S/RES/1325(2000), ibid., paragraph 8, p.3

all levels of decision-making in both national and regional and international organizations⁹⁰.

Although Resolution 1325 is not the only policy text that incorporates the gender dimension in security, it is considered the most important as it has a higher prestige and takes further steps than previous measures, because it responds to specific forms of violence. With a panoramic view, we would say that it is the culmination of the efforts of the pacifist feminists who sought to draw the attention of the international community to the issues that ultimately touch on this Resolution⁹¹.

However, perhaps the greatest burden of implementing Resolution 1325 lies with the states themselves. In this regard, since 2005, UN Member States have implemented the foundations of the Resolution through the development of National Action Plans (NAPs) under the leadership of governments in the framework of national strategies⁹². It is worth noting that 83 UN Member States have adopted NAPs, and the Organization for Security and Co-operation in Europe was the first body to adopt an Action Plan in 2004⁹³, followed by the European Union, which adopted the 1st in 2008⁹⁴ and the 2nd in 2018⁹⁵.

To date, 9 more Resolutions have been adopted; Resolution 1820⁹⁶, adopted in 2008, one year later in 2009 the Security Council adopted Resolution 1888⁹⁷ and Resolution 1889⁹⁸. In 2010 Security Council adopted Resolution 1960⁹⁹, and in 2013

⁹⁰ S/RES/1325(2000), *ibid.*, paragraph 1, p.2

⁹¹ Steans J., *Gender and International Relations*, publication Pedio, Athens 2016, pp. 178-180

⁹² For more information on the adoption of NAPs by Member States, see <https://www.peacewomen.org/member-states>, retrieved in 20/10/2020

⁹³ Organization for Security and Co-operation in Europe, Ministerial Council, *Decision No. 14/04 2004 Osce Action Plan for the Promotion of Gender Equality*, 7 December 2004 <https://www.osce.org/mc/23295?download=true>, retrieve in 20/10/2020

⁹⁴ Council of the European Union, *Comprehensive approach to the EU implementation of the United Nations Security Council Resolutions 1325 and 1820 on women, peace and security*, Brussels, 1 December 2008,

http://www.peacewomen.org/sites/default/files/eu_comprehensive_eu_approach_to_the_implementation_of_unscr_1325_and_1820_december2008.pdf, retrieved in 20/10/2020

⁹⁵ Council of the European Union, *Women, Peace and Security- Council conclusions*, Brussels, 10 December 2018, <https://www.consilium.europa.eu/media/37412/st15086-en18.pdf>, retrieved in 20/10/2020

⁹⁶ Security Council, *Resolution 1820 (2008)*, S/RES/1820(2008), 19 June 2008

⁹⁷ Security Council, *Resolution 1888 (2009)*, S/RES/1888(2009), 30 September 2009

⁹⁸ Security Council, *Resolution 1889 (2009)*, S/RES/1889(2009), 5 October 2009

⁹⁹ Security Council, *Resolution 1960 (2010)*, S/RES/1960(2010), 16 December 2010

Resolution 2106¹⁰⁰ and Resolution 2122¹⁰¹. Two years after, in 2015 Resolution 2242¹⁰² and finally in 2019 two resolutions were adopted, Resolution 2467¹⁰³ and Resolution 2493¹⁰⁴.

A careful study of Resolution 1325 reveals four main pillars of its implementation. These are: participation, protection, prevention and relief and rehabilitation¹⁰⁵. Focusing on the pillar of Protection includes improving the safety of women and girls, physical and mental health, financial security and overall well-being. Furthermore, 1325 includes the protection of refugees and internally displaced women¹⁰⁶. It is worth noting that in the NAP of the EU is mentioned that “Systematically integrate a gender perspective into EU action that aims to support non-EU countries’ defense and security sector reform, justice sector reform, transitional justice initiatives, governance reform, demobilization and reintegration, stabilization, state building, civil protection, counterterrorism and the prevention of radicalization leading to violent extremism and terrorism, disarmament, non-proliferation and arms control, arms trade, migration, the protection of refugees, internally displaced persons and asylum seekers, trafficking in human beings, and humanitarian work, including the reinforcement of human security.¹⁰⁷” Actually, the EU NAP for the WPS Agenda could be a guide for all the European countries which have not yet created a NAP.

1.4.1: The Greek NAP- proposal for the protection of refugee women

It is a fact that Greece has not yet a NAP of WPS Agenda. Nonetheless, the EU NAP and many other NAPs of European countries could create the base for the Greek one. By studying the NAPs of European states, one can distinguish four basic pillars;

¹⁰⁰ Security Council, *Resolution 2106 (2013)*, S/RES/2106(2013), 24 June 2013

¹⁰¹ Security Council, *Resolution 2122 (2013)*, S/RES/2122(2013), 18 October 2013

¹⁰² Security Council, *Resolution 2242 (2025)*, S/RES/2242(2025), 13 October 2015

¹⁰³ Security Council, *Resolution 2467 (2019)*, S/RES/2467(2019), 23 April 2019

¹⁰⁴ Security Council, *Resolution 2493 (2029)*, S/RES/2493(2019), 29 October 2019

¹⁰⁵ OSCE, *Implementing the Women, Peace and Security Agenda in the OSCE Region*, publication Ferdinand Berger & Soehne Gessellschaft M.B.H., 2020, p.15

¹⁰⁶ *Women, Peace and Security- Council conclusions*, ibid., paragraph 19, p.21

¹⁰⁷ *Women, Peace and Security- Council conclusions*, ibid., paragraph 27, p.26

participation, prevention, protection and relief and recovery¹⁰⁸. Furthermore, there are some guides in order to help States create a NAP, for instance the Women, Peace and Security National Action Plan Development Toolkit by Peace Women¹⁰⁹.

Occasioned by the main topic of this dissertation, the proposal for a Greek NAP is focused on the protection of refugee women. Anywise, Greece is at the center of the refugee crisis from 2015, so it is very important to include the protection of refugee women in its NAP.

It is worth noting that nowadays, the refugee crisis has brought new data, reinforcing the need to protect women and girls. The protection of refugees and displaced women is included in a NAP, highlighting their vulnerability¹¹⁰. The violence they face inside and outside the Reception and Identification Centers is high, and human trafficking is increasing¹¹¹. At the end of 2014, according to the United Nations High Commissioner for Refugee, “59.5 million people were forcibly displaced worldwide as a result of persecution, conflict, widespread violence or human rights violations.¹¹²” About half of the world's refugees are estimated to be women¹¹³.

Some indicative proposals for the protection of refugee and displaced women in Greece are:

1. Providing assistance in cases of sexual abuse and violence within the Reception and Identification Centers for refugees and migrants.
2. Providing asylum to refugee women and children from war-torn countries.
3. Conduct special research to support displaced women within their country.
4. Conducting a special survey aimed at supporting refugee women and children within the Reception and Identification Centers.

¹⁰⁸ Peace Women- a programme of Women's International League for Peace and Freedom (WILPF), *Women Peace and Security, National Action Plan Development, Toolkit*, New York, 2013, p. 6

¹⁰⁹ Peace Women, *ibid.*, p.3

¹¹⁰ OSCE, *ibid.*, p. 33

¹¹¹ S/RES/2467 (2019), *ibid.*, p. 2

¹¹² UNHCR (2015), *World at War: UNHCR Global Trends Forced Displacements in 2014*, Geneva: UNHCR, p. 2

¹¹³ UNHCR (2015), *ibid.*, p. 40

5. Promotion of human trafficking prevention operations by local and international organizations, especially migrants, refugees and displaced persons, including special functions for unaccompanied children.
6. Establishment of local and international organizations for immediate care services for survivors of human trafficking.
7. Implementation of a policy of zero tolerance for crimes of sexual and gender-based violence in Refugee and Immigrant Reception and Identification Centers, as well as in the illegal carnage trade.
8. Informing displaced women about their rights and the compensation they can claim due to their violations.
9. Encourage the participation of women in initiatives to disarm war-torn areas.
10. Informing and raising public awareness internationally about the rights and human rights protection of refugee and displaced women through local governments and organizations, as well as through educational programs, online campaigns and public events.

In conclusion, the key to equal treatment of women and the protection of their rights is the active and systematic consultation of local actors with women's organizations and international organizations. Also, the practical application of the words of the Undersecretary of State and Head of the UN Commission on Gender Equality and Women's Empowerment, Michelle Bachelet, “wherever there is conflict, women must be part of the solution¹¹⁴” could be the beginning of a bright future of women's rights.

¹¹⁴ Michel Bachelet Undersecretary of State and Head of the UN Commission on Gender Equality and Women's Empowerment, *Deputy Secretary-General, Heads of UN-Women, Peacekeeping Operations Speak*, Security Council SC/10840, 30 November 2012, New York

Chapter II

The Evolution of Greece's Legal System on Asylum

It is a fact that before 2011 the system of asylum in Greece was responsibility of the Greek Police and the Ministry of Citizen Protection¹¹⁵ as the Presidential Decree 61/1999¹¹⁶ defined. This has brought some repercussions to the Greek asylum system, since the examination of the applicants for the refugee status was conducted by policemen without the proper qualifications and without the required knowledge of human rights and International Refugee Law. For this reason, many violations of international treaties and conventions have taken part in the State, such as the case *M.S.S/ Belgium and Greece*¹¹⁷.

From 2005 Greece had made efforts to change the system of asylum, after the adoption of the first regulation of the CEAS. However, most of the efforts were ineffective. In particular, Greece released the Presidential Decrees 90/2008¹¹⁸ and 81/2009¹¹⁹ and the latter was the reason why UNHCR refused to participate as the PD provided¹²⁰.

The evolution of the Greek Asylum System is of great interest, because one can distinguish the different perspectives of the Greek legislation on this matter and the willingness of this State to attune its system with the European model. Moreover Greece is at the center of the refugee crisis even in 2020 and it is a fact that its system is not yet settled.

¹¹⁵ Marouda – Saranti, *ibid.*, p. 33

¹¹⁶ PD 61/1999, SGN A 63/06.04.1999, https://www.gcr.gr/media/k2/attachments/P_D_61OF1999.pdf, retrieved in 20/10/2020

¹¹⁷ ECtHR, *M.S.S v Belgium and Greece*, Application No. 30696/09

¹¹⁸ PD 90/2008, SGN A 138/11.07.2008, https://www.gcr.gr/media/k2/attachments/P_D_61OF1999.pdf, retrieved in 20/10/2020

¹¹⁹ PD 81/2009, SGN A 99/30.06.2009, https://www.kodiko.gr/nomologia/document_navigation/396167/p.d.-81-2009, retrieved in 20/10/2020

¹²⁰ Marouda – Saranti, *ibid.*, p. 33

2.1: Laws and Presidential Decrees

After the first regulation for a Common European Asylum System, Greece has made efforts to ameliorate and make its system according to the European standards. From 1999 it issued Presidential Decrees and from 2005 laws, in order to improve and develop the Greek legal system for refugees.

2.1.1: The most important Presidential Decrees on migration

Greece has issued more than thirteen main PD on refugees¹²¹. One could divide the Greek PDs in two eras; the first before 2005 and the second from 2005 until today. The factor of this division is the adoption of the regulations of CEAS in 2005. After 2005 the efforts of Greece are evident, but the evolution of the system was slow and even nowadays there is no a stable system.

The first PD was the 61/1999¹²² which established the initial reception and asylum system for refugees in Greece. One of the reasons was the mass influx of that period, because of the fall of the socialists' regimes in 1989 and some from Asia and Africa¹²³. Furthermore, "a committee including four government officials, a representative of UNHCR and an NGO lawyer examined appeals and made recommendations to the Minister of Public Order, who made the final decisions¹²⁴".

The second half of the Greek PDs started from 2005, the next one was in 2006 which concerns "the provision of temporary protection in case of mass influx of displaced foreigners"¹²⁵ and included the first regulation of CEAS¹²⁶. In 2008 the PD

¹²¹ Marouda- Saranti, *ibid.*, pp.336-337

¹²² PD 61/1999, *ibid*

¹²³ Kalofolias K., *The migration issue in the Mediterranean*, published by Michalis Sideris, Athens, 2011, pp. 33-34

¹²⁴ UNHCR, *Putting solidarity to the test: assessing Europe's response to the asylum crisis in Greece*, New issues in refugee research, Research paper No. 231, Switzerland, January 2012, <https://www.unhcr.org/4f269d5f9.pdf>, retrieved in 15/10/2020

¹²⁵ PD 80/2008, *ibid*

¹²⁶ Official Journey of European Communities, *Council Directive 2001/55/EC*, 20 July 2001, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:212:0012:0023:EN:PDF>, retrieved in 17/10/2020

96/2008¹²⁷ was issued about the “Adaptation of the Greek legislation to the clauses of the Regulation 2004/83/EC¹²⁸”, while in 2009 the PD 81/2009¹²⁹ was issued about the “Adjustment of the PD 90/2008¹³⁰ and the Adaptation of the Greek legislation to the clauses of the Regulation 2005/85/EC¹³¹”. It is a fact that Greece transported the EU asylum policy through these PD, however “this process was not smooth: the European Commission has taken formal action against Greece at least once for non-transposition or incorrect transposition or application of each of the five main CEAS measures¹³²”. That was the reason why UNHCR refused to take part in the Greek procedures on refugees¹³³. Regarding Regulation 2005/85/EC, Greece has issued three more PD in order to fulfill its tasks: PD 114/2010, PD 113/2013 and PD 167/2014¹³⁴. The PD 141/2013 concerned the directive 2011/95/EU¹³⁵ of the European Parliament, about the standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection.

Moreover, PD 102/2012¹³⁶ is important because it concerns the “Organization and operation of the First Reception Service” in the Ministry of Public Order and the Citizen’s Protection. In 2020 two PDs were issued about the organization and

¹²⁷ PD 96/2008, ibi

¹²⁸ Council Directive 2004/83/EC of 29 April 2004 on “*minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted*”, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0083>, retrieved in 15/10/2020

¹²⁹ PD 81/2009, ibid

¹³⁰ PD 90/2008, ibidF

¹³¹ Council Directive 2005/85/EC of 1 December 2005 on “*minimum standards on procedures in Member States for granting and withdrawing refugee status*”, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32005L0085>, retrieved in 15/10/2020

¹³² *Putting Solidarity to the test: assessing Europe’s response to the asylum crisis in Greece*, ibid., p.6

¹³³ Marouda- Saranti, ibid., p.33

¹³⁴ PD 114/2010, SGN A 1995/22.11/2010,

https://www.kodiko.gr/nomologia/document_navigation/381327/p.d.-114-2010, retrieved in 15/10/2020, PD 113/2013, SDG A 146/14.6.2013,

https://www.kodiko.gr/nomologia/document_navigation/365182/p.d.-113-2013, retrieved in 15/10/2020, PD 167/2014, SDG 252/A/1-12-2014, <https://www.e-nomothesia.gr/kat-allodapoi/prosphuges-politiko-asulo/pd-167-2014.html>, retrieved in 15/10/2020

¹³⁵ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on “*standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted*”, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095>, retrieved in 15/10/2020

¹³⁶ PD 102/2012, SGN A 169/03.09.2012,

https://www.kodiko.gr/nomologia/document_navigation/368719/p.d.-102-2012, retrieved in 15/10/2020

responsibilities of Asylum Services in Greece: PD 4/2020 AND PD 9/2020¹³⁷. The first concerns the “Establishment of the Ministry of Immigration and Asylum, definition of its responsibilities and redistribution of responsibilities between Ministries”, while the latter the “Transfer of services and responsibilities between the Ministries of Citizen Protection and Immigration and Asylum”. These are important steps for the Greek legislation regarding refugee issues and ameliorate the operation of the domestic procedures on asylum and first reception.

2.1.2: From the Law 3386/2005 to the Law 4636/2019

Combining the PDs and the Laws, the aim of Greece is to achieve a domestic system in accordance with the European standards. For this reason Greece has issued Laws from 2005, after the first Regulation of CEAS, which would help to organize a better system in combination with the PDs. Greece has issued about ten Laws on refugees from 2005 until today¹³⁸.

The first one was 3386/2005 and concerned the “Entry, residence and social integration of third country nationals on the Greek Territory¹³⁹”, which was canceled by the Law 4251/2014¹⁴⁰. The next most important Law is 4375/2016¹⁴¹ which provides “The process of secondary control is further modified, as the Three-member Refugee Committees are expected to be staffed following a competition conducted by the Refugee Authority and the National Center of Public Administration and Self-government.¹⁴²” The main task of the Law 4375/2016 is to eliminate the systematic abuse by the Greek police authorities.

¹³⁷ PD 4/2020, SGN 4/A/15-1-2020, <https://www.e-nomothesia.gr/kubernese/proedriko-diatagma-4-2020-phek-4a-15-1-2020.html>, retrieved in 15/10/2020, PD 9/2020, SGN 10/A/24-1-2020, <https://www.e-nomothesia.gr/kubernese/proedriko-diatagma-9-2020-phek-10a-24-1-2020.html>, retrieved in 15/10/2020

¹³⁸ Marouda- Saranti, *ibid.*, pp.335-336

¹³⁹ L. 3386/2005, SGN A 212 / 23-08-2005 on the “Entry, residence and social integration of third country nationals in the Greek Territory”, <https://www.e-nomothesia.gr/kat-allodapoi/n-3386-2005.html>, retrieved in 15/10/2020

¹⁴⁰ L. 4251/2014, SGN A 80/1-4-2014, <https://www.forin.gr/laws/law/3154/kwdikas-metanasteushs-kai-koinwnikh-entakshs-kai-loipes-diatakseis#!/?article=20446>, retrieved in 15/10/2020

¹⁴¹ L. 4375/2016, *ibid.*

¹⁴² Marouda- Saranti, *ibid.*, p. 34

The most recent Law is the 4636/2019¹⁴³ and concerns the “International Protection and other clauses. In particular, the task of this Law is the compliance of the Greek legislation with Regulation 2011/95/EU on “the requirements for the recognition of third-country nationals or stateless persons as beneficiaries of international protection for a single status for refugees or persons entitled to subsidiary protection and for the content of the protection provided¹⁴⁴”, with Regulation 2013/33/EU¹⁴⁵ “Regarding the requirements for the acceptance of applicants for international protection” and with the Regulation 2013/32/EU¹⁴⁶ on “common procedures for the granting and revocation of international protection”.

In conclusion, Greece, through the PDs and the Laws which have been issued, aims to be in compliance with the European standards. The steps of this progression are stable and slow, but the thoughts and the efforts for an ameliorated system on refugees are constant. Even in the middle of a hard time refugee crisis, Greece is still keen and ready for effective changes.

¹⁴³ L. 4636/2019, *ibid*

¹⁴⁴ L. 4636/2019, *ibid.*, Article 1

¹⁴⁵ Directive 2013/33 / EU of the European Parliament and of the Council of 26 June 2013 on “*the requirements for the reception of applicants for international protection*”, <https://eur-lex.europa.eu/legal-content/EL/TXT/?uri=celex%3A32013L0033>, retrieved in 15/10/2020

¹⁴⁶ Directive 2013/32 / EU of the European Parliament and of the Council of 26 June 2013 on “*common procedures for the granting and revocation of international protection*”, <https://eur-lex.europa.eu/legal-content/EL/TXT/?uri=CELEX%3A32013L0032>, retrieved in 15/10/2020

2.2: The New European Pact on Migration and Asylum

It is a fact that Europe has not stopped the efforts for a better organization on refugee issues, in order to ameliorate every asylum system in member States. For this reason, the organs of the EU are conducting constant research and they are trying to build a stable model of the asylum system. This will surely affect the domestic standards of European States and it will help with mass influxes in the future.

The New Pact on Migration and Asylum proposed by the European Commission aims to improve the procedures of the asylum and migration system, to highlight the principles of solidarity and responsibility of States and to rebuild the trust between European States, the organizations and the EU¹⁴⁷. According to European Commission, “the current system no longer works and for the past five years, the EU has not been able to fix it”¹⁴⁸. The task of the New Pact is the EU to propose effective solutions and to “put in place a predictable and reliable migration management system”¹⁴⁹.

In order to achieve its goals, this New Pact provides proposals and solutions via a Roadmap. This Roadmap is basically an action plan of the New Pact’s implementation with dates and specific actions. The Roadmap’s provisions are until 2023 for some future action so as to improve the migration and asylum system¹⁵⁰. Moreover, this New Pact could be also an essential tool for the Greek asylum system, since Greece is confronted with the most difficult refugee crisis right now.

It is also noteworthy, that with the announcement of the European New Pact, the new EU Action Plan on Integration and Inclusion has been released on the 24

¹⁴⁷ European Commission-Press release, *A fresh start on migration: Building confidence and striking a new balance between responsibility and solidarity*, Brussels, 23 September 2020, p.1, file:///C:/Users/user/Downloads/A_fresh_start_on_migration__Building_confidence_and_striking_a_new_balance_between_responsibility_and_solidarity_.pdf, retrieved in 18/10/2020

¹⁴⁸ European Commission-Press release, *ibid.*, p.1

¹⁴⁹ European Commission-Press release, *ibid.*, p.1

¹⁵⁰ European Commission, *ANNEXES to the COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS on a New Pact on Migration and Asylum*, Annex, COM(2020) 609 final, Brussels, 23.09.2020, https://eur-lex.europa.eu/resource.html?uri=cellar:85ff8b4f-ff13-11ea-b44f-01aa75ed71a1.0002.02/DOC_4&format=PDF, retrieved in 18/10/2020

November 2020 for the years 2021-2027. This Action Plan is the replacement for the Action Plan for Integration of third countries nationals for the years 2016-2024¹⁵¹. Based on the Gender Equality Strategy 2020-2025, one of the most important aspects of the Action Plan is a gender dimension, since it considers that women migrants deal with a variety of problems while they are staying in a reception country. Some of these challenges are: in education, in health, in employment and in the general participation in the society¹⁵².

2.2.1: The provisions of the New Pact

As it is already mentioned, the New Pact aims to ameliorate the migration and asylum system, to build trust between European States and to refresh the principles of solidarity and responsibility. Thus, its action plan is based on these tasks in order to achieve a better approach on refugee issues.

Regarding the two principles of solidarity and responsibility, the Pact provides more effective procedures in order to build a stronger trust which will be beneficial for the security and protection of migrants and refugees, the effective implementation of regulations and the productive operation of the system¹⁵³. Also better management of Schengen and organization of external borders by improving security control and placing a permanent security force¹⁵⁴, illegal entry will be decreased and the identification procedures will be more effective. The Commission supports that an effective solidarity will help the States, which receive mass influxes of refugees, by alleviating the load. This will be achieved through a European common responsibility,

¹⁵¹ ECRE-European Council on Refugees and Exiles, *The European Commission releases its new Action Plan for Integration and Inclusion 2021-2027*, 27th November 2020, <https://www.ecre.org/the-european-commission-releases-its-new-action-plan-for-integration-and-inclusion-2021-2027/>, retrieved in 27/02/2021

¹⁵² ECRE-European Council on Refugees and Exiles, *Op-ed: The new Action Plan on Integration and Inclusion: Promising Elements, Rising Expectations*, 11th December 2020, <https://www.ecre.org/op-ed-the-new-action-plan-on-integration-and-inclusion-promising-elements-rising-expectations/>, retrieved in 27/02/2021

¹⁵³ European Commission, *New Pact on Migration and Asylum Package*, European Union, 2020, p.2, https://ec.europa.eu/info/sites/info/files/new-pact-on-migration-and-asylum-package_1.pdf, retrieved in 18/10/2020

¹⁵⁴ *New Pact on Migration and Asylum Package*, *ibid.*, p.6

an evaluation system which will examine the situation from financial and legal perspectives, and coordination of States policies¹⁵⁵.

According to the Pact, Europe compared to USA, Canada and Australia has the oldest and shrunk population. This has an impact on the key-positions in European organizations which are responsible for many actions of the EU. These key-positions need to be fulfilled by talents who are less in EU than USA, Canada and Australia. For this reason, European Commission provides some actions to enhance the staying, the arrival and the attraction of these talents¹⁵⁶. Furthermore, a cooperative deepening of international partnerships is important, due to the fact that it will create a common system and will enhance solidarity between States. This will be achieved by five key areas: “supporting other countries hosting migrants and refugees, creating economic opportunities especially for youth, fighting migrant smuggling, improving return and readmission, developing orderly channels for legal migration”¹⁵⁷. Finally, the European Commission provides flexibility and resilience, meaning that the EU and States will be prepared to confront and manage crises. Flexibility and resilience will function by an effective crisis response. This response includes “operational support available on request by a Member State, solidarity mechanism, recognition of practical difficulties and quick clarity for people needing protection”¹⁵⁸.

In 2016 the Commission proposed return and asylum reforms and until 2018 the co-legislators had not found political agreement on many of them. Even if they could conclude the negotiations, these reforms are part of the Pact: the EU Asylum Regulation, the Reception Condition Directive, the Qualifications Directive, the Union Resettlement Framework and the Return Directive¹⁵⁹.

In conclusion, the New Pact on Migration and Asylum aims to refresh the current system in every member State and to create a sense of solidarity by common measures

¹⁵⁵ *New Pact on Migration and Asylum Package*, *ibid.*, p.11

¹⁵⁶ *New Pact on Migration and Asylum Package*, *ibid.*, p.13

¹⁵⁷ *New Pact on Migration and Asylum Package*, *ibid.*, p.16

¹⁵⁸ *New Pact on Migration and Asylum Package*, *ibid.*, p.19

¹⁵⁹ European Commission, *The New Pact on Migration and Asylum: Questions and Answers*, Brussels, 23 September 2020, p.4, file:///C:/Users/user/Downloads/New_Pact_on_Migration_and_Asylum__Questions_and_Answers.pdf, retrieved in 18/10/2020

and procedures. For this reason it has proposed actions in order to achieve a better future common system in European States. Countries like Greece, Italy, France, Poland, Malta etc embrace this new Pact, considering it as the basis for a better common asylum system. However, COVID-19 and the polarization between the countries on this matter have exacerbated the negotiations¹⁶⁰.

2.2.2: Greece and the New Pact

It is a fact that Greece is in the heart of the refugee crisis. The Greek islands of the east Aegean confront severe problems which render them incapable of providing adequate conditions to refugees and making the inhabitants' life difficult. "The solidarity measures proposed in the New Pact are unlikely to relieve pressure on frontline states like Greece¹⁶¹".

In particular, the Greek islands host a bigger number than their population¹⁶². This has devastating repercussions not only for the local people, but also for the living conditions of migrants and refugees. For instance, the situation in Lesbos' camp is out of control. The island is hosting a huge number of people without having the appropriate infrastructure to receive such mass influx¹⁶³. "Greek authorities never wanted to acknowledge that the refugee situation required a sustained response – they saw it instead as a temporary challenge to be contained on the islands¹⁶⁴".

¹⁶⁰ Foundation Robert Schuman- The Research and Studies Centre on Europe, *European Issue no. 577-Understanding the new pact on migration and asylum*, 16/11/2020, <https://www.robert-schuman.eu/en/european-issues/0577-understanding-the-new-pact-on-migration-and-asylum>, retrieved in 27/02/2021

¹⁶¹ The New Humanitarian, *Greece must reform its failed asylum policies now*, article by Daphne Panayotatos, 13 October 2020, <https://www.thenewhumanitarian.org/opinion/2020/10/13/Greece-reform-refugee-asylum-policies>, retrieved in 20/10/2020

¹⁶² UNHCR, Statistics Greece, Refugee arrivals in 2020, https://data2.unhcr.org/en/situations/mediterranean/location/5179#_ga=2.91882906.1087631052.1606573813-847969269.1569184381&_gac=1.216752996.1604776970.CjwKCAiA4o79BRBvEiwAjteoYFd1R46xOQ4jh1e7kbQMJttM0U4-j2WpSH23r7Ovz5ew4ftc2T1GBoc7rQQAvD_BwE, retrieved in 18/10/2020

¹⁶³ Lesbos has 4.458 arrivals in 2020 in accordance with the last updates of the UNHCR statistics (UNHCR, Statistics Greece, *ibid.*)

¹⁶⁴ The New Humanitarian, *ibid*

The European Commission directed more attention to Greece, because of the Moria's reception camp destruction in 9 September 2020, when 12,362 men, women and children lost their "home"¹⁶⁵. President von der Leyen announced in the State of the Union address 2020 that "The images of the Moria camp are a painful reminder of the need for Europe to come together. Everybody has to step up here and take responsibility – and the Commission will do just that. The Commission is now working on a plan for a joint pilot with the Greek authorities for a new camp on Lesbos. We can assist with asylum and return processes and significantly improve the conditions for the refugees¹⁶⁶". According to Commissioner for Home Affairs, Ylva Johansson "Conditions in Moria, both before and after the fire, were unacceptable. Men, women and children living in overcrowded camps with poor sanitation and little access to health care. The taskforce brings together the central tenets of the Pact – fairness and efficiency for applicants and greater responsibility for Member States. It is not good enough to say never again, we need action and all Member States must play their part¹⁶⁷". Thus, the Commission started a new approach regarding Greece.

The action plan of the Commission about Greece provides a close cooperation with Greece in order to achieve the tasks faster. In particular, the Pact provides a new reception built to European standards, adequate for women and children offering sanitation and access to health¹⁶⁸. Ending overcrowding, fast and effective measures of asylum and return, increased voluntary returns and improved safety and security are the main actions which need to be implemented, based on the New Pact¹⁶⁹. Finally, the Commission has transferred vulnerable people such as children and women from the Greek island (Samos, Chios, Lesbos, Kos and Leros) to the mainland, also because of COVID-19¹⁷⁰.

¹⁶⁵ European Commission, *Migration: A European taskforce to resolve emergency situation on Lesbos*, Brussels, 23 September 2020, p.2, file:///C:/Users/user/Downloads/Migration__A_European_taskforce_to_resolve_emergency_situation_on_Lesvos.pdf, retrieved in 18/10/2020

¹⁶⁶ European Commission, *State of the Union 2020*, p.20, https://ec.europa.eu/info/sites/info/files/soteu_2020_en.pdf, retrieved in 18/10/2020

¹⁶⁷ *Migration: A European taskforce to resolve emergency situation on Lesbos*, *ibid.*, p.1

¹⁶⁸ *Migration: A European taskforce to resolve emergency situation on Lesbos*, *ibid.*, p.1

¹⁶⁹ *Migration: A European taskforce to resolve emergency situation on Lesbos*, *ibid.*, p.1

¹⁷⁰ *Migration: A European taskforce to resolve emergency situation on Lesbos*, *ibid.*, p.2

To conclude, ““no more Morias” has become a rallying cry: The scorched camp is a palpable symbol of Greek and EU policy failures¹⁷¹”. In particular Greece and Greek islands confront huge problems on refugees, with poor infrastructures and low quality of living conditions. This is due to the fact that the refugee influx in Greece is mass and Greek authorities do not have the proper means to deal with it.

¹⁷¹ The New Humanitarian, *ibid*

Chapter III

Violations of ECHR articles and Greek cases before ECtHR

3.1: Violations of ECHR articles by Greece

The ECtHR is based on five pillars regarding issues of migration and asylum: evaluation on “Dublin” system and the principle of non-refoulement, evaluation of asylum applicants’ detention and conditions of detention, evaluation of the internal flight alternative, prohibition of expulsions, prohibition of collective expulsions of aliens¹⁷². These pillars correspond to articles 3, 5, 8, 13 and 4 protocol no. 4 of the ECHR¹⁷³.

It is very important for member States to ratify and apply these provisions of the EU, in order for a common system to exist for every State without violations. However, Greece has violated these articles in many cases on migration and asylum and it is worth noting that it has not ratified the article 4 protocol no. 4 of the ECHR¹⁷⁴.

3.1.1: Violation of articles 3 and 5 of ECHR

Article 3 concerns the “prohibition of torture”, while article 5 concerns the “right to liberty and security”. These two articles of ECHR are very important on issues of migration and asylum, since they mention the essential rights of the person. Nevertheless, Greece has violated these articles, due to the fact that before the Asylum Service had the responsibility for the whole procedure, the police authorities were running the asylum. This brought consequences to the procedure, since the treatment to migrants and refugees was totally different than today¹⁷⁵.

¹⁷² Marouda- Saranti, *ibid.*, p.27

¹⁷³ European Convention on Human Rights, https://www.echr.coe.int/documents/convention_eng.pdf, retrieved in 20/10/2020

¹⁷⁴ European Convention on Human Rights, *ibid.*, p.40

¹⁷⁵ Marouda- Saranti, *ibid.*, p.33

It is a fact that there are many cases against Greece about detention. For this reason the ECtHR examines the conditions of the reception centers in Venna, Lesvos, Soufli and in others, concluding that there are “overcrowded, there is no possibility of exit and communication via telephone with relatives, there is shortage of sanitarian products, of sheets and food”, rendering the conditions inadequate for many refugees¹⁷⁶. Moreover, the Greek system does not allow any refugee or immigrant to doubt for his detention, violating the article 5 paragraph 4 of the ECHR¹⁷⁷. An example of these violations is the case *H.A. v. Greece*¹⁷⁸ in which the Greek police violated both articles 3 and 5(4).

3.1.2: Violation of article 8 of ECHR

Article 8 concerns the “right to respect for private and family life” and “there shall be no interference by a public authority [...]”, unless the person constitutes danger to the democratic principles of the State¹⁷⁹. This right is also important for asylum applicants, because it has to do with “the family reconnection and the respect of the preservation of the family unity”¹⁸⁰. Article 8 is violated when there is an expulsion and the asylum applicant has established relations with the reception country¹⁸¹. These relations could be the language, time of stay, attendance to school, Greek relatives and others¹⁸².

An interesting case is *B.A.C. v. Turkey*¹⁸³ in which the ECtHR decided violation of article 8 for the first time, because of the failure of the national authorities to evaluate an asylum request¹⁸⁴. In particular, “The ECtHR ruled that the Greek authorities had

¹⁷⁶ Marouda- Saranti, *ibid.*, p.29

¹⁷⁷ Marouda- Saranti, *ibid.*, p.29

¹⁷⁸ See Chapter 3, 3.2.3 for further information

¹⁷⁹ European Convention on Human Rights, *ibid.*, p.11

¹⁸⁰ Marouda- Saranti, *ibid.*, p.30

¹⁸¹ Marouda- Saranti, *ibid.*, p.30

¹⁸² *Cases Boulif v. Switzerland*, 54273/00, 2 August 2001, <https://www.refworld.org/cases,ECHR,468cbc9e12.html>, retrieved in 20/10/2020, case *Berrehab v. the Netherlands*, 10740/84, 21 June 1988, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-57438%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57438%22]}), retrieved in 20/10/2020, case *Dudgeon v. United Kingdom*, series A No. 45, 23 September 1981, http://www.hrcr.org/safrica/dignity/Dudgeon%20_UK.htm, retrieved in 20/10/2020

¹⁸³ European Database of Asylum Law, ECtHR, *B.A.C. v. Turkey*, 11981/15, 13 October 2016, <https://www.asylumlawdatabase.eu/en/content/ecthr-%E2%80%93-bac-v-greece-application-no-1198115-13-october-2016>, retrieved in 20/10/2020

¹⁸⁴ Marouda- Saranti, *ibid.*, p.30

failed in their positive obligation under Article 8 ECHR to guarantee that the applicant's asylum request is examined within a reasonable time in order to ensure that his situation of insecurity, which impinges upon several elements of his private life, is as short-lived as possible.¹⁸⁵”

The case concerns an applicant “who is a Turkish national and he fled Turkey after being persecuted, tortured and arrested due to his political opinion. In 2002, he reached Greece and his asylum application was rejected at first instance. He appealed against this decision and presented a number of documents to the Greek Advisory Board on Asylum showing that he had suffered torture in Turkey on account of his political opinions. On the same day, the Advisory Board on Asylum issued a favorable opinion in respect of the applicant. Under the Greek Presidential Decree No. 61/1991, which established the procedure for the examination of asylum applications at that time, the Minister for Public Order should have taken a decision within 24h on whether or not to grant the applicant international protection. However, no decision was reached and/or communicated to the applicant since then. From 2003 to 2015, the applicant lived in Athens and attended the police station every six months in order to renew his asylum-seeker's card, which does not equal a residence permit under Greek law. That status did not allow for him to, *inter alia*, engage in an occupation, undertake vocational training, marry, obtain a driving licence, hold a bank account or apply for family reunion. In March 2013, the applicant was arrested based on an extradition request issued by Turkey. The Patras Court of Appeal examined the extradition request and unanimously decided to reject it based on the risk run by the applicant of suffering ill-treatment on account of his political opinions, should he be extradited.

In 2015, the applicant complained before the ECtHR of an infringement of his private life on the grounds that he had lived in Greece for twelve years in a situation of uncertainty as regards his status, despite the favorable opinion issued by the Advisory Board on Asylum. According to him, this insecurity had a substantial impact on his working and family life throughout that period. He also alleged that he had no effective remedy in order to complain of this situation. Finally, he complained

¹⁸⁵ B.A.C. v. Turkey, 11981/15, *ibid*

under Article 8 ECHR read in conjunction with Article 14 ECHR that he had suffered discrimination on grounds of his nationality.¹⁸⁶”

The ECtHR ruled that there is a violation of Article 8 ECHR, and Article 13 ECHR in conjunction with Article 8 ECHR. Furthermore it ruled that the applicant’s expulsion to Turkey “without an *ex nunc* assessment of his personal circumstances would lead to a violation of Article 3 ECHR read in conjunction with Article 13 ECHR. The applicant was awarded 4,000 euros in respect of non-pecuniary damage.”¹⁸⁷

3.1.3: Violation of article 13 of ECHR

Article 13 concerns “the right to an effective remedy”. In particular, everybody has the right to seek justice before national authorities “notwithstanding that the violation has been committed by persons acting in an official capacity”¹⁸⁸. It is usually appeared in combination with article 3 of the ECHR¹⁸⁹. In accordance with the jurisprudence of the ECHR, “the remedy required by Article 13 must be “effective” in practice as well as in law, [...] even if a single remedy does not by itself entirely satisfy the requirements of Article 13, the aggregate of remedies provided for under domestic law may do so”¹⁹⁰.

In accordance with the Regulation of “Dublin” “all the European countries considered safe and there no danger for refoulement”, even if the conditions are inadequate in the reception centers in Greece.¹⁹¹ Until 2008 the ECtHR was delivering its decisions based on this fact. Nevertheless, there have been many appeals before the ECtHR against the Regulation¹⁹². In particular, the case *M.S.S. v. Belgium and Greece*¹⁹³ has brought essential amendments in the Greek legislation on asylum. The ECtHR ruled that member States are obliged to “consider applications even if they are

¹⁸⁶ B.A.C. v. Turkey, 11981/15, *ibid*

¹⁸⁷ B.A.C. v. Turkey, 11981/15, *ibid*

¹⁸⁸ European Convention on Human Rights, *ibid.*, p.13

¹⁸⁹ Marouda- Saranti, *ibid.*, p.27

¹⁹⁰ ECtHR, *Gebremedhin v. France*, 25389/05, Strasbourg, 26 April 2007, par. 53, p. 34

¹⁹¹ Marouda- Saranti, *ibid.*, p. 28

¹⁹² Marouda- Saranti, *ibid.*, p. 28

¹⁹³ See Chapter 3, 3.2.1 for further information

not the first host country”¹⁹⁴. The application of this decision has changed the domestic asylum system of Greece, taking into account all the actions of the State which were considered as violations of article 13¹⁹⁵.

Furthermore, the case *Sharifi and others v. Italy and Greece* constitutes a violation of article 13 in combination with article 4 protocol no. 4 on the prohibition of the expulsions of aliens¹⁹⁶. For instance, in the case *Hirsi Jamaa v. Italy*¹⁹⁷ the ECtHR ruled that there is a violation of article 4 protocol no. 4, because of “the absence of an identification process and non-examination of the personal situation of each applicant individually, the absence of adequate staff training for conducting personal interviews, the absence of interpreters and legal advisers”¹⁹⁸.

3.2: Case law before ECtHR against Greece

As it is already mentioned, Greece is facing a difficult time due to the refugee crisis. The living conditions are not proper for people and the reception centers are not enough to cover the needs of vulnerable groups, such as women and children. For this reason, many cases of human rights violations have been noted in Greece and some of them were before ECtHR. However, through these cases one can understand the current situation and how important is to examine the human factor through the legal perspective.

The ECtHR has to deal with many cases against Greece, such as *S.D. v. Greece*¹⁹⁹, *Barjamaj v. Greece*²⁰⁰, *Horshill v. Greece*²⁰¹, *B.M. v. Greece*²⁰², on asylum violations

¹⁹⁴ Marouda- Saranti, *ibid.*, pp. 28-29

¹⁹⁵ Marouda- Saranti, *ibid.*, pp. 29

¹⁹⁶ See Chapter 3, 3.2.2 for further information

¹⁹⁷ ECtHR, *Hirsi Jamaa v. Italy*, 27765/09, Strasbourg, 23 February 2012, [https://hudoc.echr.coe.int/spa#{%22itemid%22:\[%22001-109231%22\]}](https://hudoc.echr.coe.int/spa#{%22itemid%22:[%22001-109231%22]}), retrieved in 20/10/2020

¹⁹⁸ Marouda- Saranti, *ibid.*, pp. 29

¹⁹⁹ European Database of Asylum Law, ECtHR, *S.D. v. Greece*, 53541/07, 11 September 2011, <https://www.asylumlawdatabase.eu/en/content/ecthr-sd-v-greece-application-no-5354107-11-september-2009>, retrieved in 20/10/2020

²⁰⁰ European Database of Asylum Law, ECtHR, *Barjamaj v. Greece*, 36657/11, 4 October 2013, <https://www.asylumlawdatabase.eu/en/content/ecthr-decision-barjamaj-v-greece-no-3665711-article-5-echr>, retrieved in 20/10/2020

according to the Convention. Below three cases against Greece are presented before ECtHR as the most interesting: *M.S.S. v. Belgium and Greece*, *Sharifi and others v. Italy and Greece* and *H.A. and others v. Greece*.

3.2.1 *M.S.S. v. Belgium and Greece*

In 21 January 2011, the court issued a decision on the examination of the Dublin II Regulation on Human Rights concerning transfers to Greece under Dublin II Regulation²⁰³. The facts of the case are:

“An Afghan asylum seeker, who fled Kabul in 2008, entered the European Union through Greece and travelled on to Belgium where he applied for asylum. According to the Dublin rules, Greece was held to be the responsible Member State for the examination of his asylum application. Therefore the Belgian authorities transferred him there in June 2009 where he faced detention in insalubrious conditions before living on the streets without any material support. At issue in the judgment was the risk of violating Article 2 (the right to life), Article 3 (prohibition of inhuman or degrading treatment or punishment) and/or Article 13 (the right to an effective remedy).

The AIRE Centre, Amnesty International, UNHCR and the Greek Helsinki Monitor as well as the Commissioner for Human Rights were authorized to intervene as well as the Netherlands and the UK governments.²⁰⁴”

²⁰¹ European Database of Asylum Law, *ECtHR, Horshill v. Greece*, 1 November 2013, 70427/11, <https://www.asylumlawdatabase.eu/en/content/ecthr-horshill-v-greece-application-no-7042711-1-november-2013>, retrieved in 20/10/2020

²⁰² European Database of Asylum Law, *ECtHR, B.M. v. Greece*, 19 December 2013, 53608/11, <https://www.asylumlawdatabase.eu/en/content/ecthr-bm-v-greece-application-no-5360811>, retrieved in 20/10/2020

²⁰³ European Database of Asylum Law, *ECtHR, M.S.S. v. Belgium and Greece*, 30696/09, 21 January 2011, <https://www.asylumlawdatabase.eu/en/content/ecthr-mss-v-belgium-and-greece-gc-application-no-3069609>, retrieved in 20/10/2020

²⁰⁴ *M.S.S. v. Belgium and Greece*, 30696/09, *ibid*

The decision was concisely that “there was a violation of Article 3 ECHR by the Greece Government because of the applicant’s conditions of detention, violation of Article 3 ECHR by Greece concerning the applicant’s living conditions in Greece, violation of Article 13 taken in conjunction with Article 3 ECHR against Greece because of the deficiencies in the asylum procedure followed in the applicant’s case and the risk of his expulsion to Afghanistan without any serious examination of the merits of his asylum application and without any access to an effective remedy. The Court also found in relation to Belgium that there was a violation of Article 3 by sending the applicant back to Greece and exposing him to risks linked to the deficiencies in the asylum procedure in that State, also held against Belgium a violation of Article 3 for sending him to Greece and exposing him to detention and living conditions there that were in breach of that ECHR article. The Court also found a violation of Article 13 ECHR taking in conjunction with Article 3 ECHR against Belgium.²⁰⁵”

In the 2019 update, the Council of Europe Committee of Ministers released a decision regarding the case *M.S.S. v. Belgium and Greece*. This decision concerned the supervision of Greece’s progress regarding the decision of the court on this case. According to the Committee of Ministers Greece has improved its asylum system, but the only problem is the delay in asylum procedures. Furthermore, the Committee mentioned the progress of living conditions in Greece, even though they are still inadequate. The Committee welcomed the new law on guardianship, but it had a lot of concerns about the unaccompanied minors whose lives are many times more in danger in the reception centers. For this reason, it highlights the need for better accommodation conditions for unaccompanied minors in Greece²⁰⁶. Finally, concerning detention in Greece, “the Committee for the Prevention of Torture (CPT) visits in 2018 found that some immigration detention centers provided decent conditions, but expressed concern at the number of police stations and immigration facilities found by the CPT to be below Convention standard, as well as at the continued detention of unaccompanied minors.²⁰⁷” To conclude, the Committee of

²⁰⁵ *M.S.S. v. Belgium and Greece*, 30696/09, *ibid*

²⁰⁶ *M.S.S. v. Belgium and Greece*, 30696/09, *ibid*

²⁰⁷ *M.S.S. v. Belgium and Greece*, 30696/09, *ibid*

Ministers decided to continue its examination in 2020 on the progression of Greece on these matters.

3.2.2: *Sharifi and others v. Italy and Greece*

On 21 October 2014 was issued the decisions on four applicants from Afghanistan, Eritrea and Sudan who claimed that Italy and Greece have violated their rights to apply for asylum and they were abused by the police forces²⁰⁸. The facts of the case are:

“Thirty five individuals who at different times between 2007 and 2008 had reached Greece and later travelled by boat to Italy. Upon arriving at various Italian ports the boats were intercepted by border guards and immediately refouled to Greece. In both countries the applicants were subjected to violence meted out by the police and crew on the vessels and were not granted the opportunity to lodge asylum applications.

With regards to Italy the applicants were neither given the opportunity to contact lawyers or translators and were provided no information as to their rights. No official translated letter was furnished concerning their return to Greece, instead upon disembarkation in Italy the applicants were immediately returned to the boat and sent back to Greece. For the entirety of the journey some applicants were locked in cabins and others in toilets.

In Greece, the applicants were immediately detained and later placed in a makeshift camp in Patras where reception conditions were inhumane, with no access to toilets, food or medical assistance. In this regard a request for a rule 39 interim measure was lodged in front of the court after reports that several Afghan nationals in Patras had been expelled to Turkey and later back to Afghanistan. Following on from subsequent correspondence with the Court documenting the closing down of the Patras camp and police violence the Court indicated interim measures with regards to several of the applicants, some of which were nonetheless refouled back to Turkey, Albania or

²⁰⁸ European Database of Asylum Law, *ECtHR, Sharifi and others v. Italy and Greece, 16643/09, 21 October 2014*, <https://www.asylumlawdatabase.eu/en/content/ecthr-sharifi-and-others-v-italy-and-greece-application-no-1664309>, retrieved in 20/10/2020

detained in Greek prisons. During the time spent in Greece the applicants advanced that no possibility to contact a lawyer or translator was provided, that they had no access to the asylum procedure or a first instance procedure which had competence to hear their complaints.²⁰⁹”

The court decided that there is no reason to examine article 34 of the Convention²¹⁰ and also decided to “strike out the complaints of 31 individuals but found admissible submissions by 4 individuals²¹¹”. According to the court, Greece has violated article 13 in conjunction with article 3. Regarding Italy, the court has found that they has violated article 4 protocol no. 4 of the Convention, article 3 and article 13 in conjunction with article 3 and article 4 protocol no. 4²¹².

3.2.3: *H.A. and others v. Greece*

On 28 February 2019 was issued the decisions on nine applicants from Iraq, Morocco and Syria who claimed that Greece has violated their rights as unaccompanied minors²¹³. The facts of the case are:

“The nine applicants in this case were apprehended at Greece’s border while trying to enter the country and were transferred to various police stations in Northern Greece. They claim that, although they were unaccompanied minors at the time, no age-appropriate procedure was followed by the Greek. They were placed in protective custody in cells that did not meet adequate standards of hygiene; there was no access to light and no yarding. The duration of detention varied among the applicants from 21 to 33 days. Some of the applicants claim that they were ill-treated by police officers and that requests to communicate with a lawyer or to see a doctor were ignored. Following complaints by some of the applicants, two criminal investigations into the detention conditions and disciplinary proceedings regarding the police

²⁰⁹ ECtHR, Sharifi and others v. Italy and Greece, 16643/09, *ibid*

²¹⁰ European Convention on Human Rights, Article 34: *Individual applications*, p.21

²¹¹ ECtHR, Sharifi and others v. Italy and Greece, 16643/09, *ibid*

²¹² ECtHR, Sharifi and others v. Italy and Greece, 16643/09, *ibid*

²¹³ European Database of Asylum Law, ECtHR, *H.A. and others v. Greece*, 19951/16, 28 February 2019, <https://www.asylumlawdatabase.eu/en/content/ecthr-ha-and-others-v-greece-1995116-28-february-2019>, retrieved in 20/10/2020

officers' conduct were initiated. The two investigations closed as the police were found to have taken all necessary measures to protect the applicants in the light of a large number of unaccompanied minors and an absence of available facilities. The disciplinary proceedings were also completed without any finding of violation on behalf of the police due to lack of sufficient evidence. With regard to the Diavata reception centre, where they were transferred after their detention, the applicants complain that the facility was not child-appropriate, the living conditions were substandard and there was a serious lack of safety and medical and psychological care.

The applicants complain that the conditions in the police stations and the Diavata centre amounted to treatment prohibited under Article 3 ECHR²¹⁴, while the inability to complain about them violated Article 3 in conjunction with Article 13²¹⁵. Under Article 5 (1) d, (2) and (4)²¹⁶ they complain that their placement in protective custody was an irregular measure of detention, as they were not treated as minors, there was no notification of a detention decision and they had no opportunity to access a lawyer or otherwise challenge their detention.²¹⁷

The decision of the Court was that there had been violations of article 5(1), 5(4), of article 3 in respect of the detention conditions in police stations and of article 13 in conjunction with article 3²¹⁸. There was no violation of article 3 with regard to living conditions in the Diavata center²¹⁹. Each applicant was awarded compensation of 4000 euro for moral damages²²⁰.

²¹⁴ European Convention on Human Rights, Article 3: *Prohibition of Torture*, p.3

²¹⁵ European Convention on Human Rights, Article 13: *Right to an Effective Remedy*, p.13

²¹⁶ European Convention on Human Rights, Article 5: *right to Liberty and Security*, p.8

²¹⁷ ECtHR, H.A. and others v. Greece, 19951/16, *ibid*

²¹⁸ ECtHR, H.A. and others v. Greece, 19951/16, *ibid*

²¹⁹ ECtHR, H.A. and others v. Greece, 19951/16, *ibid*

²²⁰ ECtHR, H.A. and others v. Greece, 19951/16, *ibid*

Part II

Living conditions of refugee women in Greece; a legal approach

Chapter IV

Human rights of women in Greece

Greece has been dealing with a severe refugee crisis for at least five years now. From 2015 a mass influx came from Asia and Africa when the country was facing a big financial crisis, rendering the domestic situation unbearable for the unready Greek authorities and for the local people²²¹. This has impacted to refugees and migrants who came to Greece for better living conditions. The majority want to cross the Greek-Turkey borders, in order to go to Western Europe²²².

The problem is that Greece was not ready to host this huge number of refugees, not only because it has not the proper infrastructures, but also because its legal asylum system was not harmonized to the European one. Thus, Greece had to run the procedures fast, in order to renew its asylum system and face the internal issues. However, these continuous changes were tested on human beings and especially on vulnerable people, such as women and children.

In particular, women and unaccompanied children²²³ are facing severe problems as vulnerable groups, not only in their country of origin, but also in reception countries. Pregnancy, sexual violence, human trafficking, gender-based violence are some of the problems which arise against women²²⁴. So, these vulnerable groups call attention to

²²¹ Aljazeera, Patrick Strickland, *A journey through the refugee crisis on the Greece-Turkey borders*, 18 March 2020, <https://www.aljazeera.com/features/2020/3/18/a-journey-through-the-refugee-crisis-on-the-greece-turkey-border>, retrieved in 15/11/2020

²²² Aljazeera, Patrick Strickland, *ibid*

²²³ According to the Greek Presidential Decree 220/2007, an unaccompanied minor (UAM) is “any third-country national and stateless person below the age of eighteen who arrives in the territory of Greece unaccompanied by an adult responsible for him and for as long as he is not effectively taken into the care of such a person or a minor who was left unaccompanied after having entered Greece.” For purposes of this report, Refugees International will use the term “unaccompanied children” (UAC) in lieu of UAM to reinforce the fact that such individuals are children.

²²⁴ Refugees International, Devon Cone, *Report: Seeking Asylum in Greece: Women and Unaccompanied Children Struggle to Survive*, 27 February 2020, <https://www.refugeesinternational.org/reports/2020/2/21/seeking-asylum-greece-women-unaccompanied-children-struggle-survive>, retrieved in 15/11/2020

Greek authorities, in order to protect them from any potential risk on the Greek territory.

4.1: The general situation in Greek hotspots; women at risk

Making an assessment of the refugee crisis in Greece, it is necessary to examine all these years from 2015 until today, focusing on women as a vulnerable group. The reception closed centers in Greece are called “hotspots” and there were established for identification, reception and about the asylum procedures²²⁵.

In order to focus on the risks which concern women and children at the Greek “hotspots”, it is necessary to make an overview of this situation; living conditions of all refugees, infrastructures, procedures by Greek authorities and others. This will help to have a complete image of the situation and the problems which women are facing will be clear.

4.1.1: An overview of the of the facts

Greece has given shelter to over 1 million refugees between 2015 and 2016²²⁶. More than 50.000 refugees are now living in the Greek camps, “of whom 38.000 are on the mainland and 11.000 on the islands of Lesbos, Chios, Kos, Samos and Leros. Over half are women and children; more than 3.000 are travelling alone.” They do not have the right to leave Greece and travel deeper in Europe.²²⁷ This big number of refugees gathered at the islands has brought repercussions, since it is difficult for such small places to host this number of people.

In 2016 Human Rights Watch visited three islands; Samos, Chios and Lesbos. They realized how severe and difficult the situation is, founding “all three facilities to be

²²⁵ Human Right Watch, Bill Fredick, *Greece: Refugee “Hotspots” Unsafe, Unsanitary*, 19 May 2016, <https://www.hrw.org/news/2016/05/19/greece-refugee-hotspots-unsafe-unsanitary>, retrieved in 15/11/2020

²²⁶ Devon Cone, *ibid.*, p.7

²²⁷ International Rescue Committee, *Refugees in limbo: Greece*, <https://www.rescue.org/country/greece#:~:text=Country%20facts&text=Refugee%20population%20in%20Greece%3A%2050%2C000,than%203%2C000%20are%20traveling%20alone>, retrieved in 15/11/2020

severely overcrowded, with significant shortages of basic shelter and filthy, unhygienic conditions. Long lines for poor quality food, mismanagement, and lack of information contribute to the chaotic and volatile atmosphere in the three hotspots, Human Rights Watch said.”²²⁸ These overcrowded centers are hosting many different nationalities and people, causing fights between them. For instance, in May 2016 a fight took place in Samos between 200 men in a 250-bed facility where 950 people were staying. “Human Rights Watch visited the center on May 14, and saw smears of blood on floors, blood-stained clothing, jagged holes in the shelters where rocks had been thrown, and broken glass and other detritus from the fight, and examined bruises and lacerations on men’s and women’s heads and bodies.”²²⁹

In accordance with Human Rights Watch and UNHCR, the three “hotspots” and especially the one in Vathi of Samos there is a lack of police security. Even in 2020 the fights are still a big problem to life in the centers. According to Refugee International field report, Greek authorities need to increase the number of police security, since the local police is not enough, by bringing policemen from the mainland to the islands²³⁰. However, Greece issued the Law 2622/1998²³¹ that concerns the border-guardians, a police force exclusively for protection of borders and in refugee facilities. This Law has been amended by the Law 4647/2019²³², which provides the recruitment of 800 border-guardians²³³.

On 20 May 2016, the “hotspots” in Greece were turned into detention centers that allow only “restriction movement” after the migration agreement between EU and Turkey. This meant that people who were coming through Turkey to the reception points of Greece, such as the islands, were automatically detained for at least 25 days for reception and identification²³⁴. In particular, the agreement provided that Turkey will control illegal immigration to EU and for this help it will receive 6 billion, in order to manage 4.5 billion refugees on its territory. Nevertheless, in 2019 Turkey

²²⁸ Bill Frelick, *ibid*

²²⁹ Bill Frelick, *ibid*

²³⁰ Devon Cone, *ibid.*, p.14

²³¹ Law 2622/1998, SGN 138/A/25-06-1998, <https://www.e-nomothesia.gr/kat-astynomikos-astynomia/kat-astyn-eidikoi-frouroi-synoriakoi-fylakes/n-2622-1998.html>, retrieved in 17/11/2020

²³² Law 4647, SGN A 204/13.12.2019, https://www.kodiko.gr/nomologia/document_navigation/583465/nomos-4647-2019, retrieved in 17/11/2020

²³³ Law 4647, *ibid.*, article 17

²³⁴ Bill Frelick, *ibid*

reserved the agreement, opened its borders and aimed to transport illegal immigrants directly to Greece. In June Libya allowed the deployment of Turkish army on its territory, opening a new migratory route for Turkey and pressuring the EU more. “According to a Greek Minister, Turkey has declared its land borders with Europe open and said that the Turkish Coast Guard will escort boats carrying migrants to the Greek islands.”²³⁵ And the reasonable question that arises “What will the Commission do to prevent Turkey from continuing to blackmail Europe with the threat of a flood of refugees in taking control of the main migration routes to Europe?”²³⁶ After the converter of “hotspots” to detention center, UNHCR and some NGOs stopped their activities, but UNHCR continues to observe the situation in the islands and to provide some activities²³⁷.

After the EU-Turkey migration agreement the number of refugee arrivals dropped off to about 2.500 people per month²³⁸ and the culprit was the Turkish government who were trying to convince people not to go to Greece. Nevertheless, in summer 2019 there was an uprising of the number to Greece, arriving more than 10.000 during September 2019²³⁹.

Greece is hosting a number of refugees to whom it cannot provide adequate living conditions, since its facilities are for less people. For this reason it cannot separate women and unaccompanied children from men, something that affects the daily life of women and children. The three centers on the islands are so overcrowded that many people have to sleep on the ground or make a plastic tent outside the facilities. “According to one of the camp administrators at Moria, Spyros Kourtis, at the time of the Human Rights Watch visit on May 9, about 4,000 people were living in the camp. He said that it had a 700-bed capacity.”²⁴⁰

Two examples of overcrowded “hotspots” are VIAL camp and Vathi camp. On 11 May 2016 Daphne Spyropoulou, the VIAL camp manager, mentioned that about

²³⁵ European Parliament, *Parliamentary Questions: Subject: EU-Turkey migration agreement*, 30 June 2020, https://www.europarl.europa.eu/doceo/document/E-9-2020-003828_EN.html, retrieved in 17/11/2020

²³⁶ *Parliamentary Questions: Subject: EU-Turkey migration agreement*, ibid

²³⁷ Bill Frelick, ibid

²³⁸ United Nations High Commissioner for Refugees, Operational Portal: Refugee Situations, accessed February 7, 2020, <https://data2.unhcr.org/en/situations/mediterranean/location/5179>, 17/11/2020

²³⁹ United Nations High Commissioner for Refugees, Sea Arrivals Dashboard, September 2019, <https://data2.unhcr.org/en/documents/download/71691>, retrieved in 17/11/2020

²⁴⁰ Bill Frelick, ibid

1.500 people were living there, when the capacity is for 1.150. About 200 people were sleeping on the ground of the old factory in the center of the camp, marking their space only with a blanket²⁴¹. At Vathi the situation is maybe worse, since the camp has no manager, according to UNHCR. Furthermore, the capacity of the facility is for 250 people and the camp was hosting 950 people in 2016.²⁴² The camp is near the capital of the island and it is built very close to residents' houses, upon the central part of the town. It has also opened its doors and refugees can visit the center whenever they want. Passing out of the camp the image is tragic; the main building surrounded by plastic tents until up on the mountains. Of course this has an impact on refugees, but also on residents of Samos.

The limited capacity of the camps is not the only problem. In accordance with the article of refugee and migrant rights division director Bill Frelick, all people who have been interviewed comment that camps in three islands are unsanitary²⁴³. The food is rotten, there is not enough water and the health care is inadequate. A 36-year-old Syrian woman with two small children in Vathi said: "We have to line up a long time for food, and the food is very bad, not suitable for children, no milk."²⁴⁴ In VIAL there is no hot water and sometimes the water is cut off. The toilets are very dirty and never cleaned, some are also flooded. In Vathi Human Rights Watch mentioned that men's toilets are dirty and they are with feces all around the area²⁴⁵. Regarding health care, only NGOs provide help to refugees in the camps, such as Médecins du Monde, Praksis, the Hellenic Red Cross, Boat Refugee Foundation, Medical intervention and sometimes the Greek Army. Médecins sans Frontières suspended their activities, when the camps became detention centers in 20 May 2016²⁴⁶.

To conclude, the situation in Greece concerning the refugee crisis is out of control. People are living under unhygienic conditions, without the basic necessities. The islands are carrying the heavy load, by hosting more people than they can handle. The migration agreement between EU and Turkey has brought severe repercussions to Greece and especially to the three islands, blackmailing the EU for more money and

²⁴¹ Bill Frelick, *ibid*

²⁴² Bill Frelick, *ibid*

²⁴³ Bill Frelick, *ibid*

²⁴⁴ Bill Frelick, *ibid*

²⁴⁵ Bill Frelick, *ibid*

²⁴⁶ Bill Frelick, *ibid*

transporting people illegally to the Greek borders. The camps were rendered like detention centers and tension between the different nationalities has increased. Greece needs to contemplate its next moves and organize the internal situation on the islands, because these circumstances are affecting both refugees and residents.

4.1.2: Refugee women and children in jeopardy

Examining the general situation, the living conditions are inadequate for all people in the camps. Overcrowded facilities with no capacity left, no adequate health care and not enough food and water, are some of the most serious problems in the camps. The half of this slue is women and children who belong to vulnerable groups, where the conditions are even worse for them.

It is a fact that more than 60 per cent of the refugee population in Greece are women and children²⁴⁷. As previously mentioned, the conditions in the camps are inadequate for people and this situation also triggers a violent environment for vulnerable groups. Women and children are exposed to violence and sexual abuse, since there is no security and safety. Bill Frelick mentions that “Lack of police protection, overcrowding, and unsanitary conditions create an atmosphere of chaos and insecurity in Greece’s razor wire-fenced island camps.”²⁴⁸ According to Human Rights Watch, this situation is a result of unhygienic conditions, insufficient security and failure of the Greek system to detect the heart of the problem and protect vulnerable groups²⁴⁹.

The most important problem that women and girls are facing is gender-based violence and sexual abuse inside refugee camps. The lack of security exacerbates this phenomenon, without any intervention by the authorities. A woman said that a fellow

²⁴⁷ Devon Cone, *ibid.*, p.12

²⁴⁸ Bill Frelick, *ibid*

²⁴⁹ Human Rights Watch, *Greece: Dire Risks for Women Asylum Seekers*, 15 December 2017, <https://www.hrw.org/news/2017/12/15/greece-dire-risks-women-asylum-seekers>, retrieved in 17/11/2020

asylum seeker approached her in order to have sex with her in exchange of money²⁵⁰. The majority declare that they do not feel safe in the reception country and they ran away from their country of origin to change that. Moreover, women and girls feel unsafe due to the fact that there are a lot of fights inside the camps by male asylum seekers, who drink and start to stamp other people. “The men get drunk and try to enter our tent every night,” said a 19-year-old single woman from Eritrea living in Vathi. “We went to the police and asked to be taken to a separate part of the camp from the men who try to abuse us, but the police refused to help us. We fled our country for exactly this reason, and here in this camp we are afraid to leave our tent.”²⁵¹ This violence in all forms exists in all three “hotspots” on the Greek islands, rendering women’s and girls’ living conditions difficult and risky.

Furthermore, the poor unsanitary facilities for toilets and showers are an important disadvantage for women. The lack of clean toilets and hot water can provoke a variety of health problems to their genital system. The only toilets that exist in the “hotspots” are few latrines inside and outside the facilities in public areas²⁵². It is worth noting that there are big lines for the latrines, because of the amount of people in the camps and sometimes there is only one toilet for every 200 to 300 people. According to Refugee International women and girls are afraid of potential attacks in the toilets, since many have been raped like this in the past. For this reason, some urinate in bottles or wear diapers²⁵³.

Health care in the camps is limited for all refugees, including women and children. The doctors are few and the people are many, for example in Samos there is one doctor for 7.000 refugees²⁵⁴. Health care for women is very important, since they are mothers, pregnant or they have gynecological problems. Also, many are victims of SGBV and they need not only medical care, but also psychological care. Thus, another problem arises, this is the lack of the interpretation, meaning that the medical staff of the personnel of NGOs cannot speak the language of the asylum seekers. This can cost the understanding of a medical illness or a SGBV incident. For instance, “Representatives from an NGO in Chios spoke about several SGBV survivors who

²⁵⁰ *Greece: Dire Risks for Women Asylum Seekers*, ibid

²⁵¹ Bill Frelick, ibid

²⁵² Devon Cone, ibid., p.15

²⁵³ Devon Cone, ibid., p.15

²⁵⁴ Devon Cone, ibid., p.19

could not obtain care from the local hospital because they could not communicate with the medical staff there.”²⁵⁵ Finally, the pandemic COVID-19 has exacerbated the situation inside the overcrowded camps, since the transmission can become fast and there is no easy access to medical care. NGOs are asking the Greek government to provide vaccines for refugees and vulnerable groups in the camps, but the Greek Ministry of Health has not mentioned something about the undocumented migrants, guarantying that refugees with social security numbers would have access²⁵⁶.

On 31 March 2016, the Hellenic Police issued a demand to the competent authorities and guidelines to the police forces, regarding the protection of vulnerable groups, such as refugee women and children²⁵⁷. One of these guidelines was to segregate refugee women and minors from male asylum seekers, so as to avoid gender-based violence and sexual abuse. Nevertheless, in Vathi they have not separated single women, women with children and families from the rest asylum seekers and in VIAL have not created spaces for unaccompanied children²⁵⁸.

The violence is not a common problem only for women, but also for minors and unaccompanied children. Many have been victims of violence, because men have attacked them or a fight started next to their beds. Drunken men or users of drugs find an easy way to express their anger upon the unprotected minors. The violence can be more likely to happen since unaccompanied minors are waiting sometimes more than a year for decisions of the asylum procedures²⁵⁹. In April 2019, a serious fight took place between armed Arabic-speaking adults in the camp of Samos. They broke into the minors' container and they smashed everything. The police arrived late and could not protect anybody. The container with the Afghanistan minors was specially destroyed²⁶⁰. However, there is a shelter for under 15 years old inside the city, but its location is secret in order for children to be protected. In this shelter there is space

²⁵⁵ Devon Cone, *ibid.*, p.19

²⁵⁶ DW, *Refugees and undocumented migrants must be vaccinated, NGOs warn*, 25/02/2021, <https://www.infomigrants.net/en/post/30483/refugees-and-undocumented-migrants-must-be-vaccinated-ngos-warn>, retrieved in 28/02/2021

²⁵⁷ Newspaper To Vima, ToVima Team, *Hellenic Police: Protection measure for the minors and refugee women*, 31 March 2016

²⁵⁸ Bill Frelick, *ibid*

²⁵⁹ Video: DW Documentary, *Refugees stranded in Greece*, 11 May 2019, https://www.youtube.com/watch?v=4LAe_pMn4dA, retrieved in 20/11/2020

²⁶⁰ DW Documentary, *ibid*

only for fourteen children, who are the most traumatized and it is not possible to live in the camp²⁶¹.

In conclusion, having a general image of the inside situation of “hotspots” in the three islands, it is easier to clarify the living condition focusing on vulnerable groups. Women and children are at risk inside the camps, fearing for their integrity and for their family. The inhumane conditions make their daily life worse and they feel unsafe, when the main reason that they left their country of origin was insecurity. Greece and EU must ameliorate this situation, by making the camps a safer place for women and unaccompanied minors to be, offering better health services, better food and better facilities. As it is clear, the situation from 2015 until 2020 has not changed at all, without any improvements and any progression.

4.2: Legal rights of women asylum seekers in Greece

As it is already mentioned, women constitute almost half of the number refugee arrivals in Greece. The treatment of women in their countries of origin is inhumane, considering women as inferior beings. This has impact on the daily life of a woman or a girl, rendering them vulnerable to violent behaviors. For this reason, the hard decision to leave their country becomes more and more an appealing idea.

According to the UN Women offices in the Western Balkans and Turkey report, women continue to deal with violence not only in their countries of origin, but also en route to EU borders and while they are staying in the reception centers²⁶². Nonetheless, the EU has faced women asylum seekers with a strict point of view, even if they were victims of SGBV in their countries of origin. In particular, judges in many EU states are applying restrictions against women asylum seekers in their decisions and do not qualify them with the status of refugee, even if these women

²⁶¹ DW Documentary, *ibid*

²⁶² UN Women, *Report on the legal rights of women and girls asylum seekers in the European Union*, Istanbul, March 2017, p.6, <https://www.refworld.org/pdfid/59201c884.pdf>, retrieved in 20/11/2020

have faced “torture, threats of assassination, forced marriage, sexual abuse and been the victims of trafficking”²⁶³.

On 8 March 2016, the European Parliament issued a resolution on the situation of women refugees and asylum seekers in the EU, in which it states that “there is a great degree of gender inequality for asylum seekers across the European Union” and “stresses the need to avoid hasty decisions which do not take due account of the dangers, and even the threat of death, facing women who have suffered gender-based violence if their application is rejected and they are forced to return to their own country”²⁶⁴. This indicates the lack of a sensitive policy on asylum procedures in EU member States, something that exacerbate the inequality of legal rights of women and girls asylum seekers.

However, international treaties on the rights of women have boosted efforts on the elimination of inequality and have enhanced a more sensitive policy on refugee women. For instance, the CEDAW and the Istanbul Convention²⁶⁵ provide binding lines for its signatories, concerning the rights of refugee women. Furthermore, UN Women has committed to help EU States to make progress with the legal rights of refugee women and also to eliminate the inequality of asylum procedures²⁶⁶.

Greece holds the majority of refugee women and children on its territory. As a member State of the EU, it has not yet eliminated inequality regarding asylum procedures. From 2015, when the refugee crisis began, until 2020 a great progression has been made, but even now it has not reached the desired outcome. Legal rights are an essential part of a refugee woman’s life, since they include her judicial and asylum rights. For this reason, it is necessary for EU States to pay more undivided attention to these rights.

²⁶³ UN Women, *ibid.*, p.6

²⁶⁴ European Parliament, *Resolution on the situation of women refugees and asylum seekers in the EU*, 2015/2325(INI), 8 March 2016, https://www.europarl.europa.eu/doceo/document/TA-8-2016-0073_EN.html, retrieved in 20/11/2020

²⁶⁵ Council of Europe, *On preventing and combating violence against women and domestic violence*, No.210, Istanbul, 11 May 2011, <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210>, retrieved in 20/11/2020

²⁶⁶ UN Women, *ibid.*, p.6

4.2.1: Conditions to get the refugee status; female asylum seekers

In order to make progress on the legal rights of women asylum seekers, Greece needs to establish an assessment system which will examine refugee women on specific conditions. SGBV is surely the main factor, so as to recognize a woman as a refugee and qualify them with asylum. As stated by UNHCR in its guidelines: “‘Gender related persecution’ is a term that has no legal meaning per se. Rather, it is used to encompass the range of different claims in which gender is a relevant consideration in the determination of refugee status”²⁶⁷.

Based on “Gender-based persecution”, the applicant has to prove further that their situation fulfills the provisions of article 1 A paragraph 2 of the Refugee Convention²⁶⁸. However, UNHCR considers that some acts can be recognized as persecution according to article 1 A paragraph 2 of the Refugee Convention. These acts are: sexual violence, rape, physical violence, emotional and psychological violence, “dowry-related” violence, FMG, domestic violence, trafficking (including trafficking for the purposes of sexual exploitation or forced prostitution), persecutory (including discriminatory) action on account of sexual orientation, forced or ‘sex-selective’ abortion, early marriage, forced marriage, “honor” killing and maiming, other harmful traditional practices, such as the denial of education for girls and women, certain local laws stemming from cultural norms and practices that fall below international human rights standards and that constitute prohibited persecutory practices, other prohibited persecutory practices condoned by the relevant State, penalties or punishments that are disproportionately severe on women and have a gender dimension and patterns of gender discrimination and less favorable treatment, including failure to extend protection to individuals subject to gender related abuse, or treatment amounting to socio-economic violence²⁶⁹.

The above actions, as it is already mentioned, need to be in correspondence with the grounds provided by article 1 A paragraph 2 of the Refugee Convention. In

²⁶⁷ UNHCR, Guidelines on International Protection No. 1: Gender-Related Persecution, *supra*, para 9-18 and UNHCR, Sexual and GenderBased Violence Against Refugees, Returnees and Internally Displaced Persons. Guidelines for Prevention and Response, May 2003, p. 15-19.

²⁶⁸ UNHCR Guidelines on International Protection No. , *ibid.*, p. 15-19.

²⁶⁹ UN Women, *ibid.*, p.19

particular, “gender-based persecution” triggered because of race, nationality, religion, political opinion or membership of a specific group²⁷⁰. The combination of the “gender-based persecution” with one of these grounds binds the State to provide international protection to the applicant.

In order to better understand “gender-based persecution”, there is an example from Greek case law which has recognized women as members of a specific group. This case concerns an Iranian woman in 2011 who claimed that was forced to marry and she was systematically abused by her husband. Moreover, she was charged by her country of origin for being atheist, for her political beliefs and for the kidnapping of her own child when she escaped.

“According to the Committee, the Applicant was being persecuted as a member of a social group with inherent and unalterable attributes (a woman) since her “inappropriate” behavior violated the law which was based on the traditional or cultural conventions and practices of Islam, and that situation is one which cannot be changed because of its long history. Specifically, her non-conformist behavior meant that she was exposed to the State's strict laws and practices which imposed disproportionately harsh punishment on women accused of having sexual relations outside marriage.”²⁷¹

Through this case one can distinguished the combination of “gender-based persecution” with a ground which is provided by the article 1 A paragraph 2 of the Refugee Convention.

To conclude, refugee women in EU are facing inequality regarding the asylum procedures. This inequality arises, since women and girls are at risk of sexual and gender-based violence, rendering them vulnerable to deal with it. According to UNHCR there is a list of actions, based on “gender-based persecution”, which need to be taken into account for women applicants. These actions in combination with the provisions of Refugee Convention on the refugee status are indisputable. Greece needs to focus more on this combination, in order to legally help and protect refugee women and girls on its territory.

²⁷⁰ UN Women, *ibid.*, p.19

²⁷¹ Case 95/126761, Second Special Refugee Committee, 26 June 2011, <https://www.asylumlawdatabase.eu/en/case-law/greece-special-appeal-committee-26-june-2011-application-no-95126761>, retrieved in 20/11/2020

4.2.2: A gender sensitive policy for asylum

As it is already mentioned, women and girls are daily facing many difficulties during their staying at the “hotspots” of Greece. In accordance with the Executive Committee of UNHCR, “women and girls can be exposed to particular protection problems relating to their gender, their cultural and socio-economic position, and their legal status, which mean they may be less likely than men and boys to be able to exercise their rights [...]”.²⁷²

In particular, these problems are aroused during the procedures of asylum application. Except from unhygienic conditions in camps, lack of capacity and not segregation by men, inadequate psychological, reproductive and sexual healthcare, there are also other problems which need to be considered by the asylum services or the countries of reception. Some of them are: lack of information about the legal procedures, what are their rights or if they are victims of domestic violence they can apply to obtain asylum independently, there is less credibility for women applicants if they do not have enough evidence as victims of SGBV, they do not feel comfortable with male personnel or interviewers so it is necessary to recruit more women for these positions and finally they are devoted to care of their children or the elderly people, having no time for their application²⁷³.

According to international law, all the relevant conventions refer to gender sensitive policies for their signatories, such as CEDAW²⁷⁴, CRC²⁷⁵, Istanbul Convention²⁷⁶ and Resolution 1765/2010²⁷⁷. However, there is an important factor that prevents international law and CEAS to apply a gender sensitive policy on EU member states; the domestic legislation of each State and its local

²⁷² The Executive Committee of the High Commissioner’s Program, *Conclusion on Women and Girls at Risk No. 105 (LVII)*, 6 October 2006

²⁷³ UN Women, *ibid.*, p. 36

²⁷⁴ CEDAW, *ibid.*, article 1

²⁷⁵ CRC, *ibid.*, article 2

²⁷⁶ *On preventing and combating violence against women and domestic violence*, No.210, *ibid.*, article 60

²⁷⁷ Council of Europe, Resolution 1765/2010, 8 October 2010, <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=17915&lang=en>, retrieved in 20/11/2020

authorities. This means that every State has its own legislation on asylum procedures and there is no a common European system that it is applied on all EU. The last years, CEAS is the priority of EU, in order to harmonized all asylum systems of EU States and improve in this way the conditions of reception, but also to lighten the load.

Another issue about the gender sensitive policy is the list of the safe countries. This list is included in the EU law, defining to concepts of these countries; safe country of origin and safe third country/first country of asylum. The first concept is referred to countries of origin as safe and this creates a notion that the applicants are safe if they will be deported. The second concept concerns the safety of countries in where asylum seekers can apply for asylum²⁷⁸. Nevertheless, this list many times can mislead the authorities, considering that applicants will be safe back to their countries without taking into account other factors. In particular, LGBTQ people or other groups many times are in danger if they go back, since their countries follow a very strict legislation on their rights. For instance, there has been a persecution against Roma in Albania, Montenegro, Serbia and North Macedonia, and also against women in Kosovo²⁷⁹. “Until the implementation of IPA²⁸⁰, there was no national or EU common list of safe countries. Therefore, the rules relating to safe countries of origin in Greek law had not been applied in practice and there had been no reference or interpretation of the abovementioned provisions in decision-making practice.”²⁸¹ In accordance with the list, safe countries of origin are considered twelve countries; Ghana, Senegal, Togo, Gambia, Morocco, Algeria, Tunisia, Albania, Georgia, Ukraine, India and Armenia²⁸².

Concerning Greece has not issued specific measures on refugee women and female asylum seekers. Law 4636/2019 according to article 77 paragraph 5

²⁷⁸ UN Women, *ibid.*, p.58

²⁷⁹ UN Women, *ibid.*, p.58

²⁸⁰ Instrument Pre-accession Assistance

²⁸¹ Greek Council for Refugees, *Safe country of origin*,

<https://www.asylumineurope.org/reports/country/greece/asylum-procedure/safe-country-concepts/safe-country-origin#:~:text=However%2C%20following%20a%20joint%20Ministerial,%2C%20Ukraine%2C%20India%20and%20Armenia,> retrieved in 20/11/2020

²⁸² *Safe country of origin*, *ibid*

provides that when is woman applicant in the interview the interviewer has to be woman, in presence of female interpreter²⁸³. However, the revised Greek legislation has no other provisions about gender sensitive policy.

²⁸³ Law 4636/2019, *ibid*

Chapter V

Examining refugee women's situation in Samos Island; a field research

Samos Island is the second island of North Aegean that is hosting the biggest population of refugees after Lesbos²⁸⁴. As resident of Samos, the refugee crisis is visible everywhere in the capital of the island, named Vathi. For this reason, a field research was conducting, in order to have a closer look of the situation on refugees.

Nevertheless, it was hard to conduct interviews to refugee women and make a research inside the Vathi's "hotspots", because of the pandemic lockdown. Moreover, the most of the NGOs were closed before summer, since people could not go. Thus, the gathered data were resulted by a research in specific NGOs that were keen on helping this study and give information anonymously.

The research is divided in two parts; the conditions of refugee women inside the reception center of Vathi at the moment and the legal protection of women asylum seekers. Furthermore, an example of a refugee woman's case is quoted, in order to understand better the current situation of legal procedures in Greece. All the data are product of personal research, interviews and discussion with and refugee women who are living in the camp and with people who are working in NGO's or they are volunteers. Some of these NGOs are; Refugee Law Clinic Berlin²⁸⁵ which deals with the rejections and the appeals after the interviews and Samos Volunteers which provides psychological support, education, activities for women and hygiene services²⁸⁶. All the gathered data from both sources are kept anonymous, as it was asked, in order to safe their integrity and their personal information.

²⁸⁴ Operational Portal Refugee Situations, Mediterranean Situation-Greece, <https://data2.unhcr.org/en/situations/mediterranean/location/5179>, retrieved in 7/12/2020

²⁸⁵ RLCB, <https://en.rlc-berlin.org/>, retrieved in 7/12/2020

²⁸⁶ Samos Volunteers, <https://www.samosvolunteers.org/>, retrieved in 7/12/2020

5.1: A closer look at refugee women in Samos

5.1.1: Conditions in Vathi's reception center

As it was very difficult to conduct interviews, because of the lockdown and the earthquake in Samos, the interviewed women were five; from DRC, Somalia, Afghanistan, Syria and Iran, in order to have a representative number of refugee women. The question concerned the living conditions in the camp, the sexual violence, the toilets and the food. The last question concerned what they want to change in the camp, if they have the chance.

The last update on 7th of December in North Aegean showed that there are not so many arrivals for 2020, because of the push backs²⁸⁷. As it is already mentioned in the previous chapters, the conditions in reception camps on the Greek islands are poor and inadequate. The situation remains the same, only with some small changes, but the improvements are not so visible.

More thoroughly, there are no changes regarding the living conditions of the reception center in Vathi. The capacity remains the same, having no space for all these people and the result is that most of them are creating tents from plastic outside the facilities, up on the mountains. Thus, they are living under bad and unhygienic conditions and at the same time they are destroying the nature around the camp, in order to build their tents.

As in all the Greek islands, Samos is hosting many single women. The majority is coming from DRC, Cameroon and Somalia, fearing for their life and their integrity. Many men are taking advantage that these women are unprotected and they sexually harass them or intent to abuse them. An interviewed 33-year-old woman from Somalia, who is living in the Vathi's reception center, has described an incident that happened to her; a night she was inside her plastic "house" and an Arab man knocked her door, demanding to

²⁸⁷ UNHCR, Population breakdown in ESTIA II Accommodation Scheme, 7 December 2020, file:///C:/Users/user/Downloads/weekly%20update%20on%20ESTIA%20II%20population%2007.12.2020.pdf, retrieved in 8/12/2020

open it. He was shooting her name and he wanted desperately to enter, but fortunately, he went away²⁸⁸. It is a fact that women in the camp cannot go to the toilets unaccompanied, because the risk to sexually abuse is high. In accordance with the interviewed women from the camp, they are attacked most of the times by Arabs and less by Africans, something that is of great interest.

Women from Afghanistan, Syria and Iran came to Samos with their families. However, even these women are facing SGBV not only from men in camp, but also from their husbands. Domestic violence is a common type of violence for these women and it hard to speak to someone, since they are afraid of their husbands or they do not trust anyone. Also, sometime they think that even they tell their problem to somebody, they will not been helped²⁸⁹.

In Vathi there are many NGOs, in order to help refugees. For women there is one center named “We are one” and it has become the shelter for many of them. The single 33 years-old woman from Somalia said that it is a place for women who are alone in Samos or women who want to escape from the reality of the camp²⁹⁰. This center provides courses of English and Greek language, workshops and activities for their infants, computer lab, quiet place for prayer and distribution of sanitary products, healthy snacks and clothes²⁹¹. Nevertheless, the lockdown and the pandemic are keep closed the center at least ten months now.

Asking about the food, the response was always the same; the food in the camps is awful. In fact it is distributed by the 79th Senior Command of the National Guard Battalions which has signed a contract in 2019 for 499.830,50 Euros²⁹². In particular, on the 30th of November until the 8th of December the distribution of the food was assigned to another service and according to the refugees was much better. When the last’s contract was expired, the 79th Senior

²⁸⁸ Interview by refugee women in Vathi’s reception center, 3/12/2020

²⁸⁹ Interview by refugee women in Vathi’s reception center, 3/12/2020

²⁹⁰ Interview by refugee women in Vathi’s reception center, 3/12/2020

²⁹¹ We are one Center Samos, <https://glocalroots.ch/samos-safe-space/>, retrieved in 3/12/2020

²⁹² Proto Thema, Galanis M., *The menu of the week at the hotspot of Samos that "boils"*, 23 October 2019

Command of the National Guard Battalions continued the distribution and people in the camp intensely protested for the food, shouting “No good food” and creating troubles. The interviewed women also mentioned that there is no specific nutrition for pregnant women, for people with health problems and for elderly people.

Concerning the health care in the camp, there are only some doctors from NGOs who are not enough for all the refugees. In 2019 they did not allow the entry in the hospital “Agios Panteleimon” of Samos without specific papers from the psychological and social service inside the camp’s facilities or the police²⁹³. Moreover, in 2020 there were some incidents of COVID-19 in the camp. More thoroughly, on the 15th of September there were two asylum seekers who were positive to the virus²⁹⁴. From that moment the reception center at Vathi had a lockdown and until the 20th of the same month, there were 21 incidents of the virus inside the camp²⁹⁵.

Three fires have been caused in the reception center at Vathi since the summer. The second fire on the 15th of September was arson²⁹⁶ by two men; a 42-year-old from Syria and a 20-year-old from Gambia²⁹⁷. The arson was caused as a protest against the decision of the lockdown. The fires were very dangerous for the refugees’ lives, due to the fact that some of the plastic houses near the facilities were exploded because of the gas stoves for cooking. In the end there was any fatal accident.

²⁹³ Interview by the coordinator of RLCB, 5/12/2020

²⁹⁴ Ygeiamou, *Coronavirus - Concern at the Samos Reception Center: Two migrants positive to the virus*, 15 September 2020, <https://ygeiamou.gr/%CE%B5%CE%B9%CE%B4%CE%AE%CF%83%CE%B5%CE%B9%CF%82/%CF%80%CE%BF%CE%BB%CE%B9%CF%84%CE%B9%CE%BA%CE%AE-%CF%85%CE%B3%CE%B5%CE%AF%CE%B1%CF%82/130544/koronoios-anisichia-sto-kit-samou-thetiki-ston-io-dio-metanastes/>, retrieved in 7/12/2020

²⁹⁵ Kathimerini, *A fire burned three containers in the reception center of Samos*, 20 September 2020, <https://www.kathimerini.gr/society/561086011/antimetopistike-grigora-i-pyrkagia-sto-kyt-tis-samoy/>, retrieved in 7/12/2020

²⁹⁶ iefimerida, *The fire near the Samos Police Station is probably due to arson- Six arrests*, 15 September 2020, <https://www.iefimerida.gr/ellada/pyrkagia-kyt-samoy-emprismos-6-prosagoges>, retrieved in 7/12/2020

²⁹⁷ *A fire burned three containers in the reception center of Samos*, *ibid*

Regarding the last question to the interviewed women, what they would change in the camp if it was possible, they said first of all the toilets and after the food. According to them, there are no toilets specific for women, there are very dirty and they are at risk if they are unaccompanied. Also, they complained about the food, telling that nutrition is very important for a human being²⁹⁸.

To sum up, it is obvious that the conditions in the camp of Vathi have not changed since 2015. There is no separate capacity for women, there is no health care, the food is still bad and the toilets are still unhygienic and dangerous. For sure, it is noted a reduction of sexual violence incidents in the camp, after the presence of the Greek Border-Guards. However, this does not mean that men have stopped to harass women or domestic violence is eliminated.

5.1.2: Legal protection of women asylum seekers at Vathi

Legal protection of refugee women concerns the legal rights of refugee upon their entrance in Greece, before and after their application for asylum. The problem for women asylum seekers is that en route to EU, during their waiting for the asylum interview and waiting for the decision are vulnerable to many risks in the camp.

According to the Coordinator of RLCB the most important problem for people who enter the EU borders is the lack of information. Refugees do not know their rights and many times they do not know even what the asylum is. This can bring consequences, since they do not know what to say in their interviews during the asylum procedure, how to apply for asylum, what the authorities are obligated to provide them and that they have legal rights as asylum seekers. In particular, women do not know that they belong to vulnerable groups and they have more special treatments in comparison to men. As result, they do not obtain asylum, even they fulfill the conditions or they

²⁹⁸ Interview by refugee women in Vathi's reception center, 3/12/2020

ignore the fact that they have the right to apply for asylum independently from their husbands²⁹⁹.

Moreover, it is a fact that there are not enough lawyers for the refugees of the camp and as result is that they are not properly prepared for their interviews or to make appeals. Before 2019, free lawyers were only provided by the NGOs and refugees needed to hire private lawyers for about 2.000 Euros³⁰⁰. From 2020 migrants who have been rejected for the asylum and they want to make an appeal, they have the right to get a free lawyers provided by the Greek authorities. This is a very important improvement for the legal procedure in Greece.

However, the time of waiting before and after the interview for the asylum is a serious problem. People need to wait under these conditions for about one year to be interviewed and about half a year for the whole procedure to be completed. Especially for women, this time of waiting can bring many risks and problem; violent incidents against them, sexual harassment, health problems because of the unsanitary conditions. Furthermore, for inexplicable reason migrants who came after January 2020 had directly been interviewed, when migrants who came one year ago still waiting for their interview³⁰¹.

It is a fact that sometimes the interviewers have no the proper training to deal with cases, extremely difficult for the people who lived them, and they conduct typical interviews without any sensibility. Also, many times they do not pay attention to the en route incidents of the interviewed. For instance, a single woman from Cameroon was raped in Turkey before her arrival in Samos and the interviewer did not ask anything about her trip. The woman had already examined by a psychologist inside the camp and she had a paper about the incident. When this paper was given to the interviewer after the procedure of the interview, the woman was asked why she did not tell anything about it and she

²⁹⁹ Interview by the Coordinator of RLCB in Samos, 2/12/2020

³⁰⁰ Interview by the Coordinator of RLCB in Samos, 2/12/2020

³⁰¹ Interview by the Coordinator of RLCB in Samos, 2/12/2020

said that she was not asked by the interviewer about it³⁰². Finally, there is no investigation on vulnerability, something that could help the vulnerable groups and the authorities to organize better the legal procedures.

In conclusion, it is a fact that things in Greece are changing every day, without there is no stability. Legal procedure for asylum is not organized and personnel cannot gain the trust of the migrants. Women are facing a treatment with no clue of sensibility during the legal procedures, in order to tell their stories. Also, the time of waiting for women in reception centers can be dangerous.

5.2: Case of a single refugee woman from DRC

This case constitutes an example of women who are seeking asylum in Samos. The citation of this case aims to indicate the legal procedure in Greece and the problems that refugee women are facing. The personal information is kept anonymous to protect the woman and the information of the case was given by the NGO RLCB.

5.2.1: The background

A 29-year-old woman from DRC came to Samos through Turkey, claiming that she belongs to the LGBTQ community. She was sexually abused for many years by her uncle, since she was very young until the day she left the house to hide with her 3 months baby. Then she met a woman and they felt in love, but the woman died after some months because of health problems and her family accused the 29-year-old woman for her death. During the time she was at the hospital, unknowns burned her house with her baby inside, so she had to leave the country, fearing for her life. In 2019 she left DRC, crossed Turkey and she arrived at Samos.

³⁰² Interview by a lawyer of RLCB in Samos, 4/12/2020

In Samos she did not know her rights as refugee and as a person who belongs to the LGBTQ community. For this reason she was not prepared for her interview and she could not manage it well. She was waiting for her interview for about a year and the decision of rejection was issued after four months. This time of waiting was very hard for her in the camp, feeling unsafe as a single woman, without sanitary conditions and facing difficulties as a homosexual woman between men.

5.2.2: Commendation and conclusion of the case

This case is a real example of refugee women and how the Greek legal system is failing to protect them. The lack of information and preparation for the asylum procedure is of paramount importance. People who arrive in EU, many times they do not even know what asylum is and what the procedure is.

The 29-year-old woman was not prepared and she did not know anything about NGOs which could help her, even if Greek authorities have to inform people about the legal procedure and what their rights are. Result of this case was the woman to make an appeal, since she was rejected as a refugee, and she has to wait about three months more for the final decision. The time of waiting in the island is very hard for her, since there is no specific capacity for women in the camp.

Moreover, during the asylum interview there was no sensitivity about her sexual abuse and her sexual orientation, making general and typical questions. This made the woman to be more introverted and the interviewer could not gain her trust to talk openly about her difficult incidents in her life. Thus, the woman's responses were not clear and specific, something that led the interviewer to decide that the woman cannot obtain the status of refugee³⁰³.

³⁰³ Interview by the Coordinator of RLCB, 4/12/2020

Chapter VI

An overview of the situation and conclusion

Examining the situation on refugee women in Samos, conducting interviews and observing the events, it was a unique experience. Even if the pandemic made the efforts of a field research harder, there was a closer observation of the refugee crisis in the Greek islands, focusing on the situation in Samos.

Refugees are facing many difficulties during their staying in Greek reception camps in general. The Greek islands of Lesbos, Chios and Samos are hosting the triple number of people that they can host and the facilities are inadequate for living. Rendering Greek islands a “prison” for refugees, because of the EU-Turkey agreement, the impact on local people is also big. Totally different cultures are obliged to live together in a small place like the camp and this can trigger many fights between them, but also in the Greek society outside the camp.

Female refugees are dealing with many daily risks in every EU member States. In Samos the same situation prevails; unsanitary conditions, limited health care, SGBV, no privacy, ruined toilets. Single women, women with children, pregnant women or women with families belong to vulnerable groups which need special treatment. Centers that support women now are closed, because of the pandemic, worsen the situation for them. The lockdown of the camp has brought also great repercussions, since refugee women need to stay inside the reception center of Vathi, making them more vulnerable to violent incidents. However, the new border-guardians of police in the islands have diminished the stealing and the violence in general inside the camp, but many problems still exist.

It is a fact that the virus has diminished the incoming number of refugees from Turkey through Greece, “with 70% less traffic there in 2020 than in 2019”³⁰⁴. The vaccination is difficult for so many people and especially for undocumented migrants who do not have documents, rendering the internal situation in the camp unbearable. The European Parliament have made known that there is no aim to construct

³⁰⁴ DW, *Migrants entries in EU drop to lowest levels since 2013 due to COVID*, 11/01/2021, <https://www.infomigrants.net/en/post/29540/migrant-entries-to-eu-drop-to-lowest-levels-since-2013-due-to-covid>, retrieved in 28/02/2021

quarantine facilities along the Greek-Turkish borders, in order to facilitate the reception controls³⁰⁵. This may have result to fast controls without paying attention to vulnerable groups, such as women, children and elderly. In addition, the year 2021 is very important for the gender equality worldwide, since women will lead the fight against COVID-19 in this year's International Women's day on 8 March³⁰⁶.

Through the field research in Samos, it was ascertained that Greek authorities have made some small improvements, nevertheless there are not enough to ameliorate the situation on financial and social level. It is a fact that living conditions are very poor and inadequate, but also legal procedures on asylum need to be changed. The Greek police have enhanced the protection in the camps and people who came in 2020 have already been interviewed, but it is a fact that there are many issues that still are not be solved.

To conclude, this research was the sparking to contemplate if the refugee crisis in Greece is a phenomenon or a problem. Using the phrase of professor Christopoulos "The problems demand solutions. [...]The phenomena, however, are not solved: they are dealt.[...]The only realistic treatment of human is the humane"³⁰⁷, one can understand the nature of this crisis. If we do not consider it as a state which we need to understand approach and encounter, we will just find fruitless solutions and we will waste time. Greece is in the heart of this phenomenon and refugees' vulnerable groups just the receiver of its system's failure.

³⁰⁵ European Parliament, *Parliamentary Questions*, 3 August 2020, https://www.europarl.europa.eu/doceo/document/E-9-2020-001352-ASW_EN.html, retrieved in 28/02/2021

³⁰⁶ European Parliament, *International Women's Day 2021*, 26/02/2021, <https://www.europarl.europa.eu/news/en/headlines/priorities/international-women-s-day-2021/20210218STO98125/international-women-s-day-2021-women-leading-the-fight-against-covid-19>, retrieved in 28/02/2021

³⁰⁷ Christopoulos D., *If the refugee was a problem, it would have a solution*, published by Polis, Athens, 2020, p.43

Epilogue

The task of this study was to examine the protection of refugee women in Greek “hotspots”. Protection is not only the physical integrity of a woman, but also the international protection that obtain with the status of refugee, in other words the asylum. For that purpose, there was the chance to conduct a field research in Samos Island, one of the Greek islands which are hosting hundreds of refugees from 2015 and having an insight of the refugee crisis.

As it was ascertained, living conditions are very difficult for female refugees in many European countries, not only in Greece. Furthermore, COVID-19 has deteriorated the situation inside and outside the reception centers worldwide. EU needs to solve many issues on refugee crisis, starting from Greek islands which are the main border between EU and Turkey, a cross path for people who are seeking a better life in Europe. Studying the main International and European treaties and conventions for refugees, the national legislation and the notion of a CEAS, the current situation would be improved. By ameliorating the general situation of refugees, there would be an obvious change of the conditions for female asylum seekers and unaccompanied children as vulnerable groups.

To conclude, it is worth to note that the situation in Greece, focusing on Greek islands, has not changed during these five years. The poor conditions, the inadequate food and health care are remaining the same as in the beginning. Greek authorities have only made some changes on legal procedures of asylum, making efforts to harmonize Greek system with the European standards. However, there are many steps that should be, in order to create a healthy environment for refugees and locals, especially for women and minors.

“It's strange, how you go from being a person who is away from home to a person with no home at all. The place that is supposed to want you has pushed you out. No other place takes you in. You are unwanted, by everyone. You are a refugee.”

— Clemantine Wamariya, *The Girl Who Smiled Beads*

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