

VIOLENCE AND AGENCY IN THE LIVES
OF REFUGEE WOMEN:
STAGES AND PLACES OF BECOMING A
REFUGEE

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Stages and places of becoming a refugee



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**EXPERIENCES OF VIOLENCE AND AGENCY IN THE LIVES
OF REFUGEE WOMEN:
STAGES AND PLACES OF BECOMING A REFUGEE**

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To refugee women

Abstract

Building on refugee women's narratives, this research seeks to understand the process of becoming a refugee woman. In this sense, the research relied, predominantly, on the findings driven from the conduction of in-depth semi-structured interviews, combined with the biographical narratives method, with a sample of twenty-four refugee women from the Middle East and Africa. To achieve a holistic representation of the reception conditions and integration practices in place in the country of asylum, namely, Portugal, this thesis resorted to a multi-informant approach and combined the data collected from in-depth semi-structured interviews conducted with a sample of twenty-four refugee women living in Portugal, and data from a sample of twenty-five professionals working, directly and indirectly, in the Portuguese asylum system, who assume leadership positions and/or with daily contact with asylum seekers and refugees. Despite the variety of sources of data refugee women's narratives were considered the primary source of data. One main question lead the research from its very beginning: "What does it mean to be a refugee woman in the twenty-first century?"

Consequently, this investigation is divided in two studies that share one specific objective: to access refugee women's narratives to validate their experiences of violence and agency as a direct source of knowledge. Specifically, both studies aim to analyze individual dimensions that allow access to the meanings, intersubjective constructions, and perceptions of refugee women regarding their life trajectories in three stages and (geographical and symbolic) places: study 1 in their country of origin and during the displacement journey; and study 2 in their country of asylum, through the analyses of the reception conditions and integration practices in place in the Portuguese asylum system, from a gender perspective. The empirical part of this research is therefore subdivided into a tripartite analysis of the mentioned stages and places regarding refugee women's experiences of violence and agency in the process of becoming a refugee woman.

The answer found in relation to the main question that guided this research led to a contribution to theorizing a new perspective on the process of becoming a refugee woman. As such, it was possible to conclude that refugee women's narratives are particularly marked by their experiences of violence and agency. Building on narrative criminology, this investigation offers a contemporary perception of refugee women, coined "refugee women's holistic identity". This perception builds from and develops two central concepts: violence against refugee women and refugee women's agency. This

thesis also provides recommendations for best reception conditions and integration practices, with an especial focus on gender, to improve the Portuguese asylum system in place.

This research will be helpful for migration scholars as it proposes a model for designing and conducting research with refugee women based on their narratives, which will be value to provide more accurate representations of refugee women that neutralizes outdated perspectives that depicted these women a passive, helpless, and subordinate victims. This investigation also aims to contribute to new gender-based policies and practices that better support refugee women in their daily lives.

Key words: refugee women, gender-based violence, “structural” and “symbolic” violence, agency, resistance, resilience, narrative criminology.

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List of Acronyms

UN The United Nations

UDHR Universal Declaration of Human Rights

UNHCR The UN Refugee Agency

ECHR The European charter of fundamental rights

CEDAW The Convention on the Elimination of All Forms of Discrimination against Women

VAW Violence against women

GBV Gender-based violence

VARW Violence against refugee women

GBVAW Gender-based violence against women

ACM Alto Comissariado para as Migrações (High Commission for Migration)

ARP Autorização de Residência Provisória (Temporary Residence Permit)

CAR Centro de Acolhimento para Refugiados (CPR's reception centre)

CPR Conselho Português para os Refugiados (Portuguese Refugee Council)

IEFP Instituto do Emprego e Formação Profissional (Portuguese Institute for Employment and Professional Training)

ISS Instituto Segurança Social (Portuguese Institute for Social Security)

JRS Portuguese Jesuit Refugee Services

NAIR Núcleo de Apoio à Integração de Refugiados (ACM's Support Unit for the Integration of Refugees)

PAR Plataforma de Apoio aos Refugiados (Refugee Support Platform)

SCML Santa Casa da Misericórdia de Lisboa

SEF Serviço de Estrangeiros e Fronteiras (Portuguese Immigration and Border Service)

Introduction

Heavily influenced by the current context of the so-called European refugee crisis, in the last decades, the criminological field of studies regarding the displacement of people has been divided into two branches of scholarship: Crimmigration and Border Criminologies.

On one hand, the Crimmigration debate analyzes especially the social control exercised over selected categories of migrants. The crimmigration law looks to protect the cohesion and strength of the European Union, according to which has been undermined by the dangerous, undocumented and criminal displacements of people (Saad-Diniz, 2018; Rosenbloom, 2018; Guia & Pedroso, 2015; Aas & Bosworth, 2013; Guia, 2015; 2014; 2013; Stumpf, 2006). In consequence, greater efforts related to migration control have been adopted to ensure the security of the European Union States' borders and the safety of the so-called "Fortress Europe" in the face of these movements (Saad-Diniz, 2018; Rosenbloom, 2018; Aas & Bosworth, 2013; Bosworth, 2011; 2012; Bosworth, 2008; Bosworth & Guild, 2008; Aas, 2011; Stumpf, 2006).

Nowadays, xenophobic attitudes of intolerance and distrust towards those seeking protection and refuge have been reinforced, and new representations of refugees as "false refugees", "opportunists", "bogus", "outsiders", "folk devils" and "crimmigrant others", especially driven by political leaders, border control policies and media representations, have been emerging (Zedner, 2020; Aas, 2019; 2013; Vilmer et al., 2018; Bauman, 2016; Aas & Gundhus 2015; Melossi, 2015; Graham, 2008; Welch & Schuster, 2005; Garland, 2001; Cohen, 2011; 1985; 1972; Becker, 1963). This creates a division between "us and them" enabled by prejudices and judgments about "good" and "bad" migrants.

Indeed, contemporary societies seem to be marked by strong protectionist and exclusionary tendencies, or at least, that is what the widespread media images of frightening and violent asylum seekers, Muslim terrorists disguised as refugees, and illegal Mexicans, want to convey. Current international and national debates on migration have been using the key-words of protection and security against the "alleged" foreign threat, with the traditional distinctions between criminals and the law-abiding citizens being used to demarcate and reinforce the division between the foreigner and the national. Surveillance technologies are used to secure, strengthen, and expand the nation-state borders, at the traditional entry points of a particular state, through which, legally or

illegally, travelers, migrants, refugees, and other transitory groups tend to move (Aas, 2019; Garland, 2008).

On the other hand, the new subfield of Border Criminologies (e.g., Aliverti, 2020; Aas, 2019; Barker, 2018; Fassin, 2018; Bosworth, 2011; Stumpf, 2006) led Criminology to engage in a more specific, attentive, and scrupulous perspective on migration, taking into account the transformative effects of border control on contemporary penal power, and its implications for the modern understanding of punishment, law, justice, and citizenship. The confused, unwanted, and feared displacement of clusters of people has raised many questions regarding the harmful effects of armed conflict, social and economic inequalities, and violence, which are often the cause of international forced migration and appear to justify human rights-based displacement claims. Likewise, the discourse about the “crimmigrant” strengthens settings of global inequality, represents distinctions between the sensitive and ethically judgmental foundations of humanitarianism with the very European ideal of survival, grounded on the maintenance of human rights (Aas, 2019).

As shown by several studies (Aas, 2019; Canning, 2017; Aas, 2011; Aas, & Bosworth, 2013; Bosworth, & Kaufman, 2011; Bosworth, 2008; Bosworth, & Guild, 2008; Hansen & Stepputat, 2005; Menon, 2003; Goldberg, 2002), states tend to use strategies of individualization and normalization of suffering that allow them to refute or shift accountability for the violence experienced by asylum seekers and refugees. Alternatively resorting to the discourse of “there is no alternative” to avoid any considerable debate about how to ease systemic harms. The states, therefore, commonly use silencing and exclusion in asylum processes, and non-governmental support services are not enough to remove or lighten harms caused by such actions.

There is also a clear relationship between human rights and the refugee laws, and the portray of refugees as bogus, dangerous and criminals, and violence against refugee women. Human rights are those each person possesses because he/she is a human being. However, refugees have been prevented from enjoying their human rights as a result of the violence to which they are subjected daily. Linked to the greater or lesser occurrence of global and national migratory movements, the figure of the “deviant migrant” is again highlighted as a reason for debate, concern, and even “panic”, through the figures of: “(...) violent asylum seekers, cynical smuggling, and trafficking networks and Muslim terrorists, to Nigerian and East European prostitutes, and ethnic youth gangs (...)” (Aas, 2013, pp.79). Examples of crime and deviance are profoundly rooted in social structures

and in power relations that make up society's tendencies for exclusion and inclusion of certain groups of people and behaviors.

Women fleeing persecution or turbulence in their countries of origin may be particularly vulnerable to physical, psychological, sexual, and emotional violence both while living in the country of origin, as well as during the displacement journey and in the country of asylum. Nonetheless, perceptions and representations of refugees and migrants have been centered on male refugees, stressing men's escape causes and experiences. Simultaneously, these portrayals have been failing to acknowledge gender in opposing narratives that cannot be included in the hetero normative, male type of refugees' depictions (Cochrane, 2018; Canning, 2017; Sapia, 2017; Baczynska & Ledwith, 2016; Freeman, 2016; 2015; Hathaway & Foster, 2014; McDonald, & Erez, 2007; Ferris, 2007; Hathaway, 2002; Pittaway & Bartolomei, 2001; Atlani & Rousseau, 2000).

In recent years, the field of criminology, victimology, and feminist studies, have been developing more accurate and contemporary perspectives of the social, political, and personal contexts behind the process of becoming a refugee woman. Within these recent studies, a new focus has emerged on the need to collect and analyze refugee women's narratives to fully understand the reasons that led them to escape their countries of origin and to apply for international protection. In this sense, gender has become a crucial element of analysis in displacement and refugee movements, and gender-based violence against refugee women has been recognized as a quite worrisome and frequent reality that must be tackled and studied.

Contemporaneously, in criminological research, the approach to the displacement and refugee phenomenon from a gender perspective and from the point of view of refugee women's narratives takes on pronounced contours. The current context in which the dominant representations of asylum seekers and refugees are that they pose a threat to the security of the global North, women have been pushed into stereotyped roles of vulnerable victims, reduced to the status of passive victims and without any possibility of political action (Freedman, 2016b). According to this perspective, refugee women are commonly perceived and represented as victims in suffering, without a voice, without the capacity to act or to make decisions regarding their own lives. This representation of static, passive, subjugated, and helpless victims, risks refugee women of losing their historical memory and singularity while ignoring their capacity for political and social action in the refugee regime, that is, in the body of law that surrounds international

migration based on safety and persecution. This, in turn, may lead the public, the media, policy makers and professionals to adopt blatant misrepresentations, simplified narratives and gendered stereotypes of refugees in general.

Traditionally, academic research and policymaking have been neglecting refugee women's agency by seeing them as non-agentic, passive statistics (Canning, 2017). The ability of asylum-seeking women to resist their intersectional experiences of violence and their capability to be resilient and to overcome its consequences and costs have been overshadowed by a one-dimensional image of women as dependents who follow their men, or by the blended image of women and children in research and policies, an overlay designated by Enloe (1998) as "womenandchildren". According to Sigona (2014, pp. 370), media representations of refugee women often infantilized them to convey descriptions of "*'pure' victimhood and vulnerability*". Despite notable exceptions (e.g., Kanal & Rottmann, 2021; Fiddian-Qasmiyeh, 2016; Jahan, 2011), the most common representations of refugee women often portray them as vulnerable victims in need of international protection; as occupying a victimized position within different systems of power relations; and third, in an essential role within displaced families (Hajdukowski-Ahmed et al., 2008).

When considered, refugee women's agency is frequently categorized as a mere tool used by an independent subject, fighting against culture and traditions (Kanal & Rottmann, 2021). Nonetheless, besides refugee women's willingness "*to change their particular situations (...) agency can also be observed through examining how refugees rebuild their lives in the face of the many changes and challenges they have experienced.*" (Kanal & Rottmann, 2021, pp. 1). This echoes the growing consciousness of otherness between refugee men's and refugee women's experiences while criticizing suppressive perspectives and theories of agency and violence (Fiddian-Qasmiyeh, 2014).

As mentioned above, the scientific literature centered on refugee women's narratives is still scarce. Normally, information about them is provided by other actors involved in the asylum process (refugee men, politicians, border control officials, aid organizations, and such) and they are also the ones who frame the perspectives on the subject of women's experience (Freedman, 2016a). Adding to that, one of the biggest difficulties in assessing the situation of women asylum seekers and refugees in Europe is precisely the lack of data disaggregated by gender. This type of information (quantitative and qualitative) is rarely available, limited to a few countries in the world (ACM, 2019). It seems essential to have reliable and accurate information available on this matter, in

particular on the number and profile of women asylum seekers and refugees. Data gaps and limitations, together with the lack of available information, accentuate the invisibility cloak that hangs over the condition of being a refugee woman.

It is based on these facts and recognizing the central of refugee women's narrative in understanding the process of becoming a refugee that the current doctoral thesis emerges. The current thesis began with one complex question: "What does it mean to be a refugee woman in the twenty-first century?". Between the answer found, and question initially posed, an extensive and challenging scientific journey was undertaken.

The steps taken during the planning of the methodology guided this scientific journey through specific paths that enabled nine more sub-questions to surface: (1) "What type of violence affects the lives of refugee women in their countries of origin?"; (2) "why do refugee women escape from their home countries?"; (3) "does women's vulnerability in their countries of origin limit their ability to act?" (4) "what are the dangers faced by refugee women during the escape journey?"; (5) "what is the impact of the escape journey on refugee women's narratives of survival?"; (6) "what are the hardships encountered by refugee women in 'transit' countries?"; (7) "what is the meaning of applying for international protection?"; (8) "what is the impact of the reception conditions and integration practices offered to refugee women under the tutelage of the Portuguese state?" and (9) "what role do refugee women play in their asylum processes?".

The answers found to these sub-questions led this thesis to reach eight conclusions, that will be presented in the chapters related to the research findings, included in part III of the current thesis. To answer to this research main question and its nine sub-questions, this investigation is divided in two studies that share one specific objective: to access refugee women's narratives to validate their experiences of violence and agency as a direct source of knowledge. Specifically, both studies aim to analyze individual dimensions that allow access to the meanings, intersubjective constructions, and perceptions of refugee women regarding their life trajectories of refugee women in three stages and (geographical and symbolic) places: study 1 in their country of origin and during the displacement journey; and study 2 in their country of asylum, through the analyses of the reception conditions and integration practices in place in the Portuguese asylum system, from a gender perspective. The empirical part of this research is therefore subdivided into a tripartite analysis of the mentioned stages and places regarding refugee women's experiences of violence and agency on the process of becoming a refugee woman.

In view of the importance of collecting information from different sources, a multi-informant method was adopted with the conduction of in-depth semi-structured interviews to a sample of twenty-four refugee women living in Portugal and to a sample of twenty-five professionals working, directly and indirectly, in the Portuguese asylum system, who assume leadership positions and/or with daily contact with asylum seekers and refugees. Nevertheless, refugee women's narratives were considered the primary source of data. In sum, study 1 comprises the research findings regarding refugee women's narratives in relation to their countries of origin and during the displacement journey, which includes their escape journey and the periods lived in 'transit' countries; and study 2 contains the refugee women's perspectives regarding their experiences in the asylum country (Portugal), and the professionals' reports on that matter.

The thesis is divided in four parts. Part I includes three chapters regarding the theoretical framework that supports this research.

Chapter 1 starts with a provocative question: "Are refugee rights human rights?" In this context, it will demonstrate the connections between refugee law and human rights law, to frame refugee rights as human rights, that must be respected and protected. It will provide a brief theoretical review of the development and creation of human rights, with particular emphasis on human rights violations. Chapter 1 also will provide a clarification of the concepts of internally displaced persons (IDP), asylum seekers, and refugees, and an overview of the common approaches to those definitions, as well as the legal umbrella that supports it. In the end, reception and integration guidelines, measures, and practices for asylum seekers and refugees will be presented, with a particular emphasis on the Portuguese asylum system.

Chapter 2 will take an incursion into the scientific literature that has focused on issues related to migration control and political situation of refugees worldwide with a special focus on Europe, and its borders. It will navigate through theories and authors that developed valuable work on border control, crime, regulation, social/cultural conflict topics. It will show how the figure of the "deviant migrant" was never truly forgotten, it only remains "dormant", reemerging in political and media discourses in most Western countries, particularly due to the so-called European refugee crisis, whenever new events allow and instigate it, how has been happening.

Theories of social control will also be presented from the point of view of four sociologists and criminologists, namely Becker, Cohen, Foucault, and Durkheim as explanations for states' ability to adopt control practices regarding mobility based on the

labeling of refugees as deviant, bogus, and criminals. In that way, this thesis will present the argument that the current global political tendency is to segregate, exclude, or expel individuals, according to their nationalities, motives for mobility, gender, and the dubious threat they might present, which constitutes a real affront to human rights of all people.

Chapter 3 will offer a broad contextualization of the importance of framing violence against refugee women as a human rights violation, to achieve a humanitarian-based and comprehensive approach to refugee women. For that effect, chapter 3 will explore fundamental concepts such as gender, masculinities, patriarchy, and gender-based violence against refugee women. As this chapter will show, refugee women, like most women, will encounter some form of gender-based violence in their lives-paths. But in the particular case of refugee women, two forms of violence are found to be prevalent, that is “structural” and “symbolic” violence. “

Structural” and “symbolic” violence concepts are exposed to demonstrate how VARW works as a tool of control, oppression and submission, that not only limits these women’s scope for action but also prevents them from fully enjoying their rights as humans and as women. In this sense, the current thesis will emphasize the serious, precarious, and frequently violent conditions that refugee women experience in their countries of origin, during the displacement journey, and in the countries of asylum. Lastly, chapter 3 will demonstrate the potential limitations and benefits of framing refugee women’s rights in human rights, which can only be possible by the inclusion of all women’s rights in human rights.

Part II describes the methodology underlying this research project, and it is divided into four chapters.

“A research design is the blueprint for any research; it identifies your philosophical and methodological position and the methods that you will employ to achieve your research goals”(Birks & Mills, 2015, pp. 25). As this quote showcases, the methodological design of any research is its business card, the thing that characterizes, first and foremost, the research itself and the researcher who will conduct it. But the choice of a methodology is not a simple and quick process: it involves careful consideration about the object of investigation, that is, about the question to which one seeks to answer.

In social sciences, where the field of criminology is included, the term “methodology” is most likely to specify two increasingly distinguished ranges of work: first, methodological matters arising from, and related to theoretical perspectives and,

second, questions of techniques, concepts, and methods of the specific research (Porta & Keating, 2008). The methodology adopted in the current investigation resulted, largely, from its own objects of research. The design of this research project search for a methodology that did not close down the possibilities of interpretation from the outset, because as described by Kothari, (2004, pp.14), research must be “*a scientific and systematic search for pertinent information on a specific topic.*”

When conducting research, either quantitative or qualitative, more important than identifying the method is knowing about its procedures and appropriateness to the intended research’s goals. Additionally, it is essential to demonstrate its precise use, with strict scientific accuracy, and to describe the type of analysis that can be built by the methods and approaches selected. Lastly, it is also essential to reflect on who will produce the knowledge, and on whom it will be helpful (Creswell, 2014). Likewise, according to Apuke (2017, pp.40) “*(...) research is utilized to investigate facts, reconfirm the results of previous experiments, provide solutions for existing or new issues, support theories, as well as propound new theories (...) as well as to provide the basis for further studies.*”

Therefore, **chapter 4** will provide a description of the methodological rationale adopted for the current research, in an integrated way. It will briefly explain how the qualitative methodology, the criminological field of victimology, the theoretical method of intersectionality, and the feminist studies were merged to create the methodological basis of this project. This thesis argues that this methodological background will provide clear and concise perspective on the process of becoming a refugee woman. Next, attention will be paid to the importance of using mixed methods, namely in-depth semi-structured interviews, combined with the life-course approach and the biographical narratives method, to conduct this type of investigation. Chapter 4 will also demonstrate how the use of narrative criminology played a decisive role in collecting and analyzing the lived experiences of the refugee women interviewed.

In turn, **chapter 5** will present the research objectives, the dimensions of analysis determined for this investigation, and the interviews script. It will also provide a full detailed description of the constitution of the sample and the collection of the data for both studies 1 and 2. Brief considerations will also be made about generalization and empirical saturation. In summary, chapter 5 will provide information on how the current project navigated from its theoretical to its practical level, that is, from the definition of the object of research to the collection of data necessary, for the proper exploration and future analysis of that same object.

Then, **chapter 6** will be broadly described the procedures concerning the analytical plan of this project, namely the adoption of the Grounded Theory, to conduct the analysis of the empirical data collected. It will explain the reasons for the Grounded Theory, combined with the abduction model, to be considered for this thesis the most appropriate and suitable research process to achieve the objectives of moving the analytical processes beyond a simple description, to produce new and well-founded theories. This is particularly pertinent regarding violence and agency in the lives of refugee women, where literature is still scarce, and also regarding the integration practices of the Portuguese asylum system, where literature is practically nonexistent.

Chapter 7 will demonstrate how the use of reflexivity is fundamental to support and understand the data collected in any research, as well as a helpful tool to guarantee the investigation's trustworthiness because it allows framing the relationship between the researcher and the participants, which is established in various interaction contexts and moments of the investigation. The major role that reflexivity assumed in researchers' work and inner development, will be emphasized by a fully detailed explanation of the relationship between the researcher and the researched, and through considerations regarding the fieldwork. By doing so, the current research corroborates the argument that the relation of reflexivity to rigor is part of the broader question of how qualitative researchers can *"produce credible work when objectivity is no longer assumed or even pursued"* (Barusch et al., 2011, pp. 11).

Part III will present the research findings and is divided into four chapters.

The current thesis will follow the *"useful model for designing research with female refugees"* provided by Kanal and Rottmann (2021, pp. 1) in their study to present the results of studies 1 and 2. Based on the thirty-three semi-structured interviews conducted with Syrian women and guided by the cultural coping model, the authors described two dynamics in the lived context of refugee women: stressors and coping strategies (Kanal & Rottmann, 2021). According to Kanal and Rottmann (2021), stressors must be analyzed as interrelated to each other and as deeply connected to the coping strategies used by refugee women that showcase their agency. In light of this, and driven by the focused coding, the research findings of the current thesis will be structured around specific stressors, related to the refugee women's lived experiences of violence, and coping strategies that evidence refugee women's agency in everyday life. Through this organization, it became clear that the most common forms of violence experienced by refugee women in the three stages and places of becoming a refugee woman, the country

of origin, during the displacement journey, and in the country of asylum, were “structural” and “symbolic” violence.

It is also important to disclose that, as Part III will showcase, in relation to the country of origin, there were also significant reports of gender-based violence (i.e., forced marriage; domestic violence; FGM; sexual assault). Furthermore, the findings from studies 1 and 2 also evidenced that, in all the three stages and places just mentioned, “structural” and “symbolic” violence were both responsible for creating conditions for interpersonal harm to happen, and for shaping gendered forms of violence against the refugee women interviewed. Likewise, this thesis will also demonstrate that refugee women’s agency must be understood within, and despite, their vulnerabilities in all three stages and places just mentioned. Taking into account the ways in which this investigation was developed and its objectives, the results achieved will be described over four chapters: chapters eight, nine, and ten will expose the research findings of study 1 and chapter 11 of study 2.

Chapter 8 will showcase the experiences of violence of the refugee women interviewed in their countries of origin that had a heavy impact on their well-being, security, and family members, and ultimately led them to decide to escape in the search of a safer life. Chapter 8 will also propose a new approach to refugee women's agency in their countries of origin: as an emancipatory confrontation against the inhibiting social structures that try to limit women’s scope for action, and simultaneously, as the capacity for action within those same social structures.

Chapters 9 and 10 will analyze the lived experiences of refugee women during the displacement journey which includes two stages and places of becoming a refugee: the escape from the countries of origin and the permeance in 'transit' countries.

Chapter 9 will include the violence experienced by the interviewees during their escape from their countries of origin, which is mainly related to the fact that they fled without legal documents and authorization, and consequently, became exposed to the migration and border control practices. Likewise, it will emphasize these women’s use of their agency in their decision to escape and on their success in doing so, which is a clear example of their resistance against the violence experienced in their countries of origin, and of their resilience to overcome the challenges faced during the fleeing.

Chapter 10 will demonstrate that the violence suffered by the refugee women interviewed in their daily routines in 'transit' countries is a result of the extension of migratory regulatory measures used in border zones to the national territory of 'transit'

states. It will also argue that these women's application for international protection with the UNHCR must be considered one of their greatest displays of agency. Indeed, the interviewees' resistance and resilience to negotiate border control practices, to fight against the several violations of their human rights first as women, and then as refugees, and to survive the hardships of the international protection application process, reinsured their active role as agents in the refugee regime.

Chapter 11 will describe the reception conditions and integrations practices in place in the Portuguese asylum system. This description will provide a detailed description of several episodes of violence experienced by the refugee women in Portugal, which will, in turn, bring awareness of the discrepancies between the law in books and the law in action of the Portuguese refugee regime. Similarly, it will also emphasize that, in spite of, and because of the institutional adversities faced, these women were able to use their agency to resist and to be resilient, which enabled them to take an active and determinant role in the construction of their new lives in the country of asylum.

Apart from stressors and coping strategies, part III will also offer several new concepts generated from the research findings of study 1 and 2. The ultimate purpose of this part is to provide glances of a new portray of refugee women that is no longer overshadowed by a central Western shortfall model that defines these women as helpless, passive, and traumatized victims. The research findings presented in part III, chapters eight to eleven, will be used in part IV of the current thesis to answer the main question that led this research from its inception: "What does it mean to be a refugee women in the twenty-first century?"

Part IV will offer a contribution to theorizing a new perspective on the process of becoming a refugee woman and it is divided in two chapters.

Chapter 12 will offer a contribution to theorizing a new perspective on the process of becoming a refugee woman, coined by this thesis "refugee women's holistic identity", which provides a contemporary perception of the portrait of a refugee woman in the twenty-first century. Based on the analysis of refugee women's narratives, specifically, the individual dimensions that allow access to the meanings, intersubjective constructions, and perceptions of refugee women regarding their life trajectories in three stages and (geographical and symbolic) places: study 1 in their country of origin and during the displacement journey; and study 2 in their country of asylum, through the analyses of the reception conditions and integration practices in place in the Portuguese asylum system, from a gender perspective, "refugee women's holistic identity"

encompasses two concepts that are often used by the scientific literature, but that, to this thesis's best knowledge, have not yet been accurately defined: violence against refugee women and refugee women's agency. Both concepts are central for understanding the process of becoming a refugee woman, namely, these women's construction of a holistic identity, which also includes another concept offered by this thesis, namely, "reconfiguration of being".

This thesis argues that, in doing so, it is possible to shift the focus from the refugee women's vulnerabilities to violence, to the roots of that violence, that is, to its "structural", "symbolic", and gender-based forms that deeply mark the narratives of the refugee women. Likewise, refugee women's agency will be highlighted to contribute to the elimination of the representations of refugee women as passive, helpless, and subordinate victims, and to acknowledge these women's capacities to fight back (resistance) and to adapt (resilience).

Lastly, given that it is quite worrying that the Portuguese asylum system does not include a gender perspective, especially because most of the international protection requests made by women were grounded on discrimination, persecution, and violence based on gender, **Chapter thirteen** will provide recommendations for best practices aimed to improve the Portuguese asylum system in place, namely, the reception conditions and integration practices offer to asylum seekers and refugees, with an especial focus on gender.

In conclusion, this research is driven by the objective to validate refugee women's narratives as a powerful and central source of knowledge to migration studies, specifically, for research on the uniqueness of the condition of being a refugee woman, and to contribute to new gender-based policies and practices that better support refugee women in their daily lives. The knowledge produced by criminological research can produce new concepts and theories of sensitization that will improve the understanding and explanation of reality and phenomena.

The criminological research conducted in this thesis can be useful in a theoretical dimension, by providing migration scholars with a useful and valuable model for designing and conducting research with refugee women. On a practical level, it can contribute to the inclusion and improvement of gender-based policies and practices in place in asylum systems that will provide better assistance for refugee women.

PART I

Theoretical Framework

Chapter 1

Are refugee rights human rights? A historical perspective

This chapter will provide a brief theoretical review of human rights and refugee law, to understand how they relate to each other. It also analyzes the reception and integration guidelines and practices for refugees and provides qualitative and quantitative information regarding the Portuguese asylum system.

1. What are human rights? Creation, approach, and guidelines

The Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948 is the central concept of international law. In the late twentieth century, UDHR describes the fundamental consensus on the human rights of all persons and social groups regarding issues such as personal safety, slavery, torture, the protection of law, freedom of movement and expression, religion and assembly, and the right to social security, labor, health, education, culture, and citizenship (Steiner et al., 2008; Griffin, 2008; Brunch & Frost, 2000). Two approaches can be presented about its origin. The first approach associates the idea of human rights with a certain cultural and religious consensus. Accordingly, there is a common ethics or morality to all cultures and religions that can be expressed in terms of rights (Flores, 2008). The second approach considers human rights the final product of a long evolution process, which implies a promise of progress and of a better future (Hunt, 2007).

This idea of the inevitable progress of human society gained strength with the philosophical debate that preceded and inspired the French Revolution and resulted in the first great declaration of rights, *The Declaration of the Rights of Man and of the Citizen* (1789) (Flores, 2008; Zubik, 2008). According to the mentioned declaration, all human beings are proclaimed equal before the law, eliminating all the privileges of birth. Terms such as “men”, “man”, “every man”, “all men”, “all citizens”, “every citizen”, “society” and “all societies”, ensure the universality of the rights affirmed in that document.

The reaction to its promulgation was immediate and drew public attention to the issue of rights in neighboring countries (Whelan, 2010; Griffin, 2008; Zubik, 2008). *The Declaration of the Rights of Man and of the Citizen* (1789) was a source of inspiration for other, later documents, such as the UDHR, as it is possible to conclude by comparing the first articles of both declarations: “*Men are born and remain free and equal in rights.*

Social distinctions may be founded only upon the general good."¹ and "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."² (Whelan, 2010).

The UDHR is considered a landmark document in the history of human rights: it is the product of the responsibility that some countries felt to give a disapproving response to the atrocities that occurred during World War II, which resulted in the loss of large numbers of people, especially due to the many violations of individual rights committed by fascist governments (Whelan, 2010). Soon after the conflict ended, the objective of bringing peace to all of the nations in the world led to the formation of the *United Nations (UN)*. In addition, a commission led by Eleanor Roosevelt created a written document to establish the rights that every person in the world should be entitled to. This written document - the UDHR - includes 30 articles on the inalienable rights that must guarantee freedom, justice and world peace, including the right not to be enslaved, to be treated equally within the law, the right to free political and religious expression, freedom of thought and political participation. Leisure, education, culture and paid work, are also guaranteed as fundamental human rights (Whelan, 2010; Flores, 2008; Zubik, 2008).

It should be noted, however, that a declaration of rights is much more than an enumeration of rights. Indeed, according to Stearns (2012), the UDHR is not a creative act but rather an act of recognition because the rights that the declaration enunciates are inherent in human nature rather than created: it is enough to verify their existence. This is foremost important because it clarifies the difference between declarations of rights and legal texts: a law can be revoked by the same authority that promulgated it; a right cannot be eliminated because nobody is responsible for its creation (Stearns, 2012; Whelan, 2010). The UDHR also has a pedagogical character because it brought light to rights that had been forgotten or ignored, and to the need to make them indisputable. For this purpose, a simple statement is not enough, it requires an exposition that provides explanations which convince the governments, in general, and the individuals, in particular (Stearns, 2012; Griffin, 2008). As Zeid Ra'ad Al Hussein³ declared "*the power of the Universal Declaration is the power of ideas to change the world. (...) One vital aspect of this task is to empower people to demand what should be guaranteed: their*

¹ *The Declaration of the Rights of Man and the Citizen (1789)*.

² *The Universal Declaration of Human Rights (1948)*.

³ UN High Commissioner for Human Rights, from 2014 to 2018.

human rights”. The UDHR proposed a systematization of the relations between individuals and society, and its doctrinal character and pedagogical intent contrasted with the empiricism characteristic of more recent documents (Stearns, 2012). It also showed how the verification of human rights is not enough to ensure its respect and compliance with.

Human rights’ norms are enacted by each country after negotiations with organizations such as the UN at international meetings and conferences (Stearns, 2012; Whelan, 2010). Several countries are still committed to guaranteeing human rights through UN treaties on a wide range of issues such as economic rights, racial discrimination, child rights, and so on. For each of these treaties, there is an expert committee – “the internal human rights regulatory system” - that assesses how participating nations are fulfilling their obligations under the treaty. This system is determined by nine UN’ main treaties, and by a set of complementary agreements, norms and laws. Human rights have a considerable set of norms and recommendations on how justice should be managed by states, encompassing criminological areas such as police action, especially at the pre- and post-trial stages (Stearns, 2012; Griffin, 2008). In that way, human rights are constantly being evaluated, supervised, and controlled through a variety of international mechanisms that guarantee that they are standardized and applied over time without interruptions and with uniformity. This international evaluation mechanisms allow the collection of information on worrying issues that compromise the respect for human rights (Smith, 2016; Hafner-Burton, 2012; Carey et al., 2010; Landman & Carvalho, 2010; Landman, 2006).

In addition, other UN bodies such as the United Nations General Assembly, the Human Rights Council, and the Office of the High Commissioner for Human Rights debate cases of human rights violations around the world. Another instrument used to guarantee the fulfillment of human rights in various parts of the world are peacekeeping operations, carried out by the UN. The system is also comprised by three human rights courts of three continents: the European, African, and American continent. At a national level, each country is responsible for guaranteeing the respect for human rights within its territory. The fulfillment of human rights are also supervised by human rights institutions, professional and academic organizations, religious groups, non-governmental organizations, and others (Stearns, 2012; Whelan, 2010).

Nowadays, the UDHR is signed by the 192 countries that make up the UN, and the document serves as the basis for international constitutions and treaties (Whelan, 2010).

While there are a number of documents and instruments to guarantee human rights, it has no force of law, and there is still a great deal of difficulty in getting the human rights plans from theorization to practice. Currently, human rights are being breached in all regions of the world. Very remarkable cases are that of Syria, Afghanistan, and Iraq, countries that after years of civil and international wars, face a serious humanitarian crisis that forced many people (including women and children) to escape their countries (Saleheen et al., 2021; Akar & Erdoğan, 2019; Micinski, 2018). Human rights violations are, in fact, at the root of these mass displacements, and have given rise to a humanitarian crisis that translated into what is commonly designated as the European refugee crisis, the greatest since World War II. The so-called European refugee crisis led many European governments to take questionable measures and actions with regards to the principles defended by human rights.

This seems contradictory in Europe, which is known and acclaimed for being the creator, protector, and the main propagator of human rights and raises a disturbing question: How the abuse and violation of human rights can be fought against and eliminated if the first advocates of human rights do not respect them? The current *United Nations High Commissioner for Refugees*, António Guterres, at the opening of the judicial year of the European Court of Human Rights in 2011 observed that “(...) *the human rights agenda out of which UNHCR was born, and on which we depend, is increasingly coming under strain. The global economic crisis brought with it a populist wave of anti-foreigner sentiment, albeit often couched in terms of national sovereignty and national security.*” This problematic and controversial setting highlights the need to better understand the reasons behind human rights violations, its impacts, and how to prevent it from happening.

In the current thesis, this analysis becomes fundamental because, although female forced migration is not a new phenomenon, it has increased significantly, and female refugees are victims of several breaches to their human rights perpetrated by human trafficking, exploitation, discrimination, and abuse (Freedman, 2016a). Single women traveling alone or with children, pregnant and nursing women, adolescent girls, and elderly women are among those who are particularly at risk and require a coordinated and effective protection response (Canning, 2017). Estimating that the current response to refugee and migrant women and children’s needs by governments, humanitarian actors, and EU institutions has been insufficient, human rights organizations, including the

United Nations High Commissioner for Refugees (UNHCR) and women's rights organizations, need to be called for immediate action (Sapia, 2017).

1.2. Human rights in practice: Gaps and challenges

There seems to be a relevant gap between human rights theory and its practices (North et al., 2009; Steiner et al., 2008; Clark, 2007; Dunne, 2007; Kelly, 2005; Donnelly, 2003; Brunch & Frost, 2000). In recent decades, there has been an increase in the volume and sophistication of works on compliance theory in international law in general, and in human rights in particular. This body of work is interdisciplinary, influenced by political science and international relations in substance and method. The typology of compliance theories, once formed of several separate strands, coalesced into two dueling perspectives. These were generally characterized by “rational choice approaches”, focused on hegemony, sanctions, incentives, and material self-interest, with Guzman's (2011) addition of reputational concerns; and “constructivist approaches”, which argue that repeated interactions, argumentation, and exposure to norms characterize and construct state practice (Goldsmith & Posner, 2005; Neumayer, 2005).

Rational choices approaches are atomistic and instrumentalist, and skeptical regarding normative pressure. For the scholars that support this approach, states are portrayed as rational actors in search of maximizing former and firm penchants. Accordingly, direct economic or material profits or disadvantages, can stimulate states to homologate or fulfill international treaties (Hafner-Burton & Tsutsui, 2005). Nevertheless, several researchers have highlighted the interference of more blurred reputational intentions in the actions of States (Geisinger & Stein, 2008). This stream of thought was highly influenced by Guzman's (2011) work. The author aimed to generate a “*comprehensive and coherent theory*” (Guzman, 2011, pp. 8-9) based on the perspective that states are rational, self-interested actors, which explains how international law “*works across its full spectrum.*” Guzman (2011) studied the connection between a state's rational self-interest and concern over its reputation among other states.

Although Guzman's (2011) work is very pertinent and valuable, Geisinger and Stein (2008) expressed some reservations about the limited and exclusive use of “reputation” in reference to states' cooperation and coordination to treaties, and not in treaties formulations itself. For Geisinger and Stein (2008) “reputation” is a considerable component of international law, and it plays a key role in the formulation of human rights treaties. For this reason, the authors proposed a new perspective to the rational choice

approach that must include “a more robust theory of reputation” for it to successfully provide an explanation of the strengths and weaknesses of international law (Geisinger & Stein, 2008, pp. 1130).

Constructivist approaches stress the effect of external norms on state action, that is, in states compliance or breach of international law. The scholars researching this matter normally focus on the transnational legal process on state socialization, the impact of acculturation on state behavior, the sway of a state's desire to be held in esteem by other international actors, and the influence of a given state's belief in the rule of law (Sikkink, 2011; North et al., 2009; Clark, 2007; Hafner-Burton & Tsutsui, 2005; Keck & Sikkink, 1998; Risse et al., 1999; Sabatier & Jenkins-Smith, 1993). Risse, Ropp, and Sikkink (2013) re-evaluated and broadened the five-stage “spiral model” of human rights, proposed by the same authors in 1999 to reflect on state and non-state actors. In their first theorization, the authors stressed that violations of human rights could be explained by institutionally capable states’ unwillingness to comply (Risse, Ropp, and Sikkink, 1999). Fourteen years later, the authors revisited their early work to acknowledge human rights implementation in areas of limited statehood, by non-state armed groups, and transnational corporations, and the potential for retrogressive state practice where security or culturally based counter-discourse dominates (Risse, Ropp, & Sikkink, 2013). Prior to that, Morrow (2007) demonstrated the effect that individual violations may have on compliance, and called those violations “noises”, as regarding its interaction with the states. “Noises” vary according to the substance of the treaties, and although violations to human rights can also be perpetrated by the states themselves, the ‘noises’ created by individual agents are the ones that most concern the governments.

In relation to states' compliance or breach to human rights treaties, Goodman and Jinks (2013) theorized about states in international organizations and showcased that an excessive focus has been placed on material inducement and persuasion, to the detriment of acculturation, that is the cognitive and social pressures to conform to an in-group. For Goodman and Jinks (2013) acculturation clarifies states’ “isomorphism” (convergence) and “decoupling” (divergence) in regimes as diverse as economic privatization and state management of childhood. Hillebrecht (2014) examined institutions and politics within the state and presented a narrower approach to compliance that considers that the implementation of agreements is followed by non-compliance with the same agreements. Hillebrecht (2014) argued that the international courts are influenced by the domestic interaction between branches of government and civil society actors.

Following constructivist approaches' perspectives, this thesis recognizes the advantages that an individual-state analysis can bring when studying human rights and its violations, such as methodologically, in the separated measurement of violations committed by individuals and by states; and theoretically, in what concerns the states and the important impact of the exploration of delegation in conflict and human rights study (Landman & Carvalho, 2010; Landman, 2005; McCormick & Mitchell, 1997). Mitchell (2004) established three types of human rights violations that can be perpetrated by these two actors: state-initiated violations, individual violations, and combined individual and state violations. All of the violations are based on strategic and particular objectives. Since most empirical research regarding the measurement of human rights' violations does not distinguish between individual and state violations, it is fundamental to create methodological and accurate techniques of measuring such violations with a solid theoretical basis grounded on facts.

Indeed, human rights researchers explore both the theoretical analysis of human rights and its measurement. According to some of these authors (e.g., Hafner-Burton, 2012; Carey et al., 2010; Landman & Carvalho, 2010; Landman, 2006), theory gives a diversified perception about the international human rights systems. In practical terms, a state's ratification of an international treaty does not automatically mean better human rights practices, and therefore, the measurement of their applicability is much crucial. Although human rights and humanitarian law seem to have the role of restraining states' actions of discrimination, these rights depend on the respect, promotion, and protection of countries that, through international treaties, are committed to complying with and to respect these rights (Smith, 2016; Mihr & Gibney, 2014). Consequently, it should be the states' responsibility to ensure compliance with international human rights criteria, whether through their action or lack of or through their laws, policies, and principles (Smith, 2016). But then again, some studies (Hafner-Burton, 2012; Hathaway, 2002; Camp-Keith, 1999) compared states which are part of certain human rights conventions, and others that did not adopt those conventions, and found no significant difference between these two types of states regarding the practices of human rights.

Other studies (Simmons, 2009; Hafner-Burton & Tsutsui, 2005; Landman, 2005b) demonstrated that non-state actors advocating human rights practices inspire more compliance from governments. Simmons' study (2009) concluded that in states with active domestic groups towards human rights, governments were 'obliged' to comply with their international agreements. The findings of the study led Simmons (2009,

pp.155) to conclude that “*no external – or even transnational – the actor has as much incentive to hold a government to its commitments as doing important groups of its own citizens.*” The first global cross-national study on human rights measures was conducted by Poe et al., (2002) and was considered a milestone because it led scholars to think about the different violations carried out by states as well as their motivations. It covered the years between 1976 and 1993 and focused on the general economic and political profile of countries that committed human rights violations and on more disaggregated measures. The major conclusions reported by Poe et al. (2002) were that military regimes lead to greater abuses of human rights and that the countries with leftist governments are less disrespectful of basic human rights than non-leftist countries.

The studies previously presented, and many more (e.g., Cingranelli & Richards, 2010, 1985; Carey et al., 2010; Wood & Gibney, 2010; Davenport, 2009; Richards et al., 2001; McCormick & Mitchell, 1997; Poe & Tate, 1994), demonstrated that putting universal principles of human rights into practice is entirely at the disposal and honesty of states and that if national and international non-state actors are present, states are more likely to comply with these principles. These studies analyzed the commitment and fulfillment of human rights by the governments and several other variables such as the degree of economic development, type of regime in force in a given country, the presence or absence of protest, rebellion and civil war, population density, colonial history and previous levels of rights violations. The researchers were able to identify the conditions responsible for the respect or violation of human rights, with the most significant correlations found between population, economic development, democracy, and conflict. A negative correlation was established between levels of economic development and levels of repression within a country: the lower the levels of economic development the greater the levels of repression (Hafner-Burton, 2005; Fearon & Laitin, 2003; Richards et al., 2001).

The correlation between democracy and human rights protection is rooted in the fact that citizens and advocacy groups in democratic societies are able to hold political leaders accountable (Risse, Ropp, & Sikkink, 2013). In semi-democracies or other non-democratic regimes, the existence of an unstable political environment leads to a greater propensity for political leaders to use repression because they feel more threatened and at-risk (Regan & Henderson, 2002). According to Davenport (2009), the principles of democratic regimes should and must have a positive impact on human rights practices. Nonetheless, other studies (Cingranelli & Filippov, 2010; Goldstone et al., 2010;

Davenport, 2009; Buenode Mesquita et al., 2005; Davenport & Armstrong, 2004) found that, for example, the type of electoral system in place and how such a system operationalizes accountability, can have an impact on levels of respect for human rights. Therefore, as Collier (2009) demonstrated, within democratic regimes, it is necessary to distinguish between democracies with less economic power, which have a greater risk for human rights violations, and the democracies of middle-upper capital, which present a lower risk for that to happen.

Another key factor for human rights violations is civil war, a correlation that is challenging for operational, conceptual, and theoretical reasons (Blattman & Miguel, 2010; Carey, 2010, Dixon, 2009; Gartner & Regan, 1996). Countries with smaller populations, higher per capita income, higher trade rates, absence of the previous conflict, and a democratic regime in force, are less likely to develop civil war. Some studies show the existence of favorable circumstances (such as a fragile regime in place) to civil wars; others blame the distribution of wealth by politically pertinent groups leading to economic and political disparities among certain groups of people, which make them more likely to revolt (Cederman et al., 2011); and others pointed to a strong relationship between civil war and state-sponsored mass murders (Harff, 2003; Krain; 1997). Sambanis (2004, pp. 816) suggested a different approach to understanding civil war in its purposes: “(...) explain political violence first and, by refining the theory, explain why violence takes different forms.”

Like civil war, many other forms of violence that create and reproduce violations of human rights are at the root of the motives for people to escape their countries of asylum. The right to leave one's own country, guaranteed in article 13 of the UDHR. Likewise, is intrinsically linked to the right to seek and enjoy asylum, as conceived exactly seventy-three years ago, established in article 14, and to the right to nationality (article 15) of the UDHR. Although the UDHR is not a legally binding instrument, and research has shown how offenses to human rights are correlated with economic, political, and social conditions, it still is an important starting point to evaluate the current European Union (EU) policies on migration control and refugee protection.

1.3. Human rights law and refugee law

According to the United Nations High Commissioner for Refugees (UNHCR), there are about 65.8 million people forcibly displaced worldwide - including 40 million internally displaced people, 25.4 million refugees, and 3.1 million asylum seekers

(UNHCR, 2018). But forcibly displaced people are not a consequence of modern times. Although fleeing from conflict and persecution is connected to any type of warfare, the first time the world was confronted with the existence of refugees, in a modern sense of the concept, was during and after World War II, between October 1939 and the end of 1947. During that period, millions of people fled or were expelled from their homes due to the dreadful consequences of the war (e.g., cruelty, persecution, torture, violence against civilians, and so on) (Reinalda, 2009). Due to escape, evacuation, relocation, and forced labor, the number of unprotected people traveling to less insecure, less risky, and less frightening places reached 46 million in central and eastern Europe. More than 7 million Germans, 2 million French, 1.6 million Poles, 700.000 Italians, 300.000 Czechs, Dutch or Belgians, and countless other nationalities have passed through various refugee camps. This was not the first time that wars led to this consequence of involuntary displacement and movement of people (e.g., Service, 2012 & de Zayas, 2010; Reinalda, 2009). However, this was the first time that the tragic consequences and the humanitarian catastrophe of war led to the creation of a specific organization, the Administration for Assistance and Rehabilitation of the United Nations (UNRRA), in 1943. Later, in 1946, The International Organization of Refugees (IRO) was created and worked mainly in Germany and Austria.

Grounded in article 14 of the UDHR, which recognizes the right of persons to seek asylum in other countries from persecution, the European Convention on Human Rights (ECHR) was created in 1950 and formalized the protection to which displaced foreigners would be entitled as a result of their persecution. This is considered to be the core of the international refugee protection law (Reinalda, 2009; Hathaway, 2005). In the same year, the UN General Assembly (UNGA) convened in Geneva and adopted the Convention Relating to the Status of Refugees⁴ which established the basic principles for the treatment of refugees (Edwards, 2005). The 1951 Convention entered into force on 22 April 1954, however, its scope was limited to events that occurred before 1 January 1951. Although there has been no global war since that date, new conflicts have broken out all over the world, generating massive displacements of people. Therefore, it became imperative to extend the 1951 Convention's guarantees to subsequent events (Hathaway, 2005; Bhabha, 2002). To that end, the 1951 Convention suffered one amendment (the only one until now), its 1967 Protocol, which removed the geographic and temporal limits

⁴ Hereinafter referred to as The 1951 Convention.

of the 1951 Convention, extending it to universal coverage of all refugees, regardless of the date of events that caused their forced displacement. Although related to the 1951 Convention, its 1967 Protocol is an independent instrument that can be recognized by states parties that did not adopt the 1951 Convention (Edwards, 2005; Hathaway, 2005; Bhabha, 2002).

There is a specific role that the High Commissioner for Refugees (UNHCR) plays under the 1951 Convention and the 1962 Protocol. The appointment of a High Commissioner by the League of Nations in 1950 marked the first international coordination on refugee affairs. The UNHCR is an organ of the UN and, according to its statute, it has the responsibility to promote international instruments for the protection of refugees and to supervise its implementation. The UNHCR, during its mandate, has the obligation to protect refugees and seek durable solutions to their problems (Gorlick, 2000; Clark & Crépeau, 1999). The main durable solutions are voluntary repatriation, local integration, and resettlement in a third country. The UNHCR also has an important role in promoting and ensuring state compliance with the 1951 Convention and in allowing them to provide adequate protection for refugees on their territory (Edwards, 2005; Hathaway, 2005; Bhabha, 2002). Nowadays, civil society organizations and non-governmental organizations have become profoundly involved in refugee matters but the UNHCR continues to take a vital part in the protection of refugees (Landman, 2005a).

The emergence of modern refugee law overlapped with the generalization of migratory controls during the inter-World War II period. Indeed, the identification of foreigners who deserve protection is the central normative point of their freedom of movement. Therefore, international refugee law is a concession to the migratory control standard and as such, the former legitimizes the latter within self-referential reasoning (Hathaway, 2005). As opposed to refugee status, which depends on the identification of a predetermined category of protected persons, human rights are applicable to all because of the inherent dignity of every human being (Edwards, 2005; Hathaway, 2005; Bhabha, 2002; Gorlick, 2000; Clark & Crépeau, 1999). The impact of human rights law on the refugee definition can be observed in three main vectors: (1) the 1951 Convention, article 1 must be applied and interpreted within the normative context in vigor at the time of its interpretation, including, consequently, the human rights treaty; (2) the harmonization of unilateral, and often divergent interpretations of states parties of the refugee law, is often achieved through human rights law, which offers a universal and constant set of canons that embody a particular operation; and (3) given the typical subjectivity of countless

crucial concepts of the refugee definition, human rights principles offer a foreseeable and neutral normative structure for determining who is a refugee (Gil-Bazo, 2008; Goodwin-Gill & McAdam, 2007; Goodwin-Gill, 2009).

The first paragraph of the preamble to the 1951 Convention states that: “(...) the Charter of the United Nations and the Universal Declaration of Human Rights (...) have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination.” This demonstrates that the 1951 Convention’s definition of a refugee was inspired by human rights law (Gil-Bazo, 2008). Nonetheless, the extension of human rights to the international refugee law is not limited to the concept of “persecution”: such rights have also shaped many other particular features of the refugee concept. Hence, the concept of “refugee” should be understood as manifested and expressed in the broader and wider framework of human rights law, particularly in the UDHR and in the International Covenant on Civil and Political Rights (OHCHR) (1966) (Goodwin-Gill & McAdam, 2007). The foundations of “persecution” that better demonstrate the affiliation between human rights and the 1951 Convention is freedom of thought and expression of religion and political opinion, and the principle of non-discrimination due to race, nationality, and social groups (Gil-Bazo, 2008; Goodwin-Gill, 2009).

In terms of the aspirations and ambitions behind the UDHR, the legal concept of *Drittwirkung*, developed in the German courts in the 1950s, was game-changing regarding its internal restructuration to indulge in a more inclusive approach. *Drittwirkung* establishes that an individual author can rely on a national declaration of rights to prosecute another individual or the government for the violation of those rights. In the context of the Court of Justice of the European Union (CJEU)⁵ (1952) and the 1951 Convention, the corollary of this concept is that, through judicial or law enforcement methods, a government can be held liable for not preventing the violation of the human rights of one person by another person or by a private non-state actor (Cherednychenko, 2007; Gardbaum, 2003). Domestic courts and the EU Qualification Directive⁶ eventually recognized the existence of non-state actors of persecution (e.g., violent husband; groups

⁵ CJEU interprets EU law to make sure it is applied in the same way in all EU countries and settles legal disputes between national governments and EU institutions.

⁶ 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.

of neighbors; criminal gangs; non-official militias) and placed pressure on the most refractory states to change their previous practice (Brownlie & Goodwin-Gill, 2010).

On a more pessimistic view regarding how, in reality, the UDHR norms are being applied, Dembour (2015) analyzed the position and humanity of migrants, and the author concluded that the perspective of migrants as a subset of individuals who aren't afforded the same rights as nationals of a country has been disregarded. From a conceptual approach, Dembour (2015) researched the treatment of migrants in the European Court of Human Rights (ECtHR) by comparison with the treatment of the Inter-American Court of Human Rights (IACHR). For that, the author used inadmissibility decisions, dissenting judgments (which are largely ignored in legal commentary), and an examination of the history and case law of the Inter-American Court to criticize the "enduring and controversial character of the principles followed by Strasbourg" (Dembour, 2015, pp. 24). Dembour (2015, pp. 159) argued that "*(...) migrants are objects of states sovereignty rather than subjects of human rights.*", that is, that the human rights of migrants are secondary in Strasbourg. Likewise, the author contended that ECtHR's main objective is to ensure the protection of states, and consequently, it was not designed to accommodate the best interests of all future migrants.

In short, the extension of the human rights law to the refugee law was essential to a more common and forceful understanding of the definition of refugee, which has become more consistent and trustworthy due to the evolution of international law. As demonstrated above, the UDHR played a key role in defining who is a refugee, thereby preventing the 1951 Convention from becoming a mere legal anachronism and continues to influence its adaptation to the fluctuating realities of forced migration. As observed by Bhabha (2000, pp. 167) "*(...) from the outset, the refugee protection regime was intended to be restrictive and partial, a compromise between unfettered state sovereignty over the admission of aliens, and an open door for non-citizen victims of serious human rights violation.*" Following Bhabha's observation, it becomes fundamental to analyze more thoroughly the definition of refugee to understand and identify the persons in need of protection, and also to determine the extent of the international obligations assumed by state parties to the 1951 Convention.

2. An analysis of the refugee status, of asylum, and integration measures

As previously noted, the 1951 Convention consolidates the preceding international instruments about refugees and provides the broader codification of refugee rights at the

international level. Nowadays it is unquestionable that refugees in international law are worthy of a legal space aiming to protect and ensure that their rights are respected and fulfilled (Goodwin-Gill & McAdam, 2007). As a matter of fact, the granting of asylum to vulnerable people in need is part of a wider historical rule and is a crucial element of the UDHR. Adding to that, the 1951 Convention, its 1967 Protocol, and the UNHCR set forth particular rights of protection, freedoms, and a minimum standard of treatment for foreigners in asylum countries, such as freedom of movement; of religion; of association; the right to welfare; to gainful employment; administrative assistance from the asylum state, and rights pertaining to the property. Any state subscribing to the 1951 Convention, or its 1967 Protocol is obliged to cooperate with UNHCR, comply with its assigned duties, and respect the refugee's statute (Edwards, 2005). The states in which asylum is required, although not under the obligation to grant such asylum, are required not to send a person to a state where their life, security, and welfare might be in danger (Bhabha, 2002). Nonetheless, there seems to be an important differentiation regarding the ambitions and theoretical underpinnings of the 1951 Convention and its practicality, which will be explored in the following three points of analysis:

2.1. Refugee definition and its limitations

A refugee is a person or group of people who were forced to escape their countries of origin because they were victims of violence, torture or/and external pressures, due to ongoing wars, or for some political, religious, or social motive (Turnbull, 2010; Robinson, 2003). According to the 1951 Convention, article 1(2), a refugee is a person that “*(...) owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.*” The definition of a refugee has inherent discrimination that is reinforced by its own structure at three different levels of requirements: inclusion, exclusion, and cessation.

The criteria for inclusion in the category of refugee are based on four cumulative conditions: (1) a refugee must be located outside the country of origin and (2) unable or unwilling to enjoy the protection of the home country, (3) due to a well-founded fear of persecution, (4) based on five limiting grounds (race, religion, nationality, membership

of a specific social group, and political opinion). Accordingly, it is possible to conclude that the primary goal of the 1951 Convention is to offer an alternative source of protection when the state of origin fails to guarantee such protection towards its own citizens.

Likewise, the cumulative conditions imposed by article 1(A) (2) of the 1951 Convention demonstrate the selective nature of the refugee definition in that it does not cover all causes of forced migration. In fact, by demanding a ‘nexus’ condition, the 1951 Convention definition of a refugee is rather a restrictive one. “Well-founded fear” means that a person “(...) *has either been actually a victim of persecution or can show good reason why he fears persecution*” (UN Ad Hoc Committee on Statelessness and Related Problems, 1951, pp. 39). Although numerous definitional components of ‘persecution’ are decisively clear, the concept in itself is suffering from indeterminacy in some central points. Indeed, there are more than the five causes mentioned above that may lead to “fear of persecution”, but these five are the only ones that seem to be relevant for the 1951 Convention.

On the other hand, article 33 (1) of the 1951 Convention regarding “refoulement”⁷, ensures that the threats to life or freedom are readily included within the scope of the term “persecution”. But, to define “persecution” as including only threats to life and liberty is, again, to limit its scope of action. Lastly, the definition of a refugee is somewhat imprecise because it does not undoubtedly establish if the “persecution” must take place throughout the country or just in the part from which the person fled (Landman & Carvalho, 2010; Landman, 2006b). Consequently, both “well-founded fear” and “persecution”, which are central concepts for the refugee status definition, are not precise. This not only fragilizes the definition of refugee itself but also leaves it open for different interpretations from various states. According to Maiani (2010), there are risks to this situation, because the concept of refugee could be enlarged or reduced at will since states are free to redefine the scope of their duties as deemed most appropriate.

In terms of exclusion, even if a person duly fulfills all the conditions specified in article 1(A)(2), he or she may still be excluded from the 1951 Convention scope of protection because, legally, a person seeking refuge depends on the recognition of the pertinence of such request by expert authorities in the country of asylum. The 1951 Convention reserves the right not to apply refugee status to individuals suspected of

⁷ “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.”

committing “(...) *war crimes or crimes against humanity, serious non-political crimes, or who are guilty of acts contrary to the purposes and principles*”, even if they comply with all the inclusion criteria already referred to. The 1951 Convention also restricts its application to the cases of refugees who are already enjoying shelter or support of a UN agency other than UNHCR, or in the case of people who are benefiting from a status equivalent to the citizen status in asylum countries. Additionally, the refugee definition implicitly stresses that a person seeking asylum must prove to the local authorities and to the representatives of the UNHCR that he or she meets the necessary requirements of the refugee status, such as having their life in danger or security threatened by the government, or for any political reason.

Regarding cessation, the refugee status is conceived as temporary protection, which must end when the previously necessary protection is no longer justified. Thus, the dual nature of refugee status as substitute protection is reaffirmed by the cessation clauses listed in article 1 (C) of the 1951 Convention. These clauses are intended to provide legal interpretative guidance for governments, legal practitioners, decision-makers, and the judiciary, as well as UNHCR staff carrying out refugee status determination in the field.

In sum, the 1951 Convention offers a definition of refugee that separates refugee from other forms of migration: (1) the main driving forces of migration movements are strong and filled with constant insecurities that justify the involuntary act of abandoned houses, towns, and even countries in the search of lost safety; (2) people who are part of these involuntary movements must be protected and assisted internationally; and (3) the justification for providing assistance and aid is based on the governments’ belief that, once the reasons behind the request for asylum cease, these populations will return to their countries. This is a belief commonly shared also by the refugees themselves (Goodwin-Gill, 2009).

However, regardless of the 1951 Convention definition of the refugee status and the comprehensive and historic conceptualization of refugee movements, there is still a space of uncertainty and indefiniteness surrounding the term “refugee”. This is mainly due to the fact that states, international geopolitical administrations, and nongovernmental organizations (NGOs) have their own criteria to define such status (Kellenberger, 2009). Other issues arise when interpreting the meaning of refugee, including the need to take into account a broader category of people in need, especially on the grounds of forced displacement as a consequence of civil war and/or other forms of widespread violence. For example, there is a modern debate over whether or not to include, in the definition of

a refugee, people who have suffered the devastating impacts of climate change and who are, for that reason, forced to flee their countries of origin to survive (Fawzy et al., 2020: Scott, 2020: Martin, 2010).

2.2. Asylum seekers; economic migrants, stateless person, and internal displaced people

It is relevant to present neighboring definitions of a refugee as these often overlap with the true conceptual and legal meaning of refugee, both in civil society and in political discourse. In accordance with the UK Public General Act, the 1999 Immigration and Asylum Act, section 94(1), an asylum seeker is an individual who asked for asylum under the 1951 Convention but whose claim hasn't been evaluated by the legal authorities of the country in which the request was submitted. For this reason, an individual is an asylum seeker for as long as the application for asylum is pending. Furthermore, not every asylum seeker will be granted international protection and recognized as a refugee, but every refugee is initially an asylum seeker. In some cases, asylum seekers are transferred from the country in which refuge was sought to another state that has agreed to accept their asylum request, through a process called resettlement.

Resettlement is defined by UNHCR (2011, pp. 3) as “the selection and transfer of asylum seekers from a state in which they have sought protection to a third country that admits them – as refugees – with a permanent residence status”. Resettlement is a protection tool for those whose lives and liberty are at risk, a “durable solution” for asylum seekers refugees alongside local integration and voluntary repatriation, and an expression of solidarity with developing countries that host the majority of the world's refugees (Janmyr, 2018; 2017; 2016). In cases of resettlement, asylum or some other form of long-term resident rights will normally be granted (O'Donnell, 2008).

Because it is frequent confusion between the definitions of refugee and economic migrant, it is necessary to also clarify that an economic migrant is someone who leaves the country of origin purely for financial and/or economic reasons. Contrary to refugees who are forced to escape their countries of origin, economic migrants choose freely to move to find a better life and do not flee because of persecution (Papadopoulos et al., 2004). Therefore, an economic migrant does not fall within the criteria of the refugee status and is not entitled to receive international protection. Likewise, legally, it is also necessary to clarify that the definition of stateless people includes individuals who, under national laws, do not have the legal bond of nationality with any state.

The 1954 Convention relating to the Status of Stateless Persons, and the 1961 Convention on the Reduction of Statelessness, a United Nations multilateral treaties aimed at protecting stateless persons, provide valuable legal tools for stateless people protection: article 1 of the former indicates that a person who is not automatically considered a national (or citizen) under the laws of any state, is stateless; and regarding the later, UNHCR is the designated body from which individuals may seek assistance to present their claims to the competent authorities. UNHCR also has a global mandate for the identification, prevention and reduction of statelessness and for the protection of stateless persons (Papadopoulos et al., 2004).

Similar to refugees, internally displaced people (IDP) are also forced to flee their home, but contrary to refugees, remain in their country of origin and do not cross an international border (Kälin, 2008; Mooney, 2005). According to the Guiding Principles on Internal Displacement, (UNHCR, 1998, pp. 3) IDPs are “persons or group of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of, or to avoid the effect of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border”. This definition is considered to be a descriptive one, in the sense that it does not confer special legal status.

Hence, IDPs are not protected by international law and are not eligible to receive international assistance and support (Kälin, 2008). This is due to the fact that IDPs continue to be eligible for all the rights guaranteed to national citizens and other usual residents of their countries of origin. However, according to the UNHCR (2016), the number of IDPs has enlarged considerably in the recent decades, as a consequence of civil and international wars. National authorities have the primary responsibility to prevent forced displacement and to protect IDPs (Mooney, 2005). Recently, IDPs can also be induced by development, that is, IDPs can also move to places within the origin country in search of more developed and better-off areas (Kälin, 2008; Mooney, 2005).

2.3. The rights of non-discrimination, non-penalization and non-refoulement

The principle of nondiscrimination, non-penalization, and non-refoulement forms essential protections under international human rights, refugee, humanitarian, and customary law. The principle of non-discrimination is referenced in UDHR, article 2, and encompasses the right to not be discriminated against. It guarantees the equality of human beings, including refugees, and prohibits any form of discrimination against people based

on any grounds (Dowd, 2011; Goodwin-Gill, 2011). The context of the mentioned article is treasured in the 1951 Convention, article 3, which proclaims that the state-parties must care for the rights of refugees without discriminating “(...) *race, religion or country of origin (...) sex, age, disability, sexuality, or other prohibited grounds of discrimination.*”

One of the three instruments that constitute the UDHR, The International Covenant on Civil and Political Rights (ICCPR) (1966), article 26, also guarantees the right of non-discrimination. The concept of ‘discrimination’ has several meanings and uses in refugee law, and identifying the additional evidence required for formal inequality or substantive inequality is central to any of these definitions (Goodwin-Gill, 2011; 2003). States’ efforts to prevent refugees’ discrimination is the first step to also safeguard other rights, such as the right to enjoy family life, freedom of movement, religion, paid employment, access to goods. In addition, refugees must also enjoy the right to access courts and justice in all matters, a right that is naturally guaranteed if the right of non-discrimination is respected (Dowd, 2011).

The 1951 Convention, article 31, sets forth the right of non-penalization which ensures that refugees who enter or are living in a country without authorization, who come directly from a territory where their lives are in danger or their freedom is being threatened, is presumed to be protected from penalization. For that right to be guaranteed, it is fundamental that refugees present themselves to the authorities right upon their entrance and explain the motive for their presence in a different state (Türk & Nicholson, 2003). Subject to particular concessions, the right of non-penalization, article 31 (1), ensures that “*the contracting states shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened (...) enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.*” Although the intention was not to deny protection to refugees in equivalent situations but rather to benefit refugees who present themselves “without delay and shows good cause”, the use of the words “come directly” and show “good cause” can cause controversy. At the same time, this definition can have a more limited scope by incorporating references to refugees “(...) *coming directly from a territory where their life or freedom was threatened.*” (Goodwin-Gill, 2003).

Even though the 1951 Convention recognizes that asylum-seeking is often linked to violations of immigration standards, it contains a number of guarantees against the expulsion of refugees in its article 31 (2), which also reinforces the prohibition of certain

penalties such as *“restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country.”* Goodwin-Gill & McAdam (2007) draw attention to the fact that the use of the word “directly” may raise some questions, because often, to reach the countries where they wish to seek asylum and settle down, refugees may need to cross other countries. There are also cases in which this right is violated and, due to the possession of false documents, asylum seekers are penalized. Authors (e.g., Patané et al., 2020; Vezovnik, 2018; Berry, et al., 2015; Hammerstad & Boas, 2015; Watson, 2009; Hansen, 2006; Goodwin-Gill, 2003; Huysmans, 2000) also reported that, in many cases, these matters culminated in the arrestment of asylum seekers across North America and Europe.

Similarly to other customary international law and international treaties, the 1951 Convention, article 33(1) also guarantees the rights of non-refoulement, that is, the right of any person to seek and enjoy asylum from persecution in foreign countries without states being able to *“give back (...) or return (“refouler”) a refugee (...) in any manner whatsoever to the frontier of the territories where his life or freedom will be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”* (Goodwin-Gill, 2011; Goodwin-Gill & McAdam, 2007). Because non-refoulement is part of customary international law, this right becomes mandatory for states that have adopted such treaties and that must, therefore, uphold it. The 1951 Convention itself (pp.3) *“(...) lays down basic minimum standards for the treatment of refugees (...).”* These standards included rights such as *“(...) to the courts, to primary education, to work, and the provision for documentation, including a refugee travel document in passport form.”*

Nonetheless, no state is obliged to grant entry to individuals seeking asylum, this is a decision that should be left to the consideration of the state parties, depending on the admissibility conditions of the claim. For example, if there are “reasonable grounds” for considering the individual in search of refuge as a threat to the security of the asylum country, that individual is not allowed to benefit from non-refoulement. Or in other cases, as pointed in article 33 (2), if a refugee has been *“(...) convicted of a final judgment of a particularly serious crime, constitutes a danger to the security of the country of asylum”*, a state can refuse the claim for refuge (Goodwin-Gill, 2011). But if a state grants asylum to a certain person, it is the UNHCR’s obligation to protect refugees’ rights and to guarantee that states are in compliance with the treaties signed in this regard. Some of the

EU countries have been in breach of these principles through the establishment of bilateral agreements for technical and police cooperation that provide the legal foundation for the forced return of intercepted refugees to countries of embarkation (Aliverti, 2020; Poon, 2020; ECTHR, 2017; Arenilla, 2015; Dembour, 2015).

An example is Italy's pushbacks to Libya. According to Giuffré (2012), although pushbacks do not have a clear legal basis, the agreements between Italy and Libya constitute a fundamental component of the multifaceted legal and political framework underpinning Italy's practice of interdiction and return. Giuffré (2012) considers Italy's possible liability for aiding and assisting Libya, in a range of forms, in the unlawful containment of irregular migration by sea and the resulting refoulement of intercepted refugees. By commending a non-EU third country with the authority and legal competence for the nautical operations, bilateral agreements for migration control may distance the responsibility (for international unlawful acts) of the subcontracting state, and migrants and refugees are unconventionally stopped by the third country in international waters, or in its coastal waters, before their arrival at the EU's borders (Parliamentary Assembly, 2019; Barnes, 2004).

2.4. Reception and integration guidelines and practices for refugees

The most recent wave of asylum seekers and refugees comes from countries such as Syria (6.3 million), Afghanistan (2.6 million), and South Sudan (2.4 million) (UNHCR, 2018). Although many of these people are enjoying the states' protection that they are entitled to under the 1951 Convention, the truth is that millions have not been provided with the necessary help, protection, and security. Indeed, these people are often at the mercy of resettlement states, which, as the scientific literature will showcase next, are often repressive states in relation to unwanted or undesired clusters of migrants, such as asylum seekers and refugees (Griswold et al., 2021; MacFarlane, Huschke & Pottie, 2020).

Through the process of resettlement, refugees are able to find new hope and an opportunity to rebuild their lives, in an unfamiliar state (Garnier, 2014). The process of resettlement involves not only the relocation of refugees to a third state but also a process of being received and integrated within a new society, with the contribution of joint work of Governments, NGOs, volunteers, the local population, and the refugees themselves (UNHCR, 2013). Therefore, refugee resettlement is a partnership activity: UNHCR identifies refugees in need and submits their cases and the states have the final word of

accepting or rejecting to voluntarily admit refugees and support. *“Resettlement involves the selection and transfer of refugees from a state in which they have sought protection to a third state which has agreed to admit them – as refugees – with permanent residence status. The status provided ensures protection against refoulement and provides a resettled refugee and his/her family or dependents with access to rights similar to those enjoyed by nationals. Resettlement also carries with it the opportunity to eventually become a naturalized citizen of the resettlement country.”* (UNHCR, 2011, pp. 3).

The EU is founded on fundamental values, including democracy, the rule of law, and respect for fundamental rights. Likewise, the Charter of Fundamental Rights of the European Union (CFR) (2000) enshrines many rights of crucial importance to the process of integrating refugees, including freedoms of expression and religion, as well as rights to equality and non-discrimination. Therefore, understanding and endorsing these principles are essential elements in the reception and integration process of refugees, who must be simultaneous, protected and included in the local societies of the countries that accept their international protection requests.

In terms of practical measures, during the pre-departure arrangements, refugees must be provided with orientation brochures or courses to inform refugees about the host country, as well as the orientation of the receiving community stakeholders and transmission of relevant case details to service providers. During the initial reception, refugees must be picked-up from airports and provided with documentation, food, initial housing, required clothing, and urgent health care (Griswold et al., 2021; MacFarlane, Huschke & Pottie, 2020). In terms of interpretation/translation, during the reception, refugees must be able to attend orientation sessions and appointments with service providers (UNHCR, 2011).

Regarding bureaucratic measures, resettling refugees involves advance planning, preparation, and fundamental structures and processes that must be in place before a state is ready to receive refugees, such as legislation and policy instruments to ensure a secure legal status and the allocation of rights, a secure status, and access to naturalization. Although permanent residence on arrival is the final objective, the idea is that resettled refugees will, at a minimum, be given a status and rights on arrival that are correspondent to refugee status, in harmony with the valid domestic legislation. The status provided must offer long-term security including the possibility of acquiring citizenship and must not restrict access to certain rights. States are encouraged to take crucial steps to keep the

unity of the family and ensure that financial and administrative barriers do not obstruct family reintegration (UNESCO, 2016; ICRIRR, 2002).

Stakeholder consultation and collaboration from various levels of government and civil society is essential, which means that a commitment to resettlement must take into account that resettled refugees have to be able to access basic services in their new communities, as well as specialized services (McAllum, 2020). Therefore, a central stakeholder must encompass: the central government body responsible for refugee and integration policies; the ministries and departments responsible for mainstream services, including education, health, labor, and social security; and the regional and local authorities of towns and communities to which refugees will be resettled. It must also cover the providers of specialized reception and integration services to be offered to resettled refugees; the providers of mainstream services in the destination communities; and, in some contexts, civil society representatives, including members of the ethnic and/or linguistic group being resettled (Yıldız, & Sert, 2019).

The tasks assigned to stakeholders are to gather prospective volunteers and to create integration programs providing required supports and access to essential services. Stakeholders should ensure that sound coordinating infrastructures and processes are put in place and that cooperative relationships are adopted between players (Williamns & Phillmann, 2011; Yohani & Hagen, 2010). A resettlement state must be dedicated to providing the basic means to receive refugees, but also needs to make adaptations and improvements over time, to guarantee that these types of programs are maintainable, receptive, and supportive (UNESCO, 2016).

However, integration is a dynamic two-way process that places a demand on both the refugee and the receiving community: *“integration is a mutual, dynamic, multifaceted and ongoing process. From a refugee perspective, integration requires a preparedness to adapt to the lifestyle of the host society without having to lose one’s own cultural identity. From the point of view of the host society, it requires a willingness for communities to be welcoming and responsive to refugees and for public institutions to meet the needs of a diverse population.”* (ICRIRR, 2002, pp. 12-13). Therefore, integrating refugees goes beyond guaranteeing that refugees are provided with basic needs and access to services.

The host states and civil society are required to create a welcoming environment which supports refugees to achieve long-term economic stability and adjust to the new society, which encompasses nurturing a sense of belonging and inspiring involvement in

the new communities (UNESCO, 2016). According to the European Parliament's Action Plan on the integration of third-country nationals (2016), the dynamic two-way process of integration means that refugees need to embrace EU fundamental values and learn the host language, but also that states need to make available meaningful opportunities for refugees to participate in the economy and society of the member-state where the resettlement occurred.

Hence, dynamic integration programs that enable refugees and their families to enjoy equality of rights and opportunities in the social, economic and cultural life of the country, must focus on seven levels: (1) Active participation from the host country, through orientation to the community including location of basic services, transportation, etc; (2) Housing and living conditions such as safety, affordability, accessibility, access to public transport, and proximity to services, employment, interpreters, and ethnic support networks; (3) Education and Training; (4) Labor market integration measures and access to vocational training; (5) Access to basic services to cover food, clothing, transportation, furniture, household supplies and health services such as screening, vaccinations, preventative care; (6) Psychological support; and (7) Social support that must cover counseling, mediation, and referral to relevant agencies, family reunification and legal support, advocacy and community outreach, and transition to mainstream services Griswold et al., 2021; MacFarlane, Huschke & Pottie, 2020; McAllum, 2020; Yıldız, & Sert, 2019; Williamns & Phillmann, 2011; Yohani & Hagen, 2010).

This means that developing effective integration policies for refugees requires long-term investment in effective and fair integration measures. Such measures require sufficient political, social and financial investment to be beneficial to all communities. According to the European Parliament's Action Plan on the integration of third-country nationals (2016, ppp.4), *"experience shows that integration policies work best when they are designed to ensure coherent systems that facilitate participation and empowerment for everyone in society – third-country nationals and the communities into which they settle."*

Accordingly, integration is most effective when it is integrated into various areas of European societies and not only be integrated into the labor market and in learning the language of the host country. To create a genuine sense of belonging, to feel fully rooted in the host society, and to build socio-economically prosperous societies, it is necessary for refugees to be authorized to, and to actively contribute to the political, cultural, and

social life of a state and not to be marginalized or stigmatize (Griswold et al., 2021; MacFarlane, Huschke & Pottie, 2020; McAllum, 2020; Yıldız, & Sert, 2019).

Although the flight of people from their countries of origin is a historical and continuous phenomenon, and despite the cooperation and support of the European community in helping these people, there are still, in reality, major challenges in the assistance to refugees. When resettled in an asylum country, refugees have been subjected to intimidation and violent attacks due to preconceived notions among national citizens of those countries that refugees are dangerous, different, and strange (UN, 2020; Aliverti, 2020; Parliamentary Assembly, 2019; Barnes, 2004; Hathaway & Neve, 1997). Adding to this, local citizens frequently see the entry of refugees into their countries as competition for natural and economic resources, such as jobs, mistaking them for economic migrants. Such situations often result in tension between refugees and the local population (Akar & Erdoğan, 2019; Jastram & Achiron, 2001).

Forced migration, the displacement or involuntary movement of people, or any other designation should only be understood as people having the right to move to another state as a result of home insecurity, danger, and violence, that results in the total disrespect and violation of their human rights (Kirisci, 1992). In this sense, it is the obligation of all communities and countries around the world that ratified the 1951 Convention to welcome terrified and exhausted victims of persecution, war, punishment, torture, and oppression (Jastram & Achiron, 2001). The connection here to the principles of non-discrimination, non-penalization, and non-refoulment, which covers the breadth of regional and international law including human rights law, is unavoidable (Gillard, 2008). According to Droege (2008), non-respect for these principles may result in the risk of arbitrary life deprivation, specifically through actions such as not guaranteeing a fair trial, and the imposition of the death penalty.

3. Portugal and the right to seek asylum

Law no. 27/2008, as amended by Law no. 26/2014, establishes the conditions and procedures for granting asylum or subsidiary protection and the statutes of asylum seekers, refugees and subsidiary protection, transposing to the internal legal order the following European Union community directives: a. Directive 2004/83/EC laying down minimum standards regarding the conditions to be fulfilled by third-country nationals or stateless persons in order to qualify for refugee status or as a person who, for other reasons, needs international protection, as well as concerning the their status and the

content of the protection granted; b. Directive No. 2005/85/EC, concerning minimum standards applicable to the procedure for granting and losing refugee status; c. Directive No. 2008/115/EC, that establishes common EU standards on forced return and voluntary departure, d. Directive 2011/95/EU, which lays down rules on the conditions to be fulfilled by third-country nationals or stateless persons in order to benefit from international protection, a uniform status for refugees or persons eligible for subsidiary protection and the content of protection granted; e. Directive No. 2013/32/EU, on common procedures for granting and withdrawing international protection status; and f. Directive No. 2013/33/EU, which lays down rules on the reception of applicants for international protection.

The Resolution of the Council of Ministers of Portugal, No. 103/2020, established a single system for the reception and integration of applicants and beneficiaries of International protection. Decree-law 26/2021 created the National Urgent and Temporary Housing Scholarship. This National Housing Plan covers, among others, the following risk situations and/or social emergencies: unscheduled migratory flows; persons who are victims of human trafficking; persons under international protection, within the scope of the competences of the entities that make up the restricted formation of the Single Operating Group, under the terms established by the Resolution of the Council of Ministers no. when temporary and indispensable to the public interest. Ordinance No. 120/2021 defines the operating and management model of the National Urgent and Temporary Housing Exchange, created under Decree-Law No. 26/2021. Order No. 47/2022 delegated powers to the Secretary of State for Internal Administration, within the scope of administrative procedures within the scope of the legal regime of international protection provided for by law.

Portugal is best known as an emigration country rather than an immigration country. Nonetheless, immigration in Portugal has particular features that merit some attention, before going on to describe the Portuguese asylum system. Until the mid-1990s, most immigrants came from the former Portuguese African colonies and to a lesser extent from Brazil (Pires, 2019). In the late 1990s and early 2000s, a new wave of labor migration came first from Eastern and South-Eastern Europe, followed by a more recent wave from Brazil (Pires, 2019). The analysis of the evolution of the foreign population in Portugal implies the consideration of several aspects, particularly the Portuguese economic and social contexts and the countries of origin of migrants, as well as the legislative evolution,

historical and cultural relations between countries, and the impacts of the operationalization of immigration policies.

Among these, it is important to highlight the economic context, namely the observable relationship between the real gross domestic product (GDP) growth rate and the evolution of the resident foreign population (Pires, 2019). Indeed, the effects of the favorable economic environment seen in recent years, particularly the growth in employment, have boosted the growth of the resident foreign population in the period between 2015 and 2020 (a growth of more than 273,364 foreign people) (INE, 2020; SEF, 2020).

Historically, the most common reasons for people from other countries to decide to move to Portugal have been work-related and family related. Between 2008 and 2014, even before the so-called European refugee crisis that started at the end of 2014, Portugal granted international protection to less than 600 individuals. According to the Law no. 27/2008, as amended by Law no. 26/2014, the request for protection must be submitted by a foreigner or stateless person who wishes to benefit from refugee or subsidiary protection status and who does not expressly request another form of protection that could be subject to a separate application. This means that the inflows of asylum seekers for Portugal represent less than 1% of permanent migration inflows over that period (SEF, 2020).

Until 2015, requests for international protection to Portugal were essentially made in national territory, through spontaneous asylum-seeking requests, or, occasionally, through the resettlement mechanism that had been operating since 2006 (with an annual quota of 30 people). However, between 2015 and 2019, international protection in Portugal was reframed by European protection mechanisms. During this period, asylum requests could be submitted via: (1) the relocation mechanism⁸; (2) the EU/Turkey Agreement assumed as a form of resettlement⁹; and (3) the 2018-2019 resettlement mechanism¹⁰. Since July 2018, Portugal has carried out the (4) ad hoc relocation of humanitarian ships from Italy and Malta, which does not comprise political commitments between member-states (CPR, 2019; PAR, 2019).

⁸ In force between December 2015 and April 2018. Portugal was commitment to receive 2,951 asylum seekers and relocated a total of 1,550, which comprised 52.5% of the quota it had committed to.

⁹ June 2016 to December 2017. Portugal committed to resettle 200 people and received 142 refugees, or 71% of the quota.

¹⁰ Portugal committed to resettle 1,010 people from Turkey and Egypt, and, by the end of 2019, it had received 409, i.e., 40.5% of the quota.

Because resettlement is an international protection scheme in which people arrive from Turkey or Egypt already with the refugee status recognized by UNHCR, the arrivals of people under the European resettlement schemes are not counted in the annual number of requests for international protection on national territory. On the other hand, from 2018 on, people who arrived in Portugal under the relocation mechanism,¹¹ formalized their international protection application in national territory to the Portuguese Immigration and Border Service (Serviço de Estrangeiros e Fronteiras, SEF), so its annual number of arrivals is integrated in the global numbers of international protection requests (SEF, 2020; ACM, 2019; JRS, 2019; CPR, 2019; PAR, 2019).

In Portugal, all migrants, regardless of their category of migration, benefit from a range of integration services offered by the High Commission for Migration (Alto Comissário para os refugiados, ACM). The National Migrant Support Centers (CNAIM) are illustrative of the on-demand approach incorporated by the ACM. The centers for integration services operate in three different locations in the national territory: Lisbon, Porto, and Faro. Migrants go to the centers to meet, for example, with representatives of the Ministry of Education, the Ministry of Health, the Immigration and Borders Service, or the Labor Inspectorate, according to their individual needs. Additionally, the ACM developed integration measures in different areas, which are available to all migrants. A good example is the Portuguese language program (Português para Todos, PPT) offered by the ACM and the Portuguese Institute for Employment and Professional Training (IEFP). Other measures include a telephone translation line and programs to support employment and self-employment.

Although asylum seekers and refugees can use these services, they are not their primary target population, due to the small numbers of humanitarian migrants in the country until 2016. Given the growing number of asylum seekers and refugees who have entered Portugal since 2016, ACM made some changes to the services provided to adapt them to the needs of this population. Parallel to the integration services, there is a particular integration system for asylum seekers and refugees. Since Portugal's participation in the EU schemes in 2015, this integration system has been composed of two parallel reception and integration systems: the already existing system for spontaneous asylum seekers and a new system for asylum seekers under the EU programs

¹¹ From Italy and Greece until April 2018, and from Italy and Malta since July 2018.

of relocation and resettlement (SEF, 2020; ACM, 2019; JRS, 2019; CPR, 2019; PAR, 2019).

3.1. The asylum-seeking process in Portugal

The Asylum and Refugee Office (Gabinete de Asilo e Refugiados) is responsible for processing all requests of asylum seekers for international protection. In the case of asylum seekers arriving through the EU relocation and resettlement programmes¹², they also need to file a request for international protection when they arrive in Portugal, but their reception conditions vary from the ones offered to spontaneous asylum seekers, as it will be showcased in section 3.2. According to Law no. 27/2008, as amended by Law no. 26/2014, beneficiary of international protection is a person who has been granted refugee status or subsidiary protection status. Currently, this office is still part of the SEF¹³, which operates under the Ministry of Internal Affairs (Ministério dos Assuntos Internacionais). According to article 13 of Law no. 27/2008, upon their arrival in Portugal, asylum seekers must file a request with SEF. If the applicant filed the request at the border, SEF has seven days to decide whether the application is admissible; if the applicant filed the request already in national territory, SEF has 30 days to make a decision.

Article 11 of Law no. 27/2008 referring to the right to remain in the national territory, establishes that (1) applicants for international protection are authorized to remain in the national territory until the decision on the admissibility of the application is made; (2) this right of stay does not entitle the applicant to issue a residence permit. If the request is deemed admissible, the asylum seeker receives a temporary residence permit (Autorização de Residência Provisória, ARP) valid for 6 months, which is the time it is normally expected for SEF to reach a decision on the individual's request. The ARP is renewable until SEF reaches a final decision, and if positive, this decision means the attribution of the residence permit, which is the authorization issued by the Portuguese authorities under the legal terms that allows a foreigner or a stateless person to reside in the national territory (Law no. 27/2008, article 2, nº1(a)).

Law no. 27/2008, article 2, no. 1 (b) also establishes as a beneficiary of international protection, a person who has been granted refugee status or subsidiary protection status.

¹² From now on referred to as the EU schemes.

¹³ This office is now extinct and matters relating to refugee support will soon be in charge of a new entity – the Portuguese Agency for Migration and Asylum (APMA). The new law is expected to take effect in May 2022.

Beneficiaries of international protection may be granted the refugee status (article 2, no. 1 (j)), which means the recognition, by the competent Portuguese authorities, of a foreigner or a stateless person as a refugee who, in that capacity, is authorized to remain in the national territory (lasting for 5 years); the subsidiary protection statute, which means the recognition, by the competent Portuguese authorities, of a foreigner or a stateless person as an eligible person for granting a residence permit for subsidiary protection (article 2, no. 1 (j)) (lasting for 3 years), or the denial of international protection. (SEF, 2020; ACM, 2019; JRS, 2019; CPR, 2019; PAR, 2019).

The responsibility for the reception conditions offered to spontaneous asylum seekers lies in different ministries and public institutes at different stages of the asylum procedure. Once asylum seekers have filed an asylum request, they are initially supported by CPR. The CPR is an NGO that represents the UNHCR in Portugal. SEF notifies the CPR of all new incoming asylum claims. The main role of the CPR is to provide legal counseling to asylum seekers throughout the asylum procedure. Furthermore, the CPR hosts spontaneous asylum seekers in its reception center, CAR (Centro de Acolhimento para Refugiados), and provides them with a monthly living allowance (150€ per person and 50-75€ per child depending on the child's age). CPR also provides basic support for asylum seekers such as housing, second-hand clothes, and food with the support of the NGO Food Bank (Banco de Ajuda Alimentar). It also offers early integration support, such as Portuguese language training, workshops to prepare for the Portuguese labor market, as well as art workshops and cultural events.

While asylum seekers wait for the decision of their asylum request, their integration follow up is the responsibility of the SCML when they are located in the Lisbon area, or of the ISS, through their local offices, when candidates are located outside of the Lisbon area. The SCML and the ISS provide asylum seekers with a monthly allowance and redirect them to the necessary services (for example, health, schooling, or housing). The financial support provided by ISS is higher than that provided by the CPR (269€ for the household head, 202€ per additional adult, 75€ per child), however it is meant to cover all expenses, including housing. If the asylum seekers are still living in a Portuguese host institution, the financial support provided by the ISS is of 64€ per month. The different members of the steering committee contribute to the integration plan for each asylum seeker. In particular, the IEFPP supports job search or training for each individual case. Once asylum seekers are granted international protection and become refugees, they stop benefiting from this specific support of the ISS or the SCML. However, they become

eligible for the same benefits of social assistance as any other Portuguese citizen, given the ISS provides such benefits (SEF, 2020; ACM, 2019; JRS, 2019; CPR, 2019; PAR, 2019).

In relation to the reception conditions offered to asylum seekers arriving through the EU relocation and resettlement programmes, the EU Asylum, Migration and Integration Fund (AMIF) is responsible for initially enabling member-states to receive 4000€ per resettled person falling into four specific geographical and/or vulnerability categories. An amendment to this provision was introduced in March 2012, establishing differential fixed amounts per resettled person based on member states' previous access to this funding stream. AMIF maintains the general (non-lump sum) funding for member-state resettlement activities implemented in the context of AMIF national programmes, including under the fund's first Specific Objective (the 'asylum priority') as National Objective 3 (Resettlement). In addition to funding for resettlement and humanitarian admission under the asylum priority of AMIF national programmes, the AMIF also continues the provision for member-states of fixed financial amounts per person resettled, through lump sums. The AMIF makes clear that these amounts are financial incentives, designed to encourage member-states to engage in resettlement and to address common EU resettlement priorities when doing so.

Member-states are eligible to receive a basic lump sum of 6000€ per resettled person, increasing to €10000 when the resettled person falls into one of the categories included under the common union resettlement priorities and/or vulnerable groups outlined in the fund's legal base. Member-states may where appropriate, also be eligible to receive financial incentive payments for family members of resettled persons who are themselves resettled in accordance with the AMIF, although the amounts applicable to these persons are not clarified. Payments of AMIF financial incentives for resettlement are made using the fund's 'lump sum' modality. Lump sums are one of several simplified cost options that member-states can use to structure budgets for AMIF actions and reimburse eligible expenditures to the fund's beneficiaries (ACM, 2019; JRS, 2019; PAR, 2019).

Per each relocated person, an intra-EU process, member states receive 6000 €. They may also, when appropriate, receive the lump sum amount for family members of transferred persons. Financial incentives for the transfer of beneficiaries of international protection are allocated to AMIF national programs via individual financing decisions, and then 'later' via subsequent financing decisions annexed to these programs (annexes I

and II of that decision). This also allowed Greece and Italy to receive a lump sum payment of 500€ per person leaving their territory, to cover the actual costs necessary to transfer an applicant to the Member State of relocation (Westerby, 2019).

In Portugal, the implementation of the reception conditions offered to asylum seekers under the EU schemes are the responsibility of the Working Group for the European Agenda on Migration, designed in 2015 by the inter-department, and composed of representatives of the Ministry for Foreign Affairs; the SEF; the ISS; the IEF; the Ministry of Health; the Ministry of Education; and the ACM. Upon arrival in Portugal, asylum seekers under the EU schemes are then immediately referred to a hosting entity, which will be in charge of their reception and integration for 18 months. While all hosting entities commit to supporting asylum seekers for 18 months, those belonging to PAR may choose to provide support for 24 months. Hosting entities are the key actors in this integration framework, and they usually are municipalities, parishes, foundations, and NGOs among others.

Recent data, from 2019, shows that more than one-third of asylum seekers under the EU relocation and resettlement programs are hosted by institutions that are members of PAR; almost one quarter by the CPRM 17% by municipalities throughout the country; and 17% by two major Portuguese NGOs: União das Misericórdias Portuguesas (UMP) and the Portuguese Red Cross (Cruz Vermelha de Portugal, CVP). Hosting entities of the PAR are largely foundations and associations (30%), parishes (29%), religious associations (18%), as well as municipalities, congregations, and schools (SEF, 2020; ACM, 2019; JRS, 2019; CPR, 2019; PAR, 2019).

Hosting entities are key actors responsible for the asylum seeker's integration in five dimensions: housing, health, language training, education, and work. Hosting entities provide for housing and utilities, as well as financial support. The financial support for asylum seekers under the EU relocation and resettlement programs is, however, similar to that of spontaneous asylum seekers while being supported by the CPR (150€ for the household head, 107.5€ per additional adult, 75€ per child). The match between the asylum seeker and the hosting entity is done by the ACM, through its Support Unit for the Integration of Refugees (Núcleo de Apoio à Integração de Refugiados, NAIR). In principle, the match takes into account the background of the asylum seekers in terms of whether they previously lived in an urban or rural area, as well as their education and previous occupation to find the most suitable hosting entity. However, in practice, the

match is done based on the often-incomplete migrant profiles sent to the authorities before arrival (SEF, 2020; ACM, 2019; JRS, 2019; CPR, 2019; PAR, 2019).

When any kind of asylum seeker receives the ARP, a steering committee led by the Institute of Social Security (Instituto da Segurança Social, ISS) meets to devise a tailored integration plan. The other members of the committee are SEF; the IEFPP; the Santa Casa da Misericórdia de Lisboa (SCML); the ACM and the CPR. In 2014, the steering committee was broadened to also include the Ministries of Education and Health, the Association of Portuguese Municipalities, and the Portuguese Jesuit Refugee Services (Serviço Jesuíta aos Refugiados, JRS) (SEF, 2020; ACM, 2019; JRS, 2019; CPR, 2019; PAR, 2019). For asylum seekers under the EU's schemes, the transition from the host institutions' tutelage to the tutelage of ISS occurs at the end of their 18–24-month integration programs, and not when they receive refugee status or subsidiary protection.

3.2. International protection requests in Portugal: Trends in numbers¹⁴

Coinciding with what happened at the European level, the increase of requests for international protection in Portugal has become particularly evident over the last five years. This contrasts sharply with what was observed at the beginning of the present decade in Portugal: in 2017 the number of requests was 1,750; that number suffered a reduction in 2018, with 1,285 requests a trend that coincides with that verified in the European context (712,235 in 2017 to 647,165 in 2018); in 2019, compared to the previous year of 2018, Portugal recorded an increase of more than 41.6% requests for international protection in the national territory. International protection requests decreased by 45.8% in 2020 compared to the previous year, including ad-hoc replacement of humanitarian ships, totaling 1,002 requests, which included those referring to the relocation mechanism within the scope of the national commitments assumed with the EU (SEF, 2020; EUROSTAT, 2014-2019).

The reduction of the number of applications for Portugal in 2018 was essentially due to the decrease in the number of relocation, knowing that the relocation mechanism (of applicants who were in Italy and Greece) only worked between December 2015 and April 2018, and from 2018 onwards started the ad hoc relocation of asylum seekers from humanitarian boats (from Italy and Malta): in 2016, of the 1460 requests in national territory, 757 were within the scope of relocation; in 2017, of the 1750 requests in the

¹⁴ The information presented below uses available data up to 2021.

national territory, 739 were for relocation; while in 2018, of the 1285 requests in national territory, only 30 were for relocation and 86 were for ad hoc relocation of humanitarian boats. Thus, it is noted that, in reality, in recent years, spontaneous requests for international protection (excluding the relocation mechanism) have been increasing consistently (SEF, 2020; ACM, 2019; EUROSTAT, 2014-2019).

The clearance of requests for international protection to Portugal has also increased the number of refugees entering the country annually already with deferral of assured international protection, under the resettlement mechanism, which included the Turkey program between 2016 and 2017, and the 2018 resettlement Mechanism, in 2019. 2019 had the highest value ever of resettlements in the country: 376 refugees (190 from Egypt and 186 from Turkey) and 1,834 requests made in the national territory. In total, in 2019 Portugal received 2210 people, making it the year in which the country received more people under international protection in its history. 2020 was the lowest year with only 1002 people, and although no official study or data was released until now regarding this matter, it is possible to assume that such a lower number is due to the COVID-19 pandemics (SEF, 2020; ACM, 2019; EUROSTAT, 2014-2019).

Historically, the vast majority of requests for international protection in Portugal are processed in national territory, that is, after the applicants have entered the country, or at border posts. In relation to the border posts, free movement across European borders (coming from the Schengen area) or the waiver of entry visas into Portugal by air for some nationalities (or the use of other entry visas in the country: e.g., tourist visa) has led to an over-representation of requests made in the national territory (Pires, 2019).

It is noted, however, that in the last three years, in absolute numbers, requests at border posts (essentially at airports in Portugal) have practically doubled (assuming 2017 as the highest value with 493 requests at border posts) compared to the three immediately previous years (2014 being the year in which fewer requests were requested at border posts, with 158 requests). In relative terms, however, in relation to the total number of requests for international protection, 2014 was the year in which requests at border posts assumed greater relative importance (35.3%), gradually decreasing this importance in the following years (in 2015 represented 27.7% of total orders, in 2016 they dropped to 18.4%) to regain relative importance again from 2017 (they represent 28.3% in 2017 and 32.1% in 2018, but only 22% in 2019).

3.3. International protection applicants in Portugal: Nationalities, gender, and age

At border posts, in 2019, requests from people from the Democratic Republic of Congo (70) represented 82.4% of all applications. Requests from Angolans (50) at border posts represented only 16.2% of the total requests of that nationality as 83.8% were presented in the national territory. The same is observed in requests by Guinea-Bissau nationals (21) which represent only 13.1% of the total requests made in Portugal since the vast majority of requests of this nationality had already taken place in the national territory (86.9%). At the border posts, two nationalities that were not even included in the top ten of the total requests for international protection requested in Portugal stand out: Togo nationals (29) at a border post, which represent 93.5% of the total of requests of that nationality; and Cameroon (37) where requests at the border represent 72.5% of requests to Portugal.

For the year 2020, the only data found was regarding migrants rescued in operations carried out in the Mediterranean, by humanitarian boats, which landed in Malta and Italy. In 2020, under these circumstances, 33 applicants for international protection were transferred to Portugal, 6 from Malta, and 27 from Italy. The most representative nationalities were Nigeria (9), Sudan (5), Mali (8), Eritrea (6), Cameroon (3), Guinea-Bissau (2), Sierra Leone (2), Senegal (1), Bangladesh (1), Gambia (1), and Togo (1). In the same year, it is also relevant to mention the number of refugees who were welcomed in Portugal in the context of a resettlement process: a total of 222 refugees, 30 from Egypt and 192 from Turkey. Of the 30 refugees from Egypt (17 men and 13 women) 8 nationals from Syria, 11 Sudan, and South Sudan were transferred. Of the 192 refugees from Turkey (106 men and 86 women) 89 nationals were transferred from Iraq and 103 from Syria (SEF, 2020; ACM, 2019; EUROSTAT, 2014-2019).

Regarding the most represented nationalities in the application for international protection in Portugal (women and men), in 2019, asylum seekers in Portugal came from ten countries: Angola (308 requests or 16.7%), Gambia (173 requests or 9.4%), Guinea-Bissau (160 or 8.7%), Guinea (128 or 6.9%), Venezuela (96 or 5.2%), Democratic Republic of Congo (85 or 4.6%), Nigeria (82 or 4.4%), Ukraine (80 or 4.3%), Senegal (73 or 3.9%) and Cameroon (51 or 2.8%). But different trends exist regarding the asylum mechanism used: either request at the border or in national territory, as the following paragraphs reveal.

The nationality of the applicants also determines variations in the relative importance of the female or male sex. Although globally, an over-representation of male applicants in the total number of applicants for international protection in Portugal is confirmed (male gender represented 73.2% of the total applications in 2019), a result that follows the European trend, there are nationalities where males stand out more (e.g., 99.4% of applicants from the Gambia are male, 97.3% from Senegal and 94.4% from Guinea-Bissau), as well as nationalities where females represented close to half of the applicants for protection (e.g., 57.3% of applicants in Venezuela are female, 55.3 % from the Democratic Republic of Congo, 51% from Cameroon, 47.5% from Ukraine and 46.4% from Angola) (SEF, 2020; ACM, 2019; EUROSTAT, 2014-2019).

Applicants for international protection in Portugal have a similar age distribution when compared to the EU average: in 2019, applicants under the age of 13 represented 13% of all asylum applications processed in Portugal (24% in EU); between 14 and 17 accounted for 5% (5% in EU); between 18 and 34 years accounted for 59% (47% in EU); and finally, applicants over 35 years of age had a relative importance of 22% (also 22% in EU). In 2019 there was an over-representation of applicants for protection aged between 19 and 39 years old (67.8% of the total applicants in 2019), assuming the age group up to 18 years of age as the second with the highest relative importance of applicants (19.5%), and the group between 40 and 64 years as the third group (12%), with virtually non-existent applicants aged 65 and over (0.6%).

Depending on the applicant's nationality, this age distribution of applicants is not homogeneous: although in most nationalities seeking asylum in Portugal, the majority of people are between 19 and 39 years old, especially in this scope, applicants being in this age group from Guinea (78.1%), Guinea-Bissau (81.9%), Senegal (86.3%), and Gambia (89%). It was possible to identify nationalities in which the prevalence of persons aged 18 and under is much higher (e.g., 40.6% Angolans; 31.3% of Ukrainian applicants; and 29.4% of applicants from the Democratic Republic of Congo) just as there are nationalities with a greater number of applicants aged between 40 and 64 years (e.g., 26.3% of Ukrainian applicants, 26% of Venezuelans, and 25.6% of Nigerians).

It is crucial to consider, nevertheless, that the profile of applicants for international protection is different whether they are applicants at the border or those who filed their request in the national territory. Within the last six years, women's international protection requests were particularly high in 2014 (39,1% of the requests were made by females), and 2017 (38,8% of the total requests were made by women), and they lower in

2018 (34,5%) and 2019 (26,8%). Although women applicants for international protection are lower than those of males, they have been considerably high, and, in border posts, they even can nearly to 50% margins: in 2017, accounted for 45.8%; in 2018 they represented 40.2%; and in 2019, signified 41.1% of total requests (SEF, 2020; ACM, 2019; EUROSTAT, 2014-2019).

Law no. 27/2008, with revisions to Law no. 26/2014, safeguards as beneficiaries of international protection the specific situation of victims of persecution for gender reasons (provided for in subparagraph f of article 5 on acts of persecution). In this context, the requests of women and girls with specific protection needs are framed as vulnerable people who, due to their gender, are subjected to acts of persecution which, by their nature or reiteration, constitute a serious violation of fundamental rights. In 2019, 24 requests for international protection were registered by women (21) and underage daughters (3) in need of specific protection resulting from discrimination or persecution based on gender (representing 4.8 % of the total of 496 requests for international protection by women that year).

The requests for 2019 show an increase compared to the previous year (19 more requests than in 2018): 2018 registered only 5 requests for international protection by women and girls with specific protection needs arising from gender discrimination or persecution (1.1% of the total of 441 female requests for international protection in 2018). Among the 24 requests of women and girls with specific protection needs identified in 2019, there were: 9 cases of female genital mutilation (6 from Sierra Leone, and from each of the following countries: Gambia, Guinea, and Ghana); 6 cases of forced marriage (3 from Guinea, 1 from the Gambia, Guinea Bissau and the Democratic Republic of Congo); 6 cases of women vulnerable because they found themselves without a husband and without rights (one from each of the following countries: Eritrea, Kenya, Cameroon, Yemen, Mali, and Iraq); and 3 cases of discrimination based on sexual orientation (from Jamaica, Angola, and Iran).

Comparing these applications for asylum of women and girls with specific protection from discrimination or persecution based on gender, with the total number of international requests for protection of female applicants, it is possible to identify that countries like Kenya and Sierra Leone included all or almost all of female requests generated from situations in need of specific protection (SEF, 2020; ACM, 2019; EUROSTAT, 2014-2019). E.g., Kenya's only female request for international protection was specific gender protection; from Sierra Leone, of the 11 female requests for

international protection, 6 were for situations specific gender protection and, of these, all of them were situations of female genital mutilation. It is, thus, possible to conclude that the gender dimension is relevant for analysis not only of the asylum-seeking system but also to analyses gendered experiences of being or becoming a refugee.

In 2020, with regard to the age and gender of asylum seekers, it should be noted that 80.2% of the applicants were males, and the age group situated between 19-39 represented 69.0% of the total. It should also be noted that 90.9% of applicants were under 40 years of age. During 2020, 96 processes for the international protection of unaccompanied minors were registered, 17 formulated within the national territory (17 men); 9 at Border Post (7 men and 2 women); 70 in another member-state (68 men and 2 women) (SEF, 2020; ACM, 2019; EUROSTAT, 2014-2019).

3.4. International protection requests: applications accepted

In recent years, the increase in requests for international protection in Portugal is also a reflection of the country's evolution in granting the refugee and subsidiary protection status, which increased substantially especially between 2016 and 2018. Between 2010 and 2014 (in five years) refugee status was granted to a total of 82 people, never exceeding 20 acceptances per year. However, in the following five years (between 2015 and 2019), this number rose to 724 (almost ten times more), a growth of more than 782.9% from 2010/2014 to 2015/2019. The significant increase in the granting of refugee status occurred from 2016 (103 concessions), a growth of more than 215% than in 2015; 119 in 2017, of more than 14% than in 2016; 286 in 2018 (the highest value in the last decade); 183 in 2019; and in 2020, 77 refugee statuses were granted predominantly to nationals of Asian countries (SEF, 2020; ACM, 2019; EUROSTAT, 2014-2019).

In the last decade, the guaranteeing of international protection to beneficiaries of subsidiary protection exceeded the attribution of the refugee status. Between 2010 and 2014 (the first five years of the last decade) 380 AR of subsidiary protection were granted. The number of these residence permits increased to 1,327 in the most recent five years (between 2015 and 2019) almost quadrupling the value (a growth of more than 249.2 % from 2010/2014 to 2015/2019), with 2018 having the highest value in the last decade (405 permits). It should be noted that data on requests for international protection of women and girls, classified as vulnerable people on grounds of gender, are not collected systematically in Portugal (SEF, 2020; ACM, 2019; EUROSTAT, 2014-2019).

It is important to analyze the positive decisions in more detail, understanding that the total number of deferrals each year does not include people who arrive in Portugal already with refugee status (via resettlement programs, namely, by the 2018/2019 Resettlement Mechanism and before by the EU/Turkey Agreement). Therefore, the number of people that acquired international protection in Portugal each year is greater than the number of positive decisions or deferrals. Simply put, a deferral is a second chance at admission. Applications are deferred to the regular round where they'll be reviewed again within the context of the regular applicant as if they hadn't been reviewed previously. In 2014 there were 281 deferrals (447 requests); in the subsequent year 467 (895 requests); 523 in 2016 (1, 460 requests); and 797 in 2017, the year in which Portugal reaches its peak in the number of approvals (1,741 requests). The number of deferrals in the last two years has dropped sharply to 369 in 2018 (1,273 requests) and to only 120 in 2019 (1,834 requests) (SEF, 2020; ACM, 2019; PAR, 2019; EUROSTAT, 2014-2019).

In recent years, the number of deferrals to both genders has also decreased: in 2016, the year in which it reaches its peak for males with 603 deferrals, and 334 female deferrals; and in 2017 there were 558 deferrals for males and 386 for females, the year in which it reached its peak for females; in 2018 and 2019 there is a sharp decline in the number of deferrals for both males (240 and 74, respectively, reducing to less than half in 2018 and to one-sixth in 2019) and females (129 in 2018 and 46 in 2019). In the case of female applicants this decrease in deferrals partially follows the decrease observed in female applications for international protection. There was an increase in male protection requests in 2019 (after having decreased in 2018), but a sharp drop in male acceptations (SEF, 2020; ACM, 2019; PAR, 2019; EUROSTAT, 2014-2019).

3.5. International protection request: Applications Rejected

While deferrals have substantially decreased in the last two years, denials to protection have increased sharply. Law No. 27/2008, with amendments to Law No. 26/2014, in article 18, it is defined that, in the assessment of each application for international protection, it is incumbent upon the SEF to “(...) *analyze all relevant elements (...)*”, which includes both all available information about the applicant's country of origin, as well as the applicants' statements (e.g., personal situation and circumstances and whether the applicant has suffered persecution or serious harm), which must be “(...) coherent, plausible and not contradictory in light of the information

available”, and, therefore, validated (the applicant's general credibility must be “checked”) (SEF, 2020; ACM, 2019; EUROSTAT, 2014-2019).

From 2018 to 2019 Portugal greatly increased its refusal rate: from 40 refusals per 100 decisions in 2018, when the EU average that year was 63 refusals per 100 decisions, to a rate of 76.5% refusals in 2019, year in which the EU average was 62%. The administrative data from SEF on the denials to requests for international protection show exactly this accentuated progression: in 2018 there were 551 denials registered and in 2019, the year with the largest number of rejections, there were 1,016 denials (a growth of 84.4%), which represented almost eight times more rejections than in 2014 (144). In 2020, there was a significant decrease compared to the previous year (less than 57.9%). As for the granting of international protection for subsidiary protection, in 2020 there was a much more accentuated decrease (less than 85%) compared to 2019 in relation to the denial of the refugee status (SEF, 2020; ACM, 2019; EUROSTAT, 2014-2019). The evolution of denials is, however, countercurrent to that observed in deferrals, as from 2018 to 2019 it decreased, from 369 deferrals to 120 deferrals, that is, less 67.5%.

For the year of 2019, among the nationalities with the highest number of rejections, many people belonged to the age group from 19 to 39 years, which practically corresponds to the totality of rejections (e.g., nationals of Sierra Leone, from Gambia, Senegal, Guinea, and Guinea-Bissau). Still with some expression of rejections were applicants aged between 40 and 64 years (e.g., nationals of Venezuela and Nigeria). In 2019, the nationality with the most rejections for children under 18 was Angolan. According to the national data (SEF, 2020; ACM, 2019; EUROSTAT, 2014-2019) the increase in denials of international protection in the country over the last year is associated with the sociodemographic characteristics of the applicants: Portugal received more applications from age groups and nationalities who have a lower rate of recognition of refugee status, which is why the number of refusal decisions has increased.

Regarding the gender dimension, data shows that the increase in rejections is more associated with males: from 2017 to 2018 there is a decrease in female rejections (less 18.2%, from 198 to 162 rejections), although in the case of males there is already a tendency to increase (a growth of 9.3%, from 356 to 389 rejections). But it is fundamental to highlight that, from 2018 to 2019, there is an increase in rejections in both sexes of applicants, but more pronounced in males, a growth of 100.8% in males, from 389 rejections to 781 rejections; and in females, a growing of 45.1%, from 162 rejections increase to 235, in 2019. (SEF, 2020; ACM, 2019; EUROSTAT, 2014-2019).

In 2019, also contrasting with what was observed about the sociodemographic characteristics of applicants with approval, in the refusals, there is a strong representation of rejections of applicants between 19 and 39 years old and fewer rejections for applicants under 18 years old, both in the applications and in the grants, was assumed as one of the main age groups of the applicants, compared to applicants aged between 40 and 64 years. Consequently, it can be concluded that there are age groups –in particular the age group of those under 18 – that have higher rates of recognition and protection, and, for that reason, assume little expression in the rejections.

From chapter 1 this thesis concludes that both democracy and human rights seem to have the dual potential to transform relations of domination or to sustain them. Indeed, the normative concepts of democracy and human rights that are commonly used to criticize institutional arrangements and social practices are, at the same time, also used to reproduce the static image of the border as an effective way of separating the good and the bad, that is, normative nationals and criminal foreigners. Likewise, when it comes to asylum seekers and refugees, is foremost important to understand the 1951 Convention and its connection to the UDHR, as demonstrated in this chapter.

Due to the mass movement of people to European countries as a result of violence and repression suffered in their countries of origin, debates around the role of borders have taken two distinct positions: those in favor of the reception and integration of these people in European soil, and those who defend their criminalization and consequent expulsion or impediment of entry in Europe. The policy of violence and repression that causes massive displacement of people is a severe reality, with substantial consequences and meanings that must be recognized and put into practice, for the benefit of those who are victims of this policy, and who commonly become known to the public under the designation of migrants, asylum seekers and refugees. However, in a Europe with increasingly restrictive border policies, such designating categories of certain groups of people are often seen as a threat to the stability of the social order. In the ongoing processes of regularizing borders, these people are repeatedly deprived of their basic human rights.

In view of these contemporary developments, chapter 2 of part I will provide an examination of the existing political situation of refugees worldwide, with a special focus on Europe and its borders. It will establish how the obscured dynamic, political, and productive character of borders, which fortifies the “us” versus “them” dichotomy, seems to be justified by the constant portray of refugees as the “crimmigrant other”. To demonstrate how the portray of refugees as deviant, bogus, and criminals can be understood as a consequence of the control practices that are put in place to hold them back, theories of social control will also be presented, namely the theories of Becker, Cohen, Foucault, and Durkheim.

Chapter 2

European refugee crisis or a crisis of democracy and human rights? Understanding the “desired” and the “unwanted”

This chapter will take an incursion into the scientific literature that has focused on issues related to migration control. It starts from a provocative question, “European refugee crises or a crisis of democracy and human rights?” to navigate through theories and authors that developed valuable work on border control, crime, regulation, social/cultural conflict topics. It will show how the figure of the “deviant migrant” was never truly forgotten, it only remains “dormant”, reemerging in political and media discourses in most Western countries, particularly due to the so-called European refugee crisis, whenever new events allow and instigate it, how has been happening.

1. Migrant flows and globalization

After the end of World War II, the European states were deeply destroyed. The post-war governments were therefore opened to the reception of labor for reconstruction. Still, states always tried to select the most convenient population to be part of its working-class (Anderson, 2013). A good example of this is the fact that Europe never adopted a policy of “open arms” to the foreigners, and the public opinions of each European government and citizens have always shown, even in involuntary displacement extreme circumstances, very little sympathy for reception policies (Aas & Bosworth, 2013). Multinational detention operations and anti-terrorist activities of the states have recently led national courts, international human rights monitoring bodies, and humanitarian professionals to trigger a deeper analysis of the obligations that states must engage in or not, in relation to the transfer of the people arrested (Aas & Gundhus, 2015; Aas, 2011; 2013).

Recently, especially in Europe, debates on migration have been intensified due to the current crisis of refugees, which began at the end of 2014 (Alston & Knuckey, 2016). The confused, unwanted, and feared displacement of clusters of people has raised, on one hand, many questions regarding the harmful effects of armed conflict and economic inequalities, which are often the cause of international forced migration, and justify human rights-based displacement claims. On the other hand, the refugee crisis only reinforced the need to make greater efforts to ensure the security of the borders of the

European Union states and the safety of the so-called “Fortress Europe” (Athanasopoulos, 2017).

Currently, there is an attempt, by most European member-states and other countries such as the USA, to “manage” migration labeled as dangerous, undocumented and criminal, by seeking out an increasing intersection between the criminal justice and immigration policy, as the crimmigration law debate highlights (Saad-Diniz, 2018; Rosenbloom, 2018; Guia & Pedroso, 2015; Aas & Bosworth, 2013; Guia, 2015; 2014; 2013; Bosworth, 2011; 2012; Bosworth, 2008; Bosworth & Guild, 2008; Aas, 2011; Stumpf, 2006). Crimmigration as a theory was first developed by Stumpf (2006) who analyzed a public policy, originating in the USA since the 80s, and more recently expanded to Europe (Stumpf, 2006). According to Guia (2015, pp.10) crimmigration theory is based on *“the progressive loss of migrants' rights and, at the same time, on the increasing criminalization of their deviant behavior, confusing the application of criminal law to migrants (who have not committed crimes) with the application of immigration law. to those convicted of crimes.”* In the USA, where the public policies of Crimmigration were implemented, the convergence of Criminal Law and Immigration Law led to the exclusion of immigrants, either through segregation due to their conviction and imprisonment, or for the removal of individuals from that country (Guia, 2015). Thus, crimmigration has become a response to undocumented migration (Guia & Pedroso, 2015) that creates feelings of uncertainty in undocumented migrants that influences their perceptions about the future (Saad-Diniz, 2018).

Although not new, such practice has been intensified in the past two or three decades and seems to disproportionately affect targets from the global south. At the same time, there is still a branch of foreigners who are welcomed and encouraged to travel, thus demonstrating that the “place of origin” continues to determine the acceptance of the “place of residence”. Furthermore, this division is often perpetuated by the media that emphasize the collective identities of European citizens -”us” - and the non-identity of the non-European - “them”. According to Guia (2010; 2009) “the other “ is someone that does not belong to the “group”. The individual is punished for “being part of” or “being one of them” (Guia, 2012). Indeed, the argument that the EU needs to strengthen its borders seems contradictory in a Europe that has a long and traditional history of immigration and emigration movements and that has embraced globalization as the modern way to strengthen cooperation between countries. Cooperation between countries

has been shaped by the evolution of the EU itself and the expansion of the Schengen agreement, which directly impacted mobility (Athanasopoulos, 2017).

In the late 20th century, a new spatial organization of society was established through globalization. This spatial organization of society started, primarily, as an economic process of interaction and integration, and quickly became a cultural and social exchange between citizens, companies, and governments. As a consequence, a new space for social interaction emerged that takes place in real-time across very large distances, enabling people to travel and shortening the distances between people who once never dreamed of crossing paths (Castles, Haas & Miller, 2009; Castles, 2007; 2003). This space, organized and created by the constant movement of people, goods, and information over great distances, became an integral part of everyday life, which transformed Europe into what Castells (1996; 2020) has called a “network society” deeply marked by the “space of flows”.

Tailored to keep things moving, the “space of flows” was created not so much by the gradual extension of long historical trends, but by the creation of a new social space with its own characteristics and dynamics. In the author's own words (Castells, 1996) *“the space of flows is the material organization of time-sharing social practices that work through flows. By flows I understand purposeful, repetitive, programmable sequences of exchange and interaction between physically disjointed positions held by social actors.”* (pp. 412). In the “space of flows”, the arrival becomes elusive, almost indistinguishable from the departure.

For Castells (1996, pp. 101) *“(…) capitalism is characterized by its relentless expansion, always trying to overcome limits of time and space (...), but only in the late twentieth century the world economy was able to become truly global on the basis of the new infrastructure provided by information and communication technologies, and with the decisive help of deregulation and liberalization policies implemented by governments and international institutions.”* In fact, it seems that the world has entered a process of compression of time and space (Harvey, 1990), which seems to be one of the core dimensions of globalization. As Castells (2004, pp. 22) concludes *“the culture of freedom was decisive in inducing network technologies which, in turn, were the essential infrastructures for business to operate its restructuring in terms of globalization.”*

However, as demonstrated above, globalization, which favors the flow of capital, people, goods, and services, through the opening of borders, is not available to everyone on an equal basis. Economic restructuring, individual autonomy, freedom, and new forms

of communication, espoused by this social and cultural change, weakened the nation-state and deepened the processes of inclusion and social exclusion between and within countries (Castells, 2006). Young (1999) coined this type of social organization as “bulimic society”, where massive cultural inclusion is accompanied by systematic “structural” exclusion. In view of this duality of social inclusion/exclusion, Bauman (1998) established two distinct categories of people: tourists, individuals who can travel without any restrictions and by which the world is seen as a welcoming place; and vagabonds, individuals who have been imposed mobility restrictions based on criteria such as ethnicity, nationality, gender, race and who see the world as a hostile place.

By crossing borders regularly, vagabonds, sometimes create resentments and concerns in the resident populations, which can lead to situations of injustice and inequality, as explained by Merton’s (1949) concept of “relative deprivation”. According to that concept, dissatisfaction arises when specific groups, previously separated from the population of a particular country, are welcomed by that same country, while simultaneously occurring blockades of social mobility, limited access to privileged labor markets, and denigration of their public image. Governments’ considerable flexibility in the management of foreigners and arbitrary, unreasonable, and suspicious decisions on who is desired and greeted on national soil and who is unwanted and unwelcomed led the criminological field (e.g., Aliverti, 2020; Aas, 2019; Barker, 2018; Fassin, 2018; Bosworth, 2011; Stumpf, 2006) to engage in a more specific, attentive and scrupulous perspective on migration, through the new subfield of Border Criminologies¹⁵.

1.1. Mobility, border control, and migration

Following the above observations, it is important to summarize a series of relevant studies establishing the existence of a marked connection between people's movements, the impact of these movements in terms of border control on a global and local level, and the perceptions of crime and deviance. Donaldson (2005) carried out a series of empirical accounts of significant and even new territorial boundaries that revealed that border security and defense measures were not declining, specifically in areas designated as conflict or dispute. Through a study of British immigration policy, which regulates the accessibility of foreigners to the United Kingdom border, Flynn (2005) questioned the

¹⁵ Established in 2013 and based at the Centre for Criminology at the University of Oxford, “Border Criminologies” is not only a field of study, as well as an international network of researchers, practitioners, and those who have experienced border control.

“symbolic” dimension of borders and national identities. Maas (2005) studied the movement towards common citizenship in Europe and the elimination of borders in the context of numerous tensions surrounding EU states. According to the author, while Europe did not adopt a “fortress” position in relation to Europeans, it continued to do so in relation to non-Europeans who want to enter Europe.

Although these studies were conducted almost twenty years ago, some recent studies point to an increase in border control practices. For example, according to Guia (2014; 2012) the installation of “superborders” advocates the classification/labeling of citizens as people who cross borders. Aas’s (2013) analyzed the notions of changing territoriality within the context of a “space of flows”, predominantly emphasized by globalization, and the “era of space” illustrated by the sovereign State (Aas, 2013). In an elaborate manner, Aas (2014) scrutinized the conflicting political, economic, and social trends that reinforce the “symbolic” need of state borders and concluded that the boundaries of a particular state can be extended beyond the State in itself.

Likewise, there are several examples of the expansion of the State's strength beyond its physical frontier mentioned by Aas (2014): in the case of Great Britain, its police authority can be found in several continental European cities to prevent the occurrence of “undesirable events” (Poljanšek, 2019); in Norway, apparently for security reasons, harsher measures were implemented to control the entrance of asylum seekers into the country (Aas, 2019). An example is the creation of deportation mechanisms included in its criminal justice system with the aim of arresting and expelling unwanted immigrants instead of, or in accumulation to, criminal trial and conviction (Aas, 2019).

Indeed, the desire to get rid of unwanted immigrants has reconfigured the penal power in its qualitative and quantitative scopes in subtle but effective ways. Deportation is perceived as an imperceptible penalty because people are being expelled without any valuable reason being given to them, and also because it is very difficult to theoretically document and measure such expulsion as an act of “bordered penalty” (Aas, 2019). According to Aas (2019) “bordered penalty” refers to the transformative effects of border control on contemporary penal power and its implications for the modern understanding of punishment, law, justice, and citizenship.

Although at a first glance “bordered penalty” may seem a recent phenomenon, the truth is that the propagation of a negative image associated with refugees has been taking place for the last decades. According to Welch and Schuster (2005), the media representation of asylum seekers such as “bogus”, “fraudulent”, “benefit fraudsters” is

worsened by the security panic, caused and exacerbated by modern society post-9/11. In fact, border controls have strengthened in various ways since the catastrophic events of September 11, 2001 (Lyon, 2003). The “war on terror” or “war on terrorism”, which was a military campaign unleashed by the former president of the United States, George W. Bush, in response to the attacks, “(...) provide[d] American authorities with an urgent rationale for greater reliance on that form of control” (Welch & Schuster, 2005, pp. 345). The “war on terror” included an effort to mobilize on different levels: ideological, political-diplomatic, economic, military, intelligence and counterintelligence.

Subsequently, the events of September 11 served as a justification for states to adopt more bureaucracies regarding the identification and control of migration movements (Vilmer et al., 2018). Indeed, nowadays, each individual traveling must be classified accurately and related to the state records. A series of technologies, such as ID cards, residence permits, biometric visas, machine-readable and biometric passports, and numerous information systems such as Schengen and the US-VISIT programs are used for that purpose (Vilmer et al., 2018; Lyon, 2005; Zureik & Salter, 2005). “Profiling” is also a very widespread technique, created by the Federal Bureau of Investigation (FBI), which has been also used in airports as “passenger profiling” (Graham, 2008, pp. 127), with the intention of identifying high-risk passengers and with the application of more safety resources and attention towards them. Border officers, who are in charge of profiling, “(...) rely on profiles that allow them to sort passengers into ‘those who are safe, those about whom more needs to be known, and those who are not to be trusted’” (Curry, 2004, pp. 477).

According to some studies (e.g., Aas, 2013; Booth, 2011; Lyon, 2005) humanity is moving towards a society where an autonomous system will be constructed to determine who belongs and who does not belong to a certain state. The implicit definition of the “other”, according to the nation-state, will reduce the need for a one-on-one interpretation of individual identity and will allow the creation of unwelcomed clusters of people. The control of national borders has become an increasingly important task for both national and international police forces. Aas (2013, pp. 78) pointed out that the protection of the national territory includes not only the taking of concrete and immediate actions but is also imbued with a “(...) broader “symbolic” level (...)” which seems to center on the “(...) global movements of people (...)” and in its implications for the notion of “(...) cultural belonging, citizenship, and culture.”

For example, the United States pioneered the trend towards increased securitization of borders, which has resulted in the adoption of numerous surveillance techniques under the general registers of the country's visitors, more specifically Arab, Muslim, and other non-Western immigrants (Zureik & Salter, 2005). As demonstrated, the association between immigration and criminality for contemporary societies seems to be stronger and is becoming increasingly central, especially for the understanding of this issue as a question of national security. About this matter, some authors have developed quite interesting and groundbreaking theories and concepts that are worthy of taking a closer look into.

For Melossi (2003), in Europe, the process of globalization is responsible for the reappearance of criminalization linked to the figure of the “deviant migrant”. This is not a new phenomenon, since the treatment of the migrant as an unwanted, dangerous and criminal individual, is one of the “(...) *most ancient and recurring features of the modern world (...)*” (Melossi, 2003, pp. 371). The former unions and the previously powerful civil institutions are becoming ill and weakened, due to the process of deindustrialization, which, according to the author, is exacerbated by “(...) *the lack of a genuine European ‘public sphere’ (...)*” (Melossi, 2003, pp.375). Likewise, in a more recent book, Melossi (2015), stated that the core questions of migrants' criminal behavior are tightly related to the rules and practices of reception for migrants within the social and normative structures of various countries. The author also argued that an extensive process of international migration has developed in the globalized world, and globalization, in turn, is responsible for the partial transfer of State oversight to regional institutions, such as the EU which resulted in an identity crisis on the part of the states. This identity crisis extended itself to its own citizens and, today, identity became a task, as societies define parameters for standardization and require the individual to fulfill such parameters constantly and increasingly to achieve the so desired individuality (Melossi, 2015).

This task can become daunting and lead to feelings of emptiness in the individuals' own identity and to the absence of the individuals' national identity. Faced with such a scenario of lack of individual identity, it is common for people to become susceptible to have their identities filled with the ones created by states, which are often centered on anti-migration, mainly in Europe (Huysman, 2006; Melossi, 2003; Fekete, 2009;2001). In Melossi's (2003, pp. 376) own words “(...) *the reference to immigration largely overlap, especially in much local and tabloid press, with reference to crime.*” Indeed, there seems to be a parallel movement between dissatisfaction with being part of the

perceived as “dangerous” European Union and the increasing tendency of xenophobia and racism. (Berry, Garcia-Blanco & Moore, 2015).

Simmel’s (1996)¹⁶ described “the stranger” as a social figure whose position is characterized by being near and far at the same time. In Simmel’s concept, the stranger is not a visitor who comes and leaves shortly after, but who stays without a foreseeable date of departure. “The stranger” can nowadays be perceived as a figure of the refugee, who, in modern society, personifies and intensifies the divisions between “us and them”, and solidifies the “symbolic” and cultural community divisions (Aas, 2013). According to Melossi (2003, pp.376), *“the otherness of the stranger and the otherness of the deviant are collapsed in the social portrayal of the criminal immigrant.”* And in modern societies, deeply marked by the effects of globalization, terrorism, civil wars in the Middle East, as well as by the present dichotomy of “open borders” versus the need to improve “securitization”, the figure of the criminal immigrant became intrinsically complex, especially concerning asylum seekers and refugees even when, from the perspective of the law, migrant, asylum seekers, and refugee are considered differently as already mentioned.

1.2. Immigration control, citizenship, and “the crimmigrant other”

The criminal immigrant can be further studied in the criminological field according to Aas’s (2019) figure of “the crimmigrant other”. For the author, “the crimmigrant other” is a malleable concept because border representatives are being persuaded to provide inconsistencies of care and control during encounters with irregular migrants, through imposed judgments about “good” and “bad” migrants. Aas argues that penal power used against “crimmigrant others” is a moral force, rather than an instrumental one, *“(…) the social production of the crimmigrant other serves to turn issues of global privilege into issues of morality and the maintenance of the moral order”* (2019, pp.19). Stumpf (2006) first used the term “crimmigration” to define tendencies in the merging of immigration and criminal law and practices in the United States.

Aas (2019) has advanced this ground within European border criminology, lengthening the focus of scrutiny to include the subjects of penal power: “crimmigrants”. According to the author, critical thinking about “immigrant criminality” is critical to understanding the capability of governments and populations to empathize with the

¹⁶ First published in 1908.

“others” – unwanted outsiders – and to open their borders. It is also fundamental to provide a comprehensive, empirically grounded, and critical analysis of crimmigration practices and their regularizing consequences, since *“immigrants are no longer people in need of protection or a potential source of labor; they have been turned into rule-breakers and criminal offenders, or what can be termed ‘crimmigrant others’. Their presence is associated with illegality and crime.”* (Aas, 2019, pp. 3).

That was exactly what the author did by creating the concept of *“bordered penalty”* which *“represents a shift from a panoptic to a banoptic penalty”* based on membership status, where “the crimmigrant other” is both punishable and deportable, and expected to be outcasted rather than transformed and included (Aas, 2019, pp.70). Aas (2019, pp. 111) goes further in her empirical analysis of the Norway borders to conclude that “(...) the control of the crimmigrant other, therefore, creates the paradox of social exclusion in an inclusive society. By undermining its inclusive nature, it sets the society at odds with its own self-narrative, whether this concerns its commitment to human rights and a reintegrative prison system or to a police force that is committed to serving the general public.”

“The crimmigrant other” stimulated EU member-states into a shared task mostly unprecedented in other policy areas, resulting in the formation of a more and more independent agency, Frontex, which the main objective is to ensure the defense of Europe’s external borders (Aas, 2019). According to Zedner (2020), only a minority of non-citizens are labeled as crimmigrants, which seems to reinforce Aas’s (2019, pp.197) idea that the figure of the “crimmigrant other” is a malleable construction *“(...) although shaped by bureaucratic and legal processes that give it concrete substance and anchorage, the figure of the crimmigrant other is also marked by vagueness and possesses almost mythical and haunting qualities.”*

By recognizing that the discourse of “the crimmigrant other” strengthens settings of global inequality, Aas (2019) stressed the distinctions between the sensitive and ethically judgmental foundations of humanitarianism with the ambitious universalism of human rights. By exploring the “metanarrative” of “the crimmigrant other”, based on her investigation on power, the author also brought attention to a much larger problem than penal populism or border control: the European ideal of survival grounded in the maintenance of human rights. The author combined and further developed her earlier work that examined the creation and surveillance of ‘crimmigrants’ within Europe (Aas, 2011), scrutinized methods of “bordered penalty” in Norway (Aas, 2014), and explored

normative tensions between humanitarianism and border control in Europe's externalized border zone (Aas & Gundhus, 2015) to create a groundbreaking work that is “(...) *above all (...) about social inequality and the contested nature of membership in contemporary societies.*” (Aas, 2019, pp. 10). Through Aas's book (2019) it becomes clear the emergence of the “other crimmigrant” as a subject of acceptable social exclusion and the use of technologies to control and deport crimmigrant bodies, through dubious means that go beyond discursive practices.

By examining Garland's idea (2001) that the penalty has little to do with crime, it is possible to further explore, through a historical lens, how the current immigrant criminality surfaced. Garland (2001) pointed out that in the early 1970s, “structural” changes in the capitalist order led to important reflexes in all areas of social and political life. In fact, according to Welch and Schuster, Garland “(...) *reminds us that major social transformations in the US and UK since the 1970s have shaped popular views of lawbreaking and subsequent political responses leading to the adoption of tough on crime tactics*” (Welch and Schuster, 2005, pp. 332). Substantial changes occurred, such as an increase in unemployment, weakening of trade unions, depression of wages, etc. According to Garland (2001), these changes also provoked a crisis in family order, traditional patterns, collective projects, and have fomented new conflicts and resentments, which have led to a strong increase in crime.

Following the “structural” changes that have taken place since the early 1970s, new criminological theories surfaced, predominantly in regard of the reverse of Penal Welfarism, in the last thirty years. The criminal ceases to be the focus of attention, to the detriment of the victim, and criminal policies assume more severity. Criminology ceases to be eclectic, and is directed towards a theory of social control, in which individuals are seen only in their antisocial, self-referenced, and criminal conduct that can only be stopped by imposing control (Garland, 2001). As a consequence, crime began to be seen no longer within an agenda of solidarity and rights, but as a breakdown of order. This short historical description of the evolution of crime and criminology that culminated in the surfacing of theories of social control is important to better understand “*the crimmigrant other*” and the European's response to unwanted migrants (Aas, 2019, pp. 198), deeply marked by the unequal and conflicted relationship between the Global North and South.

Theories of social control can provide insightful explanations for the current trend of criminalizing migrants or of categorizing asylum seekers and refugees as deviant,

bogus, or fraudulent and of excluding them from the “good” cluster of citizens, since *“through the control of the crimmigrant other, contemporary modalities of penal power are a central mechanism for guarding the boundaries of citizenship. They mobilize notions of innocence, goodness, right, and wrong in the processes of the making and unmaking of contemporary membership and belonging. The growing use of penal power at the border speaks of the increasingly contentious and privileged nature of Northern citizenship and residence rights in a deeply unequal global order.”* (Aas, 2019, pp. 198).

2. The figure of the “deviant” migrant: Unfounded hysteria or real threat?

The security treatment given to migration is neither exceptional nor secondary. If criminalization appears as an extraordinary event, this only means that securitization practices are not limited to punishment and that they are not exclusive to repressive institutions. They are spread across different institutional devices, practices, and discourses. In the case of migration what is at issue is not exactly repressing or interdicting, but classifying the flows, acts, subjects, and docile bodies. And it is the escape itself, whether the migration flow is voluntary or not, that becomes the object of such devices.

In fact, for refugees, the flight is judged as positive if the “candidate” can be perceived as an innocent victim, lacking in will and dependent on humanitarian aid. But, at any time, whether entering the country, in the stages of the administrative eligibility process or in social life, the refugee status is at risk. If asylum seekers are not able to convince about their condition as innocent victims, for example, they can be classified as unwanted immigrants, and be labeled as liars, criminals, or subversive, subjected to state and community control. The dialogue on migration and criminality can be approached from various classical sociological and criminological perspectives. In this sense, the ideas of Becker (1971; 1963), Foucault (1977), Durkheim (2005; 1984; 1961), and Cohen (1985; 1979; 1972) will be exposed next. Their contribution is crucial because their theories provide perspectives on the labeling, segregation, and rejection of individuals by societies, according to the dubious threat they might present, as it often happens to refugees.

2.1. Becker’s “outsiders”

Becker’s book “Outsiders” (1963) proposed an interactionist theory of deviation and a shift of focus for Criminology: from the essentialized idea of “crime” to the term

“deviation”, which always encompasses a social relation. The social world, or rather social worlds, as conceived by Becker (1963), are composed of people who, acting together with different degrees of commitment, produce realities that also define them. The author studied deviance specifically from an interactional perspective, that is, the processes by which people or different types of acts are labeled as deviant. According to Becker (1963), deviance is not a quality of a person, but rather the result of someone characterizing and labeling another’s activity as bad. Rules, deviations, and labels are always constructed in political processes, in which some groups can impose their views as more legitimate than others. Therefore, the deviation is not inherent in the acts or in the individuals who practice them; it is defined throughout judgment processes that involve disputes around specific group goals. For behavior to be deemed deviant, the behavior first has to be recognized and then ascertained as deviant, “(...) *social groups create deviance by making the rules whose infraction constitutes deviance; and by applying those rules to particular people and labeling them outsiders*” (Becker, 1963, pp. 9).

Still, as complex societies are always composed of different groups, impositions of rules and labeling of acts and people, also involves conflicts and divergences about definitions: “*when a rule is enforced, the person who is supposed to have broken it may be seen as a special kind of person, one who cannot be trusted to live by the tiles agreed on by the group. He is regarded as an outsider.*” (Becker, 1963, pp. 3). Additionally, societies may differ in their qualifications of deviant acts: what one society may define as deviant, another perhaps would not. For Becker (1963), different social groups have molded deviance by manufacturing the rules whose infringement establishes deviance, applying those rules to specific people, and then labeling them as “outsiders”.

For this reason, it is incorrect to assume that people who were labeled deviants had actually committed a deviant act or broken some rule, since the process of labeling may be controvertible. Likewise, it is important to be aware that an individual can commit a deviant act without identifying such behavior as deviant or without having a criminal record (Becker, 1963). Nonetheless, “deviance” becomes a controlling status, the definition according to which the wider society knows about and catalogs an individual. According to Becker (1963), the labeling process triggers the following: when a person is labeled as deviant by society, they may accept this label because once society sees them as deviant, they come to see themselves that way too, leading them to probably continue their deviant behavior.

In recent years, some authors, (e.g., Himmel & Batista, 2020; Ther, 2019; Nural, 2017; Ticktin, 2016; Geary, 2013; El-Tayeb, 2011), have studied refugees through Becker's (1963) labeling theory and his definition of "outsiders". Nural (2017) conducted a study in Turkey with a group of Syrian refugee girls and young women. The author used the concept of "alienation" to demonstrate the factors preventing these girls and women from achieving their wishes and desires, and the changes in the relationships with their peers, family, and the surrounding community members, after their displacement. Nural (2017) concluded that Syrians are no longer guests in Turkey, as they were labeled at the outset by the Turkish authorities and are now seen as "the others". The author also predicted that their imposed label of "outsiders", the social isolation from their acquaintances and from the social setting of the asylum country, will culminate, in the long term, in a larger number of marginalized and detached groups of Syrians in Turkey (Nural, 2017).

Ther (2019) studied how asylum seekers and refugees have been received over the years in Europe. The author concluded that these clusters of people have been placed in and out of the figure of "outsiders" since they have been welcomed in some periods, such as during the Cold War, and rejected in other times, such as now. A broken economy and lack of jobs are two of the main factors for both governments and citizens of asylum countries to oppose the entry of large numbers of people. And these reasons, as debatable as they might be, along with populist right discourses that exaggerate the threat these "outsiders" pose for nationals, are often considered enough to reject their asylum claims unless a major geopolitical cause is at stake or diaspora communities intervene on their behalf (Ther, 2019).

In fact, Himmel and Batista (2020) argued that the creation of a sense of belonging to a common "us", supported by what does it mean to be European, is directly opposed to the "others" who are not, and therefore, do not belong. The idea of a supranational European Union results from the labeling process itself. Through a qualitative content analysis of Portuguese and German media, Himmel and Batista (2020) pointed to a dual construction of the idea of Europe: on the one hand, asylum seekers and refugees are labeled as "the others"; on the other, Europe is labeled as intrinsically incompatible with the rejection of these others, as well as the non-compliance with far-right or xenophobic ideas and movements.

The media appears to have a significant role in the reproduction of representations about the "outsiders", that is, asylum seekers and refugees, with whom the public does

not have direct contact. This causes great concern because media's moral entrepreneurship posits the new "connected migrant" as a bogus refugee, as it considers their reasonable economic status and level of education incompatible with the need to escape war-torn regions, where human rights are infringed upon, on a daily basis (Ticktin, 2016). Such biased moral evaluation is based on the assumption that refugees should be innocent victims, helpless, and disenfranchised, to fit in with the claim for humanitarian help conferred by the West. As Ticktin (2016, pp. 259) affirmed, *"(...) humanitarianism requires innocent sufferers to be represented in the passivity of their suffering, not in the action they take to confront and escape."*

2.2. Cohen's "moral panics", "folk devils", and "community control"

Influenced by Becker (1961) and labeling theory, Cohen created the concept of "moral panic", which encompasses the labeling of *"(...) a condition, episode or group of persons (...) as a threat to societal values and interests."* (1972, pp.9). During a "moral panic" situation, the perceived threat and the real threat are disproportionate: the former is exacerbated in comparison to the latter. This seems to suggest that some groups may be blunting the gravity of certain social problems to enhance their own *"value systems"* (Wilkins, 1965, pp. 140). According to Cohen (1972, pp. 36-37) for a moral panic to occur, three social processes must be triggered: (1) societal "exaggeration" and "distortion" of the seriousness of events; (2) "predictions" foreseeing that what happened in the past will inevitably happen again, which *"(...) with social phenomena such as deviance can be 'disastrous'."*; and (3) "symbolization" of individuals, labeling them with negative meanings through the creation of stereotypes where *"(...) a word (Mod) becomes "symbolic" of a certain status (delinquent or deviant)."* Consequently, in order for a "moral panic" to be installed, it is necessary that certain individuals or groups be labeled as "folk devils" and be considered threats to societal values.

Thus, "moral panics" are characterized by dialogues, discourses, lessons, negotiations, discussions, disputes, lawmaking, program setting, and such, all absorbed on moral matters. In this sense, "moral panics" need to generate, emphasize, and endure strongly influential pictures of "folk devils" that can be used as the center of moral terrors. Cohen (1972) defines "folk devils" as a social type who assume, albeit unintentionally, the function of reminding the rest of us of what we should not be, that is, the path not to follow. Most studies have argued that in order for "moral panic" to occur, there must be a "folk devil", leaving implicit the notion that there is a connection of co-dependence

between “moral panics” and “folk devils”. A unilateral one, since for a “folk devil” to be created, the presence of a “moral panic” is not necessary (Adjzenstadt, 2009; Levi, 2009; Goode & Ben-Yehuda, 1994; Cohen, 1972).

According to Garland (2008) in a more modern take on “moral panics” it is fundamental to include the influence of globalization in escalating and spreading the local “moral panics” felt in a given society into other societies (cross-national or even global). This may cause a particular internal issue to be labeled as belonging to all of us, which often misleads the international community in taking preventive or combative measures against problems that do not really exist (Garland, 2008). Another updated analysis of “moral panics” must also evaluate the possibility for them to occur when different ideas and moral concepts fight for attention in a given society that allows itself to be dominated by such competition (Martin, 2015; Cover, 2013; Morgan & Poynting, 2012; Cohen, 2011; Gomes & Machado, 2011).

A good example is Aas’s (2019) “crimmigrant other”, a cultural product of modern societies’ profound social anxieties about racialized immigrants, insecure borders, and declining controls. This figure is, in many ways, similar to the one of “folks devils” (Cohen, 1972), as both of them activate public susceptibilities about social, territorial, and moral order, supported by debates regarding criminality and illegality. These debates, often lack concrete evidence to justify them, lead to the creation of “bad” clusters of people that are radicalized, gendered, and classed, to keep the distance between “us and them” (Krzyżanowski, 2020). The social production of the “crimmigrant other” is multidimensional and has merged across popular culture, politics, state bureaucracy, and law. This social product seems to sustain and reinforce the legitimate resistance, from the population’s point of view, towards the undesirable, unworthy, and deviant “folk devil”, such as in the case of refugees (Krzyżanowski, 2020). In addition, looking at the media as creators and propagators of ideas and feelings, it is possible to analyze “moral panic” as a fundamental instrument to produce and endure the so-called cultures of fear (Garland, 2007).

Bauman (2016) used excerpts from the press to describe the ways in which the media and political commentators exploit the topic of the recent increase in migration, to create “moral panic”. The author demonstrated the method by which fear is created and spread by European politicians wishing to implement harsher securitizing policies, whose intentions, in place of striving to accomplish peaceful cohabitation through embracing the diversity of people, are mainly to produce and sustain a firm division between “us” and

“them”. Likewise, Martin (2015) studied the social reaction to asylum seekers in Australia through the lens of the “moral panic” theory, specifically the recent campaign to discourage ‘boat people’ from arriving in Australia. The author found that such a campaign represents a modern take on the classic “moral panic”: deep-rooted anxieties about Australia’s national identity and traditions, related, for example, to the national anguish of an ‘Asian invasion and to fears surrounding multiculturalism. Martin (2015) argued that a “moral panic” can be expanded from episodic (Cohen, 1972) to relatively permanent, such as in the case of the unstoppable “war on terror” where the figure of the Muslim-terrorist-refugee is portrayed as a transnational “folk devil”. In addition, the author stressed that, while resistance to “moral panics” contradicts the idea that a “moral panic” is formed by consensus (Cohen, 1972), today society's reactions to refugees resembles a classic “moral panic”, as the negative answer is broad and unified.

For Pasamonik (2017), “moral panics” in many European countries were triggered by the mass exodus of refugees from the Middle East and North African countries in 2015, and the images of migrant “invasion” of the European Union borders. Equally, according to Krzyżanowski (2020), racist discourse can not only be intentionally introduced into the public sphere but also progress into an acceptable and legitimate viewpoint on perceptions of migrants and refugees. That seems to be the case for the tactical and unscrupulous introduction of anti-immigration discourse by the political mainstream in Poland in recent years, supported by the so-called European refugee crisis. For Krzyżanowski (2020) the “moral panics” created in Polish society regarding the arrival of refugees is a product of normalization of a broader multistep procedure in which discourses branded by extreme positions have been spread and ultimately standardized, as a vital part of the right-wing populist agenda.

In another work, Cohen’s (1979) expressed some concern for the increasingly marked intrusion of the state into the private sphere and the uncomfortable feeling of constant vigilance and observation. Cohen (1979, pp.343), focused his attention on the issue of “community control”, which is “(...) any form of formal social control outside the walls of traditional adult and juvenile institutions.” “Community control” can be implemented through one of two methods: first, by creating alternative measures to imprisonment or institutionalization or once having suffered this type of penalty, the termination of such penalties; second, evading the traditional mechanisms of justice, and substituting them with the prevention, policing or pre-trial programs, to avoid the inclusion of offenders in the penal systems. Consequently, there seems to be pressure on

the community to control crime and delinquency and there is a net-widening effect, by which the net of social control changes shape.

For Cohen (1979), the most visible opposition between the control exercised by prisons and “community control” is the lack of a visible border/barrier in the case of the latter. This lack of clarity in the distinction between criminal measures and community measures creates, intentionally or unintentionally, confusion in the population to which such measures are applied, without them knowing whether they are given a measure of arrest or a community measure. These community institutions, which serve not only to receive convicted offenders, but also do work on prevention, diagnosis, and screening for individuals prone to crime, or high-risk pre-offenders, dangerously obscure the barrier between delinquent and non-delinquent. The “new” mode of the operation of the system is the following: individuals labeled deviant or antisocial are being prosecuted by the system in different ways, meaning that the community institutions did not replace the prison, it only supplements it (“network thinning”) or new deviants are now being picked up by its enlarged net (“mesh enlargement”) (Cohen, 1979, pp. 351).

This new movement of community social control has led to more avid processing of certain groups of individuals, such as refugees. In fact, refugees are frequently placed in detention centres, refugee camps, and reception centers, where, although albeit in modern and professional contexts with different categorizations, conditions are often severe, and violations of their rights are frequently perpetuated by extreme experiences of degrading and humiliating treatment, as well as disproportionate security measures (Pichou, 2016; Bosworth & Turnbull, 2014; Bosworth, & Kellezi, 2011). These so-called “residential treatment centers”, “rehabilitation residences”, “reintegration centers” or simply “hostels”, as Cohen (1979, pp. 345) pointed out, become places with their own institutional power.

And, although their facilities may seem different from the facilities of prisons, their mode of operation seems very similar. In fact, “closed” functioning regimes of institutions, with rules on security, restricted schedules, regulation of visits, supervision of drug use, and so on, end up reproducing the regimes of the so-called “a very “open” prison” (Cohen, 1979, pp.345). Adding to that, the dispersion of social control mechanisms, from prison to the community, generated a deepening of these mechanisms in the social network, more rooted and reaching a larger number of people.

Simultaneously, there seems to be a lack of clear division between the classes of non-deviant and deviant and, within the latter, of the different categories of deviants. In

relation to refugees, there seems to be a dissemination of the familiar and widespread assumption among politicians and the general public, that large numbers of asylum claims are unfounded, dishonest, or bogus, and are made by economic migrants as a means of improving their standard of living, rather than by genuine refugees as defined by the 1951 Convention (Cooper et al., 2017; Souter, 2011). This assumption seems to feed the unclear division classes of non-deviant and deviant, as mentioned by Cohen (1985), which ultimately places these populations under punitive and restrictive measures, often leading to their expulsion from resettlement states or to their segregation to the margins (Aas, 2019; Kastoryano, 2018; Aarstad, 2015; Aas & Bosworth, 2013; Neumayer, 2005).

Furthermore, Cohen (1985) stated that the ability of the system to hide its actions is facilitated by the clear blurring of boundaries between deviant and non-deviant caused by the extension of the control system to the community. Therefore, once deviants fall into the web of the punitive system, they can either be sent further inward, as Garland (1985) pointed out, or raised up, new “deviants” are brought in from the surface. Ilcan (2021) argued that there is a current tendency by border regulation and migration control practices to detain displaced people considered threats to the nationals and to force their return to their countries of origin or to another destination outside the EU. Instead of being detained, these people can also be rejected at the borders when they seek international protection (e.g., returning individuals to countries of war and pushing migrant boats back). This expulsion and rejection of displaced people seeking asylum are known as “pushbacks” practices (Ilcan, 2021, pp. 12). Therefore, the punitive system, that its migration and border control, becomes an exclusionary asylum system that works alongside, and often directly leads to, the detention, enforced destitution, and deportation of asylum seekers (Coddington et al., 2020).

Cohen (1979) also stated that even when “alternative” measures are applied and even if they are inserted in the community, this does not mean that such measures are more humane and less stigmatizing. In fact, this dissemination of prosecution by the system to different governmental or non-governmental institutions and by the community itself, has generated a polarization of opinions in the public and political discourse about the reception of asylum seekers and refugees in several countries in Europe, as well as the formulation of a set of migration policies that were not always effective or of a responsible nature (Cooper et al., 2017; Garcia-Blanco & Moore, 2015). In the same sense, asylum seekers and refugees have been successively characterized as a threat to the security, values, identity, and interests of several European countries (Moreira &

Santos, 2020). Likewise, *“in the immediate future, the segregation of the deviant will remain as the central part of the control apparatus.”* (Cohen, 1979, pp.357).

The “new” movement for the community (of indefinite discipline, marked by endless judgments, examinations, and observations) comprises of an extension of *“carceral circle”* or *“carceral archipelago”* (Cohen, 1979, pp. 360) to new specialists and professionals, to specialized scientific knowledge, to complex classification systems, and to groups of agencies linked to the courts and prison. Although the “correctional continuum” is not new, the scale of the operation and technologies used by it, such as surveillance, and information gathering techniques, are considered by Cohen, in 1979, innovative and more sophisticated Cohen (pp. 360). Nowadays, surveillance mechanisms and discipline seem to have had an impact on what some authors called the “waiting”, a critical component of migrants’ experiences of (im)mobility and discrimination, in reference to the time that refugees spend in refugee camps, asylum reception, detention centres, and at border crossings (e.g., Jacobsen et al., 2021; Anderson, 2014; 2013; Conlon, 2011; Vigh, 2008; 2009). For Jacobsen et al., (2021, pp.2) *“(…) waiting is not only formed and experienced within multifaceted and fluctuating processes, but it is in itself prolific and sustains the creation of migrant illegality or irregularity.”*

Cohen (1985) considered cities the ultimate challenger of social control. The author (1985) identified the failure of many community programs as responsible for new visions of order, dominated by electronic monitoring and other surveillance activities, environmental projects, territorial control, and citizen policing. Cities would then become a zoned map with territories and segregated areas for deviations of all types, where *“on the soft side there is indefinite inclusion, on the hard side, rigid exclusion.”* (Cohen, 1985, pp. 232). The author further predicted that since inclusion could not meet the needs of normative validation (classification, separation, and segregation), *“(…) nor answer the instrumental demand for a solution to hardened crime”* (Cohen, 1985, pp. 231), the exclusion would dominate social control. Cohen's prediction seems to fit the case of many refugees, regarding their detention and imprisonment, which objective is to have them expelled rather than to make the bodies "docile" (e.g., Aas, 2019; Aas & Gundhus, 2015; Fiddian-Qasmiyeh et al., 2014; Anderson et al., 2013; 2011; Hansen & Papademetriou, 2013; Aas, 2011), which contradicts Foucault's theory (1977) of the disciplinary techniques of the society such as “docile bodies” and “good training” to mold individuals behavior.

2.3. Foucault's "disciplinary society"

Foucault (1977, pp. 137) introduced the concept of "discipline" as the *"(...) method, which made possible the meticulous control of the operations of the body, which assured the constant subjection of its forces and imposed upon them a relation of docility-utility (...)."* Discipline is carried out in two ways: on one hand, the power acts in each individual to create "docile bodies" *"(...) that may be subjected, used, transformed, and improved"*; on the other hand, a series of resources for "good training" places a number of institutions at the disposal for the formation of a factory of broken subjectivities (Foucault, 1977, pp. 136). The discipline has never been used to reduce forces, but rather to select it as it *"dissociates power from the body; on the one hand, it turns it into an 'aptitude', a 'capacity', which it seeks to increase, on the other hand, it reverses the course of the energy, the power that might result from it, and turns it into a relation of strict subjection."* (Foucault, 1977, pp.138). According to Foucault (1977), power produces much more than it suppresses. A society of pure repression would be impossible, it would require a lot of energy, a lot of effort. Force produces slowly and continuously, in a rhythmic rhythm, and only represses in the last hypothesis, before that, it forms, trains, exercises, leads (Foucault, 1997).

Foucault's (1997) theorization, despite continuing to make sense in relation to some forms of migration, seems outdated in relation to refugees due to the current European trend of closing borders and expelling those who manage to cross them. In this sense, the demarcation of the border between nationals and refugees, for example, does not only work to enforce specific repression or differentiated power over them (Henkelmann et al., 2020; Hainmueller, Hangartner, & Lawrence, 2016). It is also about creating conditions for burying "threatening" alterities and potential irruptions of insubordination, even within what might perhaps be called the subjectivity of the "national". Recalling that the current refugee crisis has already surpassed the high numbers of displacement of people caused by the refugee crisis generated as a consequence of the Second World War, it seems that the attempt to create "docile bodies" has become impossible to materialize, and the only option seems to be to prevent these people to travel to Europe, or when that is not possible, their expulsion back to their countries of origin (Aas, 2019; Kastoryano, 2018; Aarstad, 2015; Aas, 2014; Aas & Bosworth, 2013; Aas, 2013; 2011).

According to Foucault (1977) docile and trained bodies made possible the thought of a new place, the panopticon, a machine that dissociates the pair to see/be seen: now, anyone can and should be vigilant once the individual is always seen, but he can no longer

see who watches him from the central tower. The modern man does not hide, on the contrary, he becomes constantly visible, and consequently fully individualized. The panopticon is a space of power, is an intensifier for any power appliance, it acts on the multiplicities, which are confusing and must be disciplined through the use of control devices in order to become productive (Foucault, 1977). In the case of refugees, it is the flight itself that becomes the object of control devices: fleeing is the crime committed by those populations. The security devices are not able to prevent their movement – the displacements, the exodus, and the diasporas – but they are invested with the power to deactivate the subversive potential that is part of the escape. In other words, the powerful effects of securitization on migration, which is capitalized throughout the social fabric, relate to a practice of docile subjects that subvert the logic of borders. This logic refers to a set of norms, knowledge, and powers that govern security devices, territories, and populations (Ilcan, 2021).

Foucault (1978) wanted to tie scientific knowledge and technological development to the development of the prison and defined a micro-physics of power, which is constituted by a power that is strategic and tactical rather than acquired, preserved, or possessed. According to Bosworth and Turnbull (2014) the immigration detention is still relevant to the field of criminology, including the ways in which this form of incarceration is similar to and different from ‘traditional’ penal logics and institutions. According to the same authors, immigration detention mirrors the broadening influence of penal power and of race, gender, and postcolonial relations in a globalizing world (Bosworth & Turnbull, 2014). Thus, criminalization, with all its apparatus, including the judicial or administrative process, detention or imprisonment, conviction, and expulsion, are the most brutal and violent forms of power devices to exercise forms of social control.

The “danger” caused by asylum seekers and refugees lies precisely in the fact that displacements lead to destabilization, above all to the detriment of this effort to docile bodies. The flight, the exit, the displacement itself, and even the arrival are movements that break with political structures, at the national and international levels. Inevitably, asylum seekers and refugees affect States through the destabilization they cause. To destabilize means to cause the fragility of basic pillars of States, such as “border”, “national” and “citizenship”. It also means calling into question the material condition that is unequally exercised by the subjects who occupy the same space. To destabilize means, after all, to dialogue with power relations. It so happens, however, that governmental rationality tends to attribute negative meaning to these destabilizations.

Inevitably, asylum seekers and refugees affect states through the destabilization they cause (Aas & Gundhus, 2015). To destabilize means to cause the fragility of basic pillars of states, such as “border”, “national” and “citizenship”. It also means calling into question the material condition that is unequally exercised by the subjects who occupy the same space, that is, to dialogue with power relations. It so happens, however, that governmental rationality tends to attribute negative meaning to these destabilizations. Immigration detentions are still relevant to the analysis of migration, including understanding the similarities and discrepancies that this incarceration has compared to ‘traditional’ penal logics and institutions as they mirror the broadening influence of penal power, race, gender, and postcolonial relations in a globalizing world (Bosworth & Turnbull, 2014). Thus, crimmigration, with all its apparatus (e.g., judicial or administrative process, detention or imprisonment, conviction, and expulsion) is the most brutal and violent device to exercise structural control over undesired “the other” (Guia, 2015).

2.4. Durkheim’s “structural functionalism”

Through Durkheim’s (2005; 1984; 1961) sociological lens, society is thought of as a living organism and “structural functionalism” as a sociological perspective according to which “(...) *every society has certain structures that exist to fulfill some set of necessary functions.*” (Conley, 2013, pp. 8). Cities are not enlarged by a kind of spontaneous growth; the expansion of cities takes place via migration, which is only possible as the fusion of social segments. Therefore, immigration becomes a decisive factor for social cohesion (Durkheim, 1984). For example, regarding the economy of a society, immigrants play a prominent role in maintaining, disrupting, and/or contributing to social cohesion. Since the 1980s and 1990s, the American economy has favored workers who have valuable skills to offer, because they may “(...) *increase the chances of economic success in the United States, such as the language and culture of the American workplace*” (Borjas, 2011, pp. 19).

Following that strategy, American society was always in favor of combining the human capital and physical resources that immigrants may have to offer with those that already exist in the national economy (Conley, 2013). According to “structural functionalism”, whether the effects are positive or negative, immigration significantly impacts the level of social cohesion in the workplace (Durkheim, 1984). Applying this perspective to refugees, it is possible to see that these clusters of people, often confused

with immigrants, can have a positive impact on European societies in terms of much-needed labor capital. Expanding Durkheim's analysis to contemporaneity, it is also possible to see in this arrival of refugees to Europe an opportunity for generational renewal, since several of its countries (such as Portugal) have been suffering, in recent decades, from a progressive decline in population. Nonetheless, the current trend in European countries is to see asylum seekers and refugees as part of the problem, and not part of the solution, and to mark them as “external”, rather than “structural” in terms of the country's internal systems in different areas (Matlin et al., 2018).

Durkheim (2005; 1961) defined “social regulation” as the degree to which society puts a limit on the wishes and ambitions of the individual, through normative or emotional classifications. The normative limits on individuals' goals and courses of action lead to a breakdown in social norms causing the individual to run out of society, a phenomenon coined by Durkheim (2005; 1961) as anomie. In this way, anomie is marked by impractical aspirations and expectations that commonly are responsible for the conflict between means, and ends, which creates feelings of evasion, disbelief, and injustice. According to anomie's concept, the lack of clear rules and purposes of behavior generates a state in which the individual is confronted with insecurity and contradictory anticipations because “the limits are unknown between the possible and the impossible, what is just and what is unjust, legitimate claims and hopes and those which are immoderate. Consequently, there is no restraint upon aspirations” (Durkheim, 2005, pp. 213). Thus, for a social order to be impartial, it must be sensibly established, with equal opportunities and a conceivable prospect for every person.

Refugees currently face several problems regarding their integration into asylum societies, such as accessing housing, health, and other basic services; being relegated to low paid and often dangerous jobs and being segregated or excluded from the social sphere (Eggenhofer-Rehart, et al., 2018; Freedman, 2019; Fotaki, 2019; Rechel et al., 2011). This reality contradicts Durkheim's idea (2005) of an impartial social order. In the same line of thought, Merton (1994) described a very precise dimension of anomie, where people are denied institutionalized resources to achieve culturally defined objectives. Consequently, they must put aside the resources, the objectives of both.

Merton (1994) augmented that deviation is a social structural problem, an adaptation to an inconsistency between culturally defined objectives and the socially accepted resources to accomplish those objectives. For refugees, the feeling that they were accepted as members of a new society in the asylum country is often in conflict with

the reality that they experience because they are not provided with the same necessary and legal means to achieve goals as the nationals (Gagliardi, Brettschneider, König, 2021; Giacco, Laxhman, & Priebe, 2018).

Another problem related to the segregation or exclusion of refugees from the asylum society can be interpreted through the concept of “social integration” (Durkheim, 2005; 1961). Regardless of interpersonal relationships, “social integration” bonds individuals to society, confirming a high degree of attachment to shared values and beliefs. It also encourages the perception that people are part of a broader social whole, neutralizes selfishness, and promotes external interests to the individual self. Thus, a social organization marked by weak “social integration” can encourage extreme individualism and debilitated feelings for collective norms and rules, since “the more weakened the groups to which he belongs, the less he depends on them, the more he consequently depends only on himself and recognizes no other rules of conduct than what is founded on his private interests.” (Durkheim, 2005, pp.167).

Durkheim (2005) also stressed the importance of the process of socialization in preserving social order or in changing the social order in place, by modifying the existent boundaries. Instead of promoting positive socialization of refugees, European states often assume an "us" versus "them" stance, which leads to their segregation and exclusion from the asylum society (Matlin et al., 2018). As Durkheim (2005) advocated, this may leave refugees to depend entirely on themselves and on the legal or illegal ways they find to survive.

On a final note, Durkheim (2005) argued that common values of participation in organized social life, and commitment to common social institutions and policies, would nurture stronger ties between the individual and society. Especially in the nineteenth century and early twentieth century, migrants in the United States tended to socialize with people of similar ethnic backgrounds to experience group solidarity during a time of intense resocialization. This feeling of group solidarity decreased the sense of anomie among migrants and their labor contribution led to increased social capital, which made them more acceptable to the national citizens (Durkheim, 2005).

Through this example, it is possible to perceive the constructive impacts that the socialization and positive integration of migrants may have, not only for themselves but also for the societies that welcome them. But the large increase of refugees worldwide and their massive arrival to European states, since the end of 2014, has generated a great political and social debate around the socialization and integration of these people or their

expulsion from the European soil (Aas, 2019). This seems to contradict the historical facts concerning the positive aspects that the arrival of foreigners can have for the growth and cohesion of societies, as long as they are properly integrated (Durkheim, 2005). Furthermore, it also raises apprehensions regarding social control and how it is being installed in societies.

“More moral panics will be generated, and other, as yet nameless, folk devils will be created. Our society, as presently structured, will continue to generate problems for some of its members (. . .) and then condemn whatever solution these groups find.” (Cohen, 1972, pp.233). As it was possible to conclude from chapter 2, contemporary society continues to have, as one of its central characteristics, social selection: the integration of what is desired, beneficial and profitable; and the expulsion or non-integration of what is considered harmful, dangerous, or costly. Control is increasingly expanding, establishing frontiers of countless types, such as social, individual, geographical, and virtual.

In recent years, sovereign states have been transforming themselves to extend state borders to other places, allowing, in that way, countries to ascertain their geographical identity, and to monitor the movement of people, even before these movements happen (Aas, 2019; Bosworth, 2008). Given all the information provided in this chapter, it is possible for the current research to conclude that despite the potential utility or function of asylum seekers and refugees, there is a current tendency in European and non-European countries to exclusion, stigmatization of the other, and increasing border and social controls to reject them or to marginalize them.

Both men and women leave their countries seeking asylum in foreign countries for various reasons (Freedman, 2003). However, the obstacles and dangers faced by women are distinct and have additional sources of insecurity due to gender inequalities that have been intensified with the processes of globalization and that are structured around distinct power relations between men and women (Freedman, 2007; Aas, 2013). As the United Nations Division for the Advancement of Women (2003, pp. 14) report concluded, *“some migrant women are especially vulnerable to deprivation, suffering, discrimination, and*

abuse.” Therefore, according to the concept of intersectionality¹⁷, refugee women are subjected to a dual vulnerability to violence both as refugees and as women (Carastathis, 2014).

Taking into account this reality, chapter 3 of part I will address violence against refugee women from a gender perspective, where concepts such as masculinity, patriarchy, “structural” and “symbolic” violence become fundamental for a criminological comprehension of what does it mean to be a refugee woman in the twenty-first century. To establish how crucial, it is, for its elimination, to frame violence against refugee women as a human rights violation, chapter 3 will stress the interconnections between human rights and gender. It will also scrutinize the potential limitations and benefits of doing so, from a more broaden perspective that defends that fight to include refugee women’s rights in the UDHR should be considered representative of all women’s rights.

¹⁷ Intersectionality is the study of the overlap or intersection of social identities and related systems of oppression, domination or discrimination (Dancig-Rosenberg & Yosef, 2019).

Chapter 3

Framing violence against refugee women as a human rights violation

This chapter will offer a broad contextualization of the importance of framing violence against refugee women as a human rights violation, to achieve a humanitarian-based and comprehensive approach to refugee women. For that effect, chapter 3 will explore fundamental concepts such as gender, masculinities, patriarchy, and gender-based violence against refugee women. As this chapter will show, refugee women, like most women, will encounter some form of gender-based violence in their lives-paths. But in the particular case of refugee women, two forms of violence are found to be prevalent, that is “structural” and “symbolic” violence. Lastly, chapter 3 will demonstrate the potential limitations and benefits of framing refugee women’s rights in human rights.

1. Gender, masculinities and patriarchy: The importance of studying gender-based violence

According to Rubin (1997) for the most part of human history, the natural order of social life and normalized relationships between men and women have been constructed as hierarchical and heteronormative, based on misconceptions about gender. More recently, gender and sex have been defined in the following terms: gender refers to the social roles, expectations, and definitions of what it mean to be men and women in a given context, in contrast to sex which refers to the biological fact of being born male or female (Connell, 2010, Anker, 2002). This distinction is fundamental because it means that being male or female originates from physical characteristics derived from sex chromosomes and genes, whereas being a man or a woman holds a broader meaning, with cultural concepts of masculinity and femininity coming into play (Tseng, 2008).

Gender roles are defined by behaviors, but gender stereotypes are social beliefs and attitudes about masculinity and femininity. A gender stereotype consists of beliefs about the psychological traits and characteristics, as well as the activities considered appropriate for men or women (Fiske & Cuddy, 2002). Male gender norms are the specific social

expectations and roles assigned to men and boys in relation to women and girls¹⁸ (West & Zimmerman, 2009). For Kenny (2007), the constructions of masculinity and femininity are connected to the daily life of political, economic, and juridical institutions, making these spheres gendered social organizations.

Gender-based violence (GBV) is one of the most prevalent types of interpersonal violence and consists of the intentional use of physical force or power, threatened or actual, against a person or group that results in, or has a high likelihood of resulting in, injury, death, psychological harm, maldevelopment, or deprivation, and disturbs women around the globe (UN, 2014). GBV is the expression commonly adopted by international policy to emphasize the fact that gender-based violence against women (GBVAW) includes any act that disseminates female subordination using verbal and physical force or other coercive action, that results in physical or psychological harm, humiliation, and deprivation of autonomy (Canning, 2017).

In recent years, initiatives to address and prevent GBVAW have proliferated worldwide. According to the United Nations Declaration on Violence Against Women (CEDAW) (1979), the term GBVAW means “*(...) any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering of women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.*” GBVAW is any act of gender-based violence that results in the harm, suffering or indignity of women (CEDAW, 1979; Hellum& Aasen, 2013). In sum, GBVAW is “*(...) violence that is directed against a woman because she is a woman or that affects women disproportionately*” (CEDAW, 1979; Hellum& Aasen, 2013).

The term gender-based violence can have a broader and a wider-ranging meaning that allows the inclusion of all types of GBVAW, such as sexual assault or trafficking; or it can be narrower, defined as a type of violence that feeds itself by keeping and transmitting the idea of an unbalanced and unequal distribution of power in society, on the basis of gender (Heise et al., 2002; UN, 2014). Therefore, violence and abuse experienced by women can, as agreed at the UN Fourth World Conference on Women, (1995) be physical, sexual, psychological, and emotional, and may comprise a very wide

¹⁸ These often include ideas that men should take risks, endure pain, be tough or stoic, or should have multiple sexual partners – sometimes including paying for sex — to prove that they are “*real men*” (West & Zimmerman, 2009).

range of behaviors, such as “(...) *sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation/cutting and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; physical, sexual and psychological violence within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking of women and forced prostitution; and physical, sexual and psychological violence perpetrated or condoned by the State.*” (The United Nations Fourth World Conference on Women, Beijing, 1995).

Behavior such as sexist jokes, sexual harassment, intimate intrusions, and coercive sex with dates or partners (which can culminate in “stranger” rape) are all part of women’s daily experience for which there is a widespread tolerance (Kelly, 1988; 2005; Mackinnon, 2006). Most women structure their daily lives around the constraints of security, and the freedom of movement that the ever-present threat of men’s violence imposes (Agosín, 2002). The real scope of GBVAW remains unknown, due to numerous reasons¹⁹. Some of the violence faced by women and girls are unique to them, such as forced abortions, female genital mutilation, while others, such as domestic violence, forced marriage, are disproportionately suffered by women and girls (Amnesty International, 2004). Women’s abuse can have effects not only on women’s bodies, but it can also have a negative impact on their daily life. For example, by using coercive behavior to make women economically dependent, perpetrators of violence are creating a vicious cycle that places women at greater risk of revictimization (Adams et al., 2008; Vyas & Watts, 2009).

Physical abuse is often linked to psychological abuse, and studies show that about one-third to one-half of all cases are sexual abuse (Ellsberg et al., 2000). Although psychological abuse can easily be underestimated in comparison to physical abuse, existing studies point to the fact that both have the same adverse effects and that, quite often, have negative consequences on women's mental health (regarding short-term effects), more notable than physical abuse (Due, Green & Ziersch, 2020; Freedman, Crankshaw & Mutambara, 2020; Freedman, 2016a: 2015: 2009; Schick et al., 2016; Berg, Denison, & Fretheim, 2010; Follingstad, 2007).

¹⁹ Such as the insufficient number of studies carried out on this subject; shame of the victims or fear of reprisals; an insensitive or unprepared justice system for this type of violent behavior and populations; and cultural practices of normalized violence.

The long-term mental health effects of GBVAW can include PTSD (Post-Traumatic Stress Disorder), depression, or anxiety, which can occur due to traumatic events, shocking or scary experiences, and can ultimately lead to suicidal behavior (Devries et al., 2013). Regarding emotional effects, women who have experienced physical, psychological, or sexual assault, may go through various emotions including fear, confusion, anger, or even being numb, and not feeling much of anything at all. They may also feel guilt or shame over having been assaulted, and even try to minimize the abuse or hide it by covering bruises and making excuses for the abuser (McFarlane et al., 2005).

Thus, it can be concluded that gender inequalities are both the cause and enabling context of violence against women (VAW), since men use GBVAW as a way of maintaining gender inequalities that praise them and diminish women (Kavanaugh, 2013). Nonetheless, GBVAW is not limited to individual acts of a man, or to any political or economic system, but rather is prevalent in all societies of the world, across borders, and is independent of wealth, race, and culture (Amnesty International, 2004; Vlachov & Biason, 2005; Alexander-Scott et al., 2016). Many of the acts that are considered to be GBVAW may be carried out by the state, the community, and/or the family (Bunch, 1990). Over the years, several theories have been advanced in an attempt to understand which factors lead to violent acts against women. Kelly (1988; 2005) created and developed the concept of a “continuum of violence against women” to propose a change in the framework for observing and analyzing VAW, which is not necessarily deviant and episodic, but rather normative and functional: an everyday context for the lives and experiences of women and girls all over the world. According to the author (Kelly, 2005; 1988), the aberrant forms of GBVAW are extremes at one end of a wide range of socially sanctioned male aggression, coercive behavior, notions of male entitlement, and entrenched patriarchal standards.

Several studies reported that refugee women experience gender-based violence in all of its forms, processes, and consequences (Cochrane, 2018; Sapia, 2017; Baczynska & Ledwith; 2016; Freeman, 2016; 2015; Hathaway & Foster, 2014; McDonald, & Erez, 2007; Ferris, 2007; Hathaway, 2002; Pittaway & Bartolomei, 2001; Atlani & Rousseau, 2000). To understand, in practice, the scope and meaning of violence against refugee women, it is essential first to analyze GBVAW (against refugee women), for it then to be possible to scrutinize the specificities and particularities of gender-based violence against refugee women. That will be done in the following section. Regarding the specific case

of the violence suffered by refugee women, Canning (2017, pp. 27) offers the concept of *“intersectional continuums of violence”* often perpetuated *“(…) across spectrums of social actors, including government forces, militia, smugglers, traffickers, allies, friends, partners, and husbands.”* (Wood, 2006; 2009, cit in. Canning, 2017, pp. 28).

By doing so, Canning (2017; pp. 28) intended to bring awareness to a larger spectrum of refugee women's lives, *“(…) rather than assigning identities as though migrant women are a monolithic group (...)”* In that way, the author emphasized the urgent need to recognize the variety of forms that the violence encountered by refugee women can take, and also the necessity to acknowledge that not all women experience violence in the same way. The everyday threat of detention and deportation; poor housing and inadequate welfare access; and systemic cuts to domestic and sexual violence support, all contribute to a temporal limbo that limits women's personal autonomy and access to basic human rights (Canning, 2017). Following Cannings's argument, the next section will showcase the current scientific knowledge about violence perpetrated against refugee women.

2. What is known about GBVARW?

There is an emergent recognition of the gendered experience of refugee women and their greater vulnerability to several forms of sexual and gender-based violence. As stated by UNICEF (2018) *“One in three girls/women around the world will experience physical and/or sexual violence – two forms of gender-based violence (GBV) – in her lifetime. Conflict and disasters magnify this life-threatening human rights violation, making GBV in emergencies one of the greatest challenges faced by emergency-affected communities around the world”*. In conflict and crisis settings, women displaced by force (e.g., people affected by wars, disasters, famine, or political crisis), endure serious human rights violations and harsh conditions in often squalid camps. With less access to resources and avenues of social support than refugee men have, refugee women, face existing and increased risks of GBV, such as psychological, physical, and sexual violence. GBVARW often results in unwanted pregnancies, abandonment, health problems, HIV and AIDS, social ostracism, death, and murder (Cochrane, 2018; Sapia, 2017; Baczynska & Ledwith; 2016; Freeman, 2016; 2015; Hathaway & Foster, 2014).

Likewise, refugee women face great danger of becoming victims of GBV, with studies showing data which include situations such as risk of early and enforced marriage among Syrian refugee girls; the danger of kidnapping, sexual exploitation and rape,

female genital mutilation, and forced marriage to al-Shabaab militias, especially in overloaded refugee camps and towards women between the ages of eleven and eighty; women facing multiple risk factors, including threats by armed criminal groups, child recruitment, long-term domestic violence, sexual violence, rape, and extortion, especially in places that have been at war for several years²⁰ (Cochrane, 2018; Sapia, 2017; Baczynska & Ledwith; 2016; Freeman, 2016; 2015; UNHCR, 2015; Hathaway & Foster, 2014; UN Women, 2012; UNGA, 2012; Human Rights Watch, 2011; Chynoweth, 2008; McDonald, & Erez, 2007; Ferris, 2007; Hathaway, 2002; Pittaway & Bartolomei, 2001; Atlani & Rousseau, 2000).

According to existing studies (Cochrane, 2018; Sapia, 2017; Baczynska & Ledwith; 2016; Freeman, 2016; 2015; UNHCR, 2015; Hathaway & Foster, 2014; UN Women, 2012; UNGA, 2012; Human Rights Watch, 2011; McDonald, & Erez, 2007; Ferris, 2007; Hathaway, 2002; Pittaway & Bartolomei, 2001; Atlani & Rousseau, 2000), GBVARW occurs, frequently, in the form of domestic violence, trafficking, sexual assault, rape, “structural” discrimination and forced recruitment for combat groups. These forms of violence are pervasive and may be performed by military forces, refugee men (intimate partners or strangers), as well as by men belonging to the security forces, government officials, aid agency officials, and residents of the host community. GBVARW is often perpetuated by means of abusing the power towards vulnerable, dependent, and fragile refugee women.

Another important aspect related to GBVARW can be perceived in the gendered harm by border control systems, as meticulously explained in Canning’s study (2017), regarding the gendered harm and “structural” violence in the British asylum system. By reflecting on evidence from interviews, focus groups, activist participation, and oral history, the author provided a unique insight into the everyday impact of policy and practice that arguably results in the infliction of further gender-based harm on survivors of violence and persecution. Rather than a narrower focus on VAW, Canning (2017) uses the concept of “gendered harm” to focus on the systemic ways in which the British asylum system is planned to enforce control over, devalue, and dehumanize asylum seekers in general, and women in particular.

Canning (2017) stresses the brutality of the British asylum system itself, of the policies that inform its processes, and the actors involved in it. British asylum law and

²⁰ E.g., South America, Tanzania, Guinea, Liberia and Sierra Leone.

practices are aligned with the European assemblage of asylum administration and immigration control, which enable the author to extend her criticisms to the European Union's asylum system itself. Canning (2017), described the procedures, highlighted the ways in which seeking asylum is in practice prohibited, and demonstrated the impact that border controls have in terms of retracting personal autonomy, and the accessibility to support systems for asylum seekers. She also gave particular attention to those whose voices are frequently silenced, by describing the systematic denial of the female asylum seeker's reality (Canning, 2017).

Internationally, there are a vast number of agencies paying close attention to GBVAW, such as the UN, the World Health Organization (WHO), and the United Nations International Children's Emergency Fund (UNICEF). For the UN (2006) *"Violence against women is not the result of random, individual acts of misconduct, but rather is deeply rooted in "structural" relationships of inequality between women and men...Violence constitutes a continuum across the lifespan of women, from before birth to old age. It cuts across both the public and the private spheres. WHO acknowledged that GBV should be handled as an "(...) urgent public health priority"* (cit. in Garcia-Moreno & Watts, 2011, pp.1).

Like domestic abuse, harmful cultural practices, sexual harassment and assault, child incest, forced marriage, trafficking for sexual or domestic labor, the assault of women in conflict zones or in refugee contexts²¹ is also an example of the instrumental forms of coercion, constraint, and abuse used against women. GVARW operates to control and limit the condition, movement, integrity, opportunities, and the rights of refugee women, and to facilitate the privilege and the rights of men, states, or of those considered "good" citizens (Campion, 2018; Hathaway & Foster, 2014; Gupta, 2013; Mackinnon, 2006; Hathaway, 2002). "It is widely acknowledged that the majority of refugee women experience rape and sexual and gender-based violence as part of the refugee experience." (Pittaway & Pittaway, 2004, pp.119).

Accordingly, as in violence against women, violence against refugee women also refers to varying forms of violence and insecurity, which are also gender-specific. In the case of refugee women, the violence that these women suffer is, as well, influenced by other aspects, such as their geographical and social context, at a given moment: in their countries of origin; during the displacement journey, and in countries of asylum

²¹ E.g., during the displacement journey or even at the arrival in host countries, in refugee camps or other types of facilities.

(Freeman, 2016; Pittaway & Pittaway, 2004; Pittaway & Bartolomei, 2001). These three stages and (geographical and symbolic) places will be further analyzed next, in terms of the violence experienced in each one of them.

3. The specifics of GBVARW in three stages and places

Women may suffer, in their countries of origin, from “war-related violence” (Freeman, 2016, pp.21), that is, from armed conflict allowing military forces to abduct, rape, and kill women on a very high scale (European Commission, 2017; Hathaway & Foster, 2014; Hathaway, 2002). According to Sapia’s research (2017) in Switzerland, a country that is one of the main entry points for refugee women from Eritrea, Somalia, and Sudan, the majority of refugee women have experienced gender-based violence in their home country or during the displacement journey. Freedman (2016) conducted research in Greece (Kos), Serbia (Belgrade), and France (Paris and Calais area) and interviewed Syrian refugee women and men who were at some stage of their migratory journey.

The focus on irregular migration and the gendered consequences of border securitization on refugee women can also be aspects leading to greater risk of sexual and physical violence, instances of poverty and malnutrition, exposure to harsh physical terrains, and experiences of detainment (Canning, 2020; 2017; Colvin & Munz, 2020; Castellá, 2017; Sapia, 2017; Luibhe’id 2013; Pickering & Cochrane, 2012; Doocy et al., 2007). In fact, according to the mentioned authors, when confronted with a humanitarian crisis it is important to focus the analysis of gender-related persecution, torture, and sexual violence on three points: (1) the trajectories of violence that women seeking asylum can face prior to and during the migration; (2) the gendered implications and consequences of such subjections.; and (3) the importance of recognizing intersectional experiences within these continuums.

Studies also raised a red flag regarding family and conjugal violence towards refugee women, especially psychological and physical abuse (Hossain et al., 2014b; Keynaert et al., 2012; Gorst-Unsworth, & Goldenberg, 1998; Friedman, 1992). According to Freeman (2016, pp. 22) “(...), *these women suffered abuse from their own husbands, who not only did not protect them but posed a threat*”. All the usual restrictions associated with leaving intimate relationships, such as fear of being hurt and killed if they leave, emotional dependence on abusive partners, cultural and family pressure to stay with the husband, and economic dependence (Coker & King, 2000), are aggravated by the fact

that many of these women have children and do not feel able to protect them (Cochrane, 2018; UN Women, 2013).

In their countries of origin, women reported being afraid, on one hand of suffering some sort of violence directly, and, on the other hand, of suffering because someone close to them was a victim or even died due to the violent acts being carried out “(...) *from all sides in the conflict, the official Syrian army, the Islamic State of Iraq and Syria (ISIS) and rebel forces*” (Freeman, 2016a, pp.21). They also reported being afraid of ending up alone and unprotected, in a hostile and at war country, so they decided to flee to Europe, with their family and children, and restart their entire lives. Mangrio et al. (2019) investigated the perception of refugee women in Sweden concerning their situation during active participation in the resettlement process in the country. The authors conducted eleven qualitative interviews with recently arrived refugee women who were enrolled in the resettlement process. Results show that the refugee women interviewed suffered from being separated from their loved ones that stayed in their countries of origin and felt compelled to achieve something of value in the host country and all experienced both physical and mental anguish (Mangrio et al., 2019).

The journey of displacement can also be dangerous to these women, as they can be stolen, abducted, raped, tortured, and killed (Cochrane, 2018; Freeman, 2016). The conditions of transportation from one country to another can further increase the danger, such as happens in the small, unsafe fishing boats often used for irregular international passage, as many women escaping the war in their countries have died because some of these boats have sunk (Pickering & Barry 2013; Weber & Pickering, 2011). Other reports showed that the police, regardless of the conditions presented by women in those boats, sent them back to their countries (Pickering, 2005). Another source of sexual violence against refugee women is performed by unscrupulous smugglers and criminals, as well as by the police itself. Several women, traveling alone or with children, reported suffering sexual assaults, being raped and, “(...) *being forced to swap sexual relations in return for help on their passage to Europe.*” (Freedman, 2016a, pp. 21).

In the country of asylum, GVARW is often aggravated by the obsolescence and insufficiency of the reception and accommodation conditions. Although there are exceptions to the rule²², countries may end up addressing the asylum situation with hostility and turning their backs on those who ask permission to enter and to settle in

²² Host countries that have made efforts to accommodate and assist refugees in the best way possible.

(Baczynska & Ledwith, 2016). Surveys conducted in a number of resettlement, residence, or transit countries, using data primarily from clinical settings and refugee camps, have studied the trauma of refugees and their sequelae. These surveys found that refugees who survived trauma, commonly experienced a number of psychosocial problems, as well as disorders of depression and anxiety, including post-traumatic stress disorder (PTSD) (Davaki, 2021; Dionis, Timar & Domscheit-Berg, 2016; Laban et al., 2005; Leth & Banner, 2005; Marshall et al., 2005; Lie, 2002; Beiser & Hou, 2001; Gorst-Unsworth & Goldenberg, 1998; Jaranson, 1998).

The deficiency in physical and mental health care and unsafe and unsanitary conditions within reception and detention centres have all been well documented (Sapia, 2017; Burnside, 2016; Freeman, 2016; Triggs, 2015; Lorek et al., 2009; Robertson et al., 2006). Davaki (2021), for instance, called the need for public health nurses working with refugee women in the community to help them cope with the trauma. Such support would be fundamental to develop a more comprehensive understanding of the range of refugee women's experiences and the continuum of needs post-migration, particularly among older women with large family responsibilities.

Other reasons behind the increased vulnerability of refugee women and the inhuman conditions to which they are subjected are governments fatigue; obsolete funding for institutions responsible for receiving refugee women together with their inability to administer and provide adequate shelter and useful services; and political conjecture and social unrest, marked by attitudes of intolerance on the part of national citizens (Freeman, 2016; UNHCR, 2012). Sapia's study (2017) showed a lack of knowledge from politicians and professionals about the sociocultural background of the refugees, psychological and physical symptoms and the coping strategies among the refugee women, and the need for an intercultural interpreter to eliminate linguistic barriers. The study also pointed out that prevention strategies should involve the victim, their family, community, and the whole society, that the consolidation and propagating of women's rights would increase resilience, and that health policies should assure financial support (Sapia, 2017).

From the lack of running water or electricity to the insufficient number of toilets, beds, or blankets, excessive numbers of refugees are being piled up in places with a much lower support capacity than required. The lack of space can create vulnerability for women in terms of violence, as reported in Freeman's study (2016, pp. 22), where "*(...) the women interviewed (...) expressed fears about sharing space with unknown men,*

particularly single men, who were perceived as a specific threat". Indeed, the occurrence of violence has been consistently reported in official refugees' accommodation, housing, shelters, and camps. It was expected that these facilities would be "safe havens" for people fleeing from wars and natural disasters in their own countries, but in reality, they become sites of attacks on refugee women, perpetuating, once again, gender-based violence (Horn et al., 2021; Hermans, Kooistra & Cannegieter, 2017; Sanggaran et al., 2016; Triggs 2015; Bacon et al., 2013).

These conditions create particular gendered outcomes, including dangerous episodes of sexual assault, with women being subjected to long queues for hygienic items, leaving them more vulnerable to men's assault and to degrading maneuvers such as being asked to show used sanitary items to obtain more (Kavalidou, 2020; Krause, 2016b; 2015; Triggs 2015; Bacon et al., 2013). Another problem with these facilities is the time that refugee women spend in them: a solution that is supposed to be temporary ends up lasting for more than one year (UN Women, 2013).

In sum, although not all refugee women will experience violence in the same way, they will most likely experience some form of violence through their life spans. there is an urgency to create more knowledge about the specificities of refugee women's conditions to develop strategies and find the best way to work within the community of refugee women and to help the fight against violence against refugee women. For survivors of gendered violence, the harm inflicted throughout the process of seeking asylum, which is frequently perpetrated by several "structural" and "symbolic" means, can be intersectional and compound the impacts of previous experiences of violent continuums, as the next section will show.

4. GBVARW as a tool of control: Conceptualizing "structural" and "symbolic" violence

Largely driven by feminist researchers, a more recent theoretical movement has emerged focusing on a complex analysis of male-dominated social structures and in the socialization practices that teach men and women-specific gender roles that instigate violence and abuse against women (Yllo, 2005). According to Farmer (2005), the inequalities within and between different social, gender, and ethnocultural groups are created and maintained by "structural" and "symbolic" forms of violence. These forms of violence are invisible expressions of abuse or of any harm that is embodied in the social fabric of society, that is, at the political and economic organizational level. Walby (2009)

argues that violence is an institutional domain, it is a constituent of power, and therefore, it is better to theorize violence while acknowledging its connections with modernity and inequality, and therefore to recognize its “symbolic” and “structural” elements.

This means that, in parallel with direct forms of violence against women, there is a type of violence, structural violence, “(...) *that is exerted systemically - that is, indirectly - by everyone that belongs to a certain social order (...)*” and which “(...) *is intended to inform the study of the social machinery of oppression.*” (Farmer, 2005, pp. 307). In that sense, “structural” violence is not only a direct experience but also occurs as a consequence of social structure (e.g., socioeconomic class, race, sex) and of existing power structures. In this sense, the term “structural” violence refers to the social mechanisms that deliberately endanger people and populations. It is the systematic way whereby the social order prevents individuals from achieving their potential (Campion, 2018; Canning, 2017; Farmer, 2005). “Structural” violence is carried through unequal opportunities for work, uneven access to goods and services, and various types of exploitation and control that refugee women also encountered and that harm them, as shown before. “Structural” violence ultimately impacts a range of determinants of mental, physical, and psychological health (e.g., trauma support systems, housing, psychological support, good quality healthcare) (Campion, 2018; Canning, 2020; 2017; Dominguez & Menjivar, 2014; Crisp et al., 2012; Farmer, 2005).

Created within society, by its own political and economic organization, “structural” violence builds and maintains inequalities within and between different social groups, especially in ethnic-cultural groups and in so-called minority groups, where refugee women are usually included. The established inequality built and maintained by “structural” violence can rapidly escalate to VARW, with women and children being in the most vulnerable spot. Indeed, when it comes to power relations, women and children regularly find themselves in the last positions of control. “Structural” violence, contrary to physical violence, is obscure and can manifest itself indirectly, which may hinder its identification. But despite this, since its inception in 1969²³, this concept has been used to explain multiple vulnerabilities all around the world, including the various forms that VAW encompasses (Campion, 2018; Canning, 2017; Dominguez & Menjivar, 2014; Crisp et al., 2012; Farmer, 2005).

²³ Structural violence is a concept commonly ascribed to Galtung, which the author introduced in the article “Violence, Peace, and Peace Research”, from 1969.

In the case of refugee women, the concept of “structural” violence may be used to better understand the asylum-seeking system in place, worldwide. The “structural” circumstances surrounding the phases involved in the process of becoming a refugee, such as during their flight and displacement journey, in the place of refuge, and eventually, when returning to the country of origin, may cause suffering or damage to these women (Campion, 2018). For instance, Canning (2017) draws from Galtung’s definition of “structural” violence²⁴ to debate the forms in which the British state enables suffering and fails to lessen preventable harm to asylum seekers. The State uses legislation and policies that have the specific objective of reducing asylum applications and of expanding securitization and border controls, along with the adoption of different ways of delaying, and deliberate negligence such as the 36.95 pounds provided weekly to asylum seekers leading them to poverty; the arrangement of scattering policies (e.g., compulsory dispersal of housing asylum seekers who require accommodation across the United Kingdom); and the use of detention both as practice and as a threat. Asylum seekers or refugee women, who may also have experienced forms of violence prior to arriving in the UK, are predominantly affected by these sorts of “structural” violence, especially when placed under detention. Canning (2017) also identified the deportation process as a form of “structural” violence, since it disseminates the “us and them” narrative that validates the idea that refugees can be sent back to countries considered dangerous for European Citizens.

For refugee women, there are various outcomes of “structural” violence: undergoing long periods of waiting either to enter a country, to obtain legal status within the country or even to return to their countries of origin; unstable access to medical and legal services; reduced economic prospects; and different forms of exploitation (Cochrane, 2018; Pickering & Barry, 2013). It is in the country of transition or resettlement that forms of “structural” violence finally take shape. It is in this phase of the process of becoming a refugee that the “structural” policies and practices of the state that interfere with the day-to-day security of women become visible (Campion, 2018; Kleinman et al., 1997). The politics of asylum-seeking, the deficiency of enforcement of refugee legislation, and the affluent states’ policies of border securitization rooted in law, are other structural direct causes for the suffering of those refugee women who are

²⁴ According to Galtung (1969, pp. 172) “(...) structural violence is meaningful as a blueprint, as an abstract form without social life, used to threaten people into subordination: if you do not behave, we shall have to reintroduce all the disagreeable structures we had before.”

struggling to seek protection (Cochrane, 2018; Canning, 2017). Refugee women may face “structural” violence with regard to access to equal rights and support. Most of them face great discrimination during their daily routines, including social exclusion and segregation, thereby limiting their full and positive integration into the asylum society (Pickering, 2011; Crisp et al., 2012; Jaji, 2009). According to Castellá (2017), post-arrival policies disrupt the everyday lives of refugee mothers and reconstruct “living” into “coping”.

Other examples of policies embedded in “structural violence” are differential treatment in courts, deportation to the country of origin, temporary protection instead of permanent protection, limited governmental assistance, work prohibition, lack of family reconsolidation, and administrative processing delays (Calling, 2017; Schuster, 2011; Brady, 2008; Kanstroom, 2007; Pickering, 2005; Cohen, 2002). At the same time, it is very unlikely for refugee women to be presented with the same employment opportunities as nationals from asylum countries, which consequently will make them seek employment within the informal and sometimes illegal labor market (Beiser & Hou, 2001). This may mean that women are frequently being subjected to participation in prostitution and sexual favors in exchange for essential survival goods or even become victims of sexual assaults by their coworkers (Crisp et al., 2012; Krause-Vilmar, 2011). “Structural” violence, even when it does not involve a direct assault (e.g., physical, mental, and/or emotional), maybe indirectly physically harmful, resulting in poor nutrition or limited access to health and care services for the refugee women and their children (Crisp et al., 2012).

There are several factors that can prevent refugee women from having access to the elementary supplies essential for a stable and protected life. In shelters, facilities, refugee camps, or detention centres, “structural” violence often arises as a consequence of the structure and hierarchy within these spaces; of gender inequalities; of adverse interactions between hosts and refugee communities; from the lack of staff training in immigration removal centers; and decreased standard of care for the detainees (Freedman, Crankshaw & Mutambara, 2020; Freedman, 2019; Calling, 2017).

Authors consider that not only “structural” but “symbolic violence” as well is intrinsically linked to GBVARW, as it manifests itself in the way gender roles are debated, portrayed, or gratified (Bimbi, 2014). “Symbolic” violence can be analyzed as a type of abuse that reproduces and perpetuates patterns of inequality and marginalization of women and that legitimizes the behavior of superiority and domination in relation to

them. “Symbolic” violence is often assembled and labeled as ordinary and expected in relation to social institutions (e.g., family, religion, education, and economic or political intuitions) from which it is extracted. Synthesizing, “symbolic” violence is an invisible operation of domination that encompasses ideologies, phrases, non-verbal attitudes, or dialogues that express stereotypes, hegemonies, and provokes feelings of humiliation or stigma (Yücel, 2021; Bardall, 2019).

Because of its roots in social institutions such as family, culture, education, religion, and other political and economic institutions, “symbolic” violence is regularly conceived to be and understood as, typical and ordinary. Consequently, “symbolic” violence is not necessarily expressed or applied directly to physical violence, but embodied in concrete social practices, often by males. For Bourdieu (1990, pp.11) “symbolic” violence “(...) *is the essential part of male domination.*” Such violence can be extremely harmful by covering up potential conflicts of hierarchies or gender conflicts, such as those between police officials and professionals at refugee centers. health care volunteers and refugee women who seek help (Yücel, 2021; Bardall, 2019; Chamberlain-Salaun, Mills & Usher, 2013; Pedersen, 2011). Likewise, it is fundamental to explain the social power of male domination over refugee women, and even acts of physical violence in refugee women’s everyday life, as well as the application of social order and worldview rooted in the dominated and dominant “habitus”.

What distinguishes “symbolic” violence from other types of harm are the beliefs, fundamental speech, language, and arguments which undermine and marginalize women, and are seen as social normality, in what Bourdieu (1990) defined as “habitus”. The author described what “doing gender” means, or in a more specific sense, how male domination works as a structure of daily routine. Bourdieu’s concept (1990) of “doing gender” can be applied to the context of refugee women as follows: first, a gendered vision of the world is inscribed in refugee women’s “habitus”; subsequently refugee women internalize the gender roles assigned to them by forces external to their will; and lastly, refugee women behave accordingly and pass those gender roles on generationally. It is accurate and important to say that “habitus” is gendered and gendering (Kleinman, 2000).

The notion of “habitus” is the concept for understanding how “(...) *the social world constructs the body, both as gendered reality and as a depository of the categories of gendering perception and appreciation*” (Bourdieu 1990, pp. 11). The established inequalities towards refugee women, power and hierarchy, gender discrimination, and

GBVAR, including more obvious and dangerous acts like exposing refugee women to sexual coercion, sexual assault, and rape, may be considered common, ordinary, and inevitable. But they all are forms of “symbolic” violence (Yücel, 2021; Bardall, 2019; Chamberlain-Salaun, Mills & Usher, 2013; Pedersen, 2011).

In conclusion, looking closely at “structural” and “symbolic” forms of violence, it is clear that not only violence does not come exclusively from interpersonal relationships, but also that these two forms of violence are not mutually exclusive. Rather, these forms relate to one another as they manifest in the lives of refugee women. “Structural” violence and “symbolic” violence are both responsible for creating conditions where interpersonal harm can happen, and for shaping gendered forms of violence against refugee women in vulnerable situations. Refugee women experience interpersonal violence in terms of direct, physical harm, but also through more obscure and subtle forms of harm that result from unequal gender discourses, beliefs and dialogues, that reaffirm the inferiority and subjection of women to men.

These women also face violence from structures within social organizations that legitimate such discourses, and that instead of taking care of refugee women’s needs, disregard and abuse them, further aggravating their ostracism, exclusion, and marginalization (Yücel, 2021; Chamberlain-Salaun, Mills & Usher, 2013; Crisp et al., 2012). Thus, “symbolic” and “structural” violence are, in fact, conceptual instruments that complement and relate to each other. Consequently, it is pertinent for both to be analyzed from such symbiosis and interconnection. In one way, the discourses of men’s superiority and of women’s inferiority can lead to power structures based on gender discrimination against women, particularly the more vulnerable refugee women. Similarly, the very existence of these structures can also shape gendered-biased discourses in relation to refugees, and lead to forms of violence for women in vulnerable social positions. One way or another, “structural” and “symbolic” factors can have a negative impact on refugee women and increase their risk of gender-based violence.

Given the arguments presented throughout this section, the current thesis endorses Kelly’s idea (1988, 2005) that, when studying gender-based violence, the focus should not be on the dichotomized concepts of “victims” and “perpetrators”, but rather on the “structural” and “symbolic” forms of violence, that is, in the structures of power and prejudice discourses behind gender-based violence against refugee women. Such focus should then lead to an analysis of the daily violence and harms faced by refugee women, through the prism of complex political, social, historical, cultural, and prejudiced

processes. To explain the increased use of GBVARW in neo-liberal times, and ultimately to prevent it from happening, it is fundamental to pay close attention to its roots, the discourses that validate such violence, the structures that support it, and the acts that perpetuate it. Likewise, it is important to pursue a broad approach, one that sees the fight for the respect of refugee women's rights as the fight for all women's rights, which should be included in the human rights, as the next section will argue.

5. Framing refugee women rights as human rights: The potential limitations and benefits

Worldwide, many international post-war human rights treaties, constitutions, and domestic laws reiterate the principle of a fundamental right to equality and non-discrimination as the basic principles for the establishment of a civilized society (Hoffmann, 2011). The connection or framing of women's rights with human rights can be translated in different terms often used in an unclear and undefined way, frequently even interchangeably, varying its meaning according to the author who uses it. The expression 'women's rights, often refer to specific abuses suffered by women, i.e., assaults aimed at women based on their sex/gender or violations disproportionately distressing women (World Health Organization et al., 2010).

The terms "human rights of women" and "women's human rights" are generally applied with a wider meaning to describe all offenses to human rights where the victim is female (Hoffmann, 2011). Although the UDHR prohibits discrimination based on sex (or gender-based discrimination) and regardless of the compressed network of human rights instruments adopted at the national, regional, and international levels, women's rights continue to be ignored by governments and different human rights bodies of the UN, and unequal treatment is still widespread for women, all over the world (Hellum & Aasen, 2013). This lack of protection becomes quite evident in the case of protecting women against violence in armed conflicts, as well as in those periods of insecurity before and after the war (Hathaway & Foster, 2014) which are common for refugees to suffer from.

Becoming human, in both the legal and lived senses, is a social, legal, and political process and the states have the responsibility of protecting and promoting human rights (Mackinnon, 2006). So, with this in mind, human rights should be understood as applying to all women, including women living in war zones or women who, because of such war, or for any reason other than their own will, must leave their countries and seek asylum in another country (Hathaway, 2002; Bunch & Frost, 2000). Yet, the combination between

the rooted prejudices and the social, economic, and political interests, led women to be excluded from the definitions of “general” human rights and to be placed as part of a “special” or secondary order within human rights (Bunch & Frost, 2000). As an example, early human rights instruments, such as the UDHR, focused on women, not as a gender group but as second sex (men being the first sex) and the extent of humanity.

The feminist activist movement for the recognition of women's rights as human rights is, in the international context, generally divided into three historical moments named first, second, and third wave feminism (Booth and Bennett 2002). The first wave, which occurred from 1900 to 1950, intended to achieve equal political and civil rights, including suffrage, labor, and equal nationality rights for women and men, within emerging international institutions such as the League of Nations and the UN.

The second wave, which ran from the 1960s until the end of the 1980s, was strongly marked by the UN Decade of Women (1976-1985) and the three World Conferences, in Mexico City (1975), in Copenhagen (1980), and Nairobi (1985). During this wave of women's international activism, the agenda of equal treatment was quite prominent and important, reinforced by the emergence of international and local women's groups, organizations, and networks, by the enlargement of the movement to embrace women from developing countries and from different classes, and by the adoption of a broader set of women's concerns on the worldwide agenda. The UN End of Decade Conference held in Nairobi (1985) and the Forward-Looking Strategies for the Advancement of Women presented at that conference, focused on the particularly vulnerable condition of women affected by armed conflict, including threats of physical abuse. Yet, violence against women was not exactly connected to widespread and systematic violence in armed conflict, and there was no strong statement that violence against women was mainly a human rights matter (Merry, 2006).

Finally, the third wave of international women's activism that emerged in the early 1990s has nurtured a radical change in the approach to gender issues. In fact, women's rights only began being recognized as human rights at the 1993 UN World Conference on Human Rights in Vienna, Austria. Cain and Howe (2008, pp. 11) argued that the framing of women's rights within human rights must be seen as “(...) *a site of struggle for equality ... and also a new political beginning*” since some of the violence faced by women is unique to them while other forms disproportionately affect women (Amnesty International, 2004).

In the case of refugee women, the gendered impact of war on women's human rights has become a central point of advocacy and activism, in the prewar period, during the war itself, and in the course of the process of becoming refugees (Hathaway & Foster, 2014). To combat the invisibility of women's abuse in the human rights discourse, The Center for Women's Global Leadership, founded in 1989 in association with hundreds of women's organizations around the world, launched a global campaign for women's human rights to influence the Second World Conference on Human Rights, in Vienna (1993) (Dauer, 2001). The global campaign organized a series of (non-binding) courts around the world to give visibility to forms of violence that human rights experts and UN governments have failed to include as part of human rights, especially those which occur in the community, family, and the private sphere, demanding accountability from governments (Dauer, 2001). This initiative culminated in the Vienna Tribunal for Women's Human Rights, in which 33 women attested the experience of first-hand violence, including war crimes against women, political persecution, and discrimination (Dauer, 2001).

The UNHR Vienna Declaration (1993), described massive violations of human rights such as genocide, ethnic cleansing, and systematic rape of women in war situations, demanding punishment for perpetrators (articles 28 and 30). In this conference, three reasons were pointed out for the universal failure in recognizing violence against women and protecting women's human rights: (1) the lack of understanding of the systematic nature of women's subordination and the social, political, and economic structures that perpetuate such subordination; (2) the non-recognition of the subordination of women, particularly in the private sphere, as a violation of women's human rights; and (3) the neglect of the state in both condemnation and reparation for discrimination, and other violations against women (Bunch & Reilly, 1994). Of the various recommendations, the most notable was the appointment of a Special Rapporteur on Violence against Women at the UN Commission on Human Rights, the General Assembly's approval of the UN Declaration on the Elimination of Violence against Women (CEDAW, 1979), and the recognition of crimes of war against women in an international criminal court (Dauer, 2001). The General Assembly adoption of CEDAW provided a far-reaching definition of gender-based violence as being physical, psychological, and sexual.

CEDAW's preamble refers to the greater vulnerability to violence that women belonging to minority groups suffer from, including women in situations of armed conflict, migrant, and refugee women. In addition, the Special Rapporteur produced a

number of studies on violence against women in armed conflict, once again stressing the importance of paying particular attention to this situation of extreme vulnerability to women (Bunch & Reilly, 1994). Therefore, all the guidelines that resulted from the mentioned conference demonstrated and reiterated that violations of women's human rights in situations of armed conflict or in any situations that pose a life threat to women, are violations of the fundamental principles of human rights and humanitarian law, and must receive a particularly effective response (CEDAW, article 30). Violence against women in war zones, or as a consequence of personal and political threat, was also prominent at the Fourth World Conference on Women, with a special focus on sexual violence against women (Beijing Conference, 1995).

The impact of violence on refugee women can be analyzed in terms of displacement, loss of home and property, loss or involuntary disappearance of close relatives, poverty and separation, and family disintegration, with sexual assault being described as a tactic of war, terrorism, and male empowerment over women's bodies (Sapia, 2017). Often, while living in their countries of origin, women are victims of killings, terrorism, torture, involuntary disappearance, slavery, sexual abuse, and forced pregnancy (Yasmine & Moughalian, 2016). The violence encountered by refugee women produces social, economic, and psychologically traumatic consequences, which are prolonged over time, and therefore, do not constitute a temporary event, but rather an event with consequences that can last a lifetime (Canning, 2020). This constitutes a limitation of the scope of women's human rights and has made the process of the pursuit of redress for violations disproportionately more difficult for women, and in many cases, permanently impossible (Freedman, 2016b; Heyns & Stefiszyn, 2006).

Throughout the decades, women have been organizing themselves to try to permeate intergovernmental structures, and, with the help of their constituents, and experienced leaders, they have led the fight to integrate and frame women's rights as human rights (Steiner et al., 2008). It was not until the 1990s that the references in international human rights documents to violence against women in an armed conflict started to appear, much as a result of the media attention on gender-based violence that took place in Rwanda, in the former Yugoslavia, and also a result of the classification of such violence as a form of genocide and ethnic cleansing, respectively (Mackinnon, 2006).

In 2000, the Human Rights Committee noted the particular vulnerability of women in times of internal or international armed conflict and advised States parties to declare

all measures taken by them to protect women from rape, abduction, and other forms of gender-based violence (General Comment 28, Article 3(8)). But twenty years later, no great measures and policies were adopted to protect women in general from the violence that affects them disproportionately. In fact, the invisibility, within the human rights discourse, of the various forms of assault against women and girls (e.g., forced prostitution, rape, sexual exploitation) that dominates the day-to-day life of women in general, and refugee women in particular, still remains (Mackinnon, 2006).

Although the particular focus of the current research is the case of violence against refugee women, the attempt to include refugee women's rights in human rights should be a general one, i.e., the argument must be that women's rights should be included in human rights. In abstract terms and analyzing human rights per se, its defining characteristics should be enough to provide the necessary theoretical tools to frame VARW as a violation of human rights (Dekoven, 2001; Forsythe, 2000; Thomas & Beasley, 1993). The universality of human rights means that all people have equal rights by virtue of being human; this also means that human rights apply to everyone equally (Steiner et al., 2008; Rehn & Sirleaf, 2002; Forsythe, 2000). In many ways, this universal theme may seem obvious, but its egalitarian assumption has an extreme border (Steiner et al., 2008). In fact, by having this principle in human rights, a set of benefits/consequences are entailed, and, by invoking the universality of human rights, refugee women have demanded that their humanity must be acknowledged (Mackinnon, 2006). This acknowledgment and the concomitant recognition of women as having human rights also demands the inclusion of women and gender perspectives within all the ideas and institutions that are already committed to the promotion and protection of human rights (Dekoven, 2001).

The idea that human rights are universal, also questions the assertion that refugee women's rights may be culturally limited by human rights' specific definitions and by the role of women in society (Steiner et al., 2008). The conceptualization of human rights as inalienable means that no one can voluntarily abdicate their human rights, and that no person or group can deprive another individual of her/his human rights (Forsythe, 2000). Thus, human rights cannot be sold, redeemed, or lost for any reason. This is very important when it comes to the protection of refugee women and their rights and to combat violence against women. For example, when refugee women find themselves involved in sex trafficking²⁵, this constitutes disrespect of their status as human beings,

²⁵ And all that this involves, from slavery, deprivation of food, and freedom of movement.

and also, a breach of governments' obligations as a state to promote and protect the human rights of their citizens (DeKoven, 2001; Agosín, 2002).

Another key characteristic of human rights for refugee women is the fact that they are indivisible, which means that none of the rights that are considered to be fundamental are supposed to be seen as more important than any of the others, as they are interrelated (Forsythe, 2000). This is very important to refugee women because their civil and political rights have historically been undermined by their economic status, the social and cultural limitations placed on their activities, and the ever-present threat of violence that often constitutes an insurmountable obstacle to their participation in public and political life (DeKoven, 2001; Steiner et al., 2008). The idea of indivisibility musters refugee women with a common framework through which it is possible to highlight the complexity of the challenges they face and to emphasize the need to include women and gender-conscious perspectives in the development and implementation of policy. These basic concepts reflect the ideals of human rights and are particularly useful when establishing governmental accountability for protecting and promoting the human rights of refugee women. While governments may not fulfill these obligations, most claim to care about human rights and are sensitive to both internal and external pressure to live up to the treaties they have signed (DeKoven, 2001; Mackinnon, 2006).

The use of human rights law also provides the necessary mechanisms to hold governments accountable if they fail to meet those obligations (Bunch & Frost, 2000). When the human rights framework is used to coordinate the vast array of human rights violations faced by women (Agosín, 2002), and in this particular case, refugee women, they bring explanatory analysis and powerful tools to bear on women's experiences. This approach has been crucial to bringing attention to breaches of human rights that are specific to women, which until now has been viewed as women's rights, but not recognized as "human" rights (Amnesty international, 2004). According to UDHR preamble, "*no one shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment.*" This formulation provides a vocabulary for refugee women to articulate and define their experiences of violence (abduction, rape, sexual assault, domestic violence, and such) as violations of their human rights (Mackinnon, 2006).

When reviewing the human rights structure from a woman's perspective, it becomes clear how the settings and practices of the existing human rights fail to acknowledge the ways in which human rights abuse disproportionately affects women just because they are females (Goonesekere & Alwis, 2005). The recognition of issues such as human rights

violations increases the level of expectation about what can and should be done about those violations. The definition of VAW and VARW in terms of human rights unequivocally demonstrates that states are responsible for such abuse (Bunch & Frost, 2000). It also raises questions about how to hold governments accountable for their indifference in such situations and what kind of mechanisms are needed to expedite the repair process (Bunch & Frost, 2000).

The theoretical framework carried out sought to outline the academic path that guided the design and execution of this research. By focusing on the link between international human rights law and refugee law, the growing number of asylum seekers and refugees, with a special focus on Portugal, the stigmatization of the “crimmigrant other” (refugee), and the uniqueness condition of being a female refugee and the multiple forms of “structural” and “symbolic” gender-based violence suffered by refugee women, this thesis aimed to justify the relevance of the present research, in the theoretical bases that solidify it. Likewise, through the literature review, this thesis recognized the scarcity of studies based on the narratives of refugee women themselves.

Consequently, this current doctoral thesis will seek to access and reveal refugee women's own meanings, intersubjective constructions, and perceptions regarding their narrative biographies, to make a substantial contribution to criminological studies regarding refugee women. In this regard, the current thesis was designed with the aim of answering one main question: “what does it mean to be a refugee woman in the twenty-first century?”, and the nine sub-questions that emerged during the planning of the methodology: (1) “What type of violence affects the lives of refugee women in their countries of origin?”; (2) “why do refugee women escape from their home countries?”; (3) “Does women's vulnerability in their countries of origin limit their ability to act?” (4) “what are the dangers faced by refugee women during the escape journey?”; (5) “what is the impact of the escape journey on refugee women's narratives of survival?”; (6) “what are the hardships encountered by refugee women in ‘transit’ countries?”; (7) “what is the meaning of applying for international protection?”; (8) “What is the impact of the reception conditions and integration practices offered to refugee women under the tutelage of the Portuguese state?” and (9) “what role do refugee women play in their asylum processes?”.

To answer to these research questions, this thesis objective is to analyze and understand the lived experiences of refugee women in terms of violence and agency. This will provide the information needed to answer the main question that guided this research from its inception. This process is better understood by following these women's experiences in three stages and (geographical and symbolic) places that deeply mark their personal trajectories: the country of origin, during the displacement journey, and in the country of asylum. In sum, the current research aims to significantly contribute to theorizing a new perspective on the process of becoming a refugee woman.

Thus, and after this literature review oriented towards the main objects of this research, it is now important to pay attention to the methodology adopted to carry it out, which will be explained in detail in part II of this thesis.

PART II

Research design

Chapter 4

Methodological remarks

This chapter will expose the methodological options and research design adopted, fully justified and framed in existing theory and literature on the topic. This chapter will show how this research choices regarding the empirical work for this thesis resulted from reflections on the methodology, methods, and techniques that best fitted the objectives of the research for both studies 1 and 2. In this sense, the qualitative methodology will be explored, with an especial focus on its use by victimology, criminology through intersectionality, and feminist studies. This multi-theoretical approach, that is, the use of several theories that complement each other, led to the selection of two methods to conduct studies 1 and 2, namely, in-depth semi-structured interviews and biographical narratives. The flexibility of the multi-theoretical approach, which translates into the possibility of a freer and wider use of various techniques, will be highlighted (Alper & Chappell, 2012; Sandelowski, 2000).

1. Rationale for qualitative research: Multi-theoretical approach

The current thesis began with one complex question: “What does it mean to be a refugee woman in the twenty-first century?”. Between the answer found, and the question initially posed, an extensive and challenging scientific journey was undertaken. In that sense, the general goal of the current thesis is to access refugee women’s narratives to validate their experiences of violence and agency as a direct source of knowledge. Specifically, to analyze individual dimensions that allow access to the meanings, intersubjective constructions, and perceptions of refugee women regarding their life trajectories in three stages and (geographical and symbolic) places: in their country of origin, during the displacement journey; and in their country of asylum. It was assumed from the beginning of this investigation that the interpretation of the life trajectories of refugee women would start from their own points of view. Indeed, this thesis is based on the idea that to fully comprehend the process of becoming a refugee woman, it is fundamental to recognize refugee women’s own legitimacy as genuine and truthful storytellers, and as enablers of liberatory and emancipatory change.

The steps taken during the planning of the methodology guided this scientific journey through specific paths that enabled nine more sub-questions to surface: (1) “What

type of violence affects the lives of refugee women in their countries of origin?"; (2) "why do refugee women escape from their home countries?"; (3) "Does women's vulnerability in their countries of origin limit their ability to act?" (4) "what are the dangers faced by refugee women during the escape journey?"; (5) "what is the impact of the escape journey on refugee women's narratives of survival?"; (6) "what are the hardships encountered by refugee women in 'transit' countries?"; (7) "what is the meaning of applying for international protection?"; (8) "What is the impact of the reception conditions and integration practices offered to refugee women under the tutelage of the Portuguese state?" and (9) "what role do refugee women play in their asylum processes?".

The main question initially posed, and the nine sub-questions that followed it conditioned the entire path taken throughout the research, in terms of the direction of the empirical work, and of the epistemological framework that shaped it. That, along with the intention of interpreting the life paths of refugee women from their own perspectives, led this research towards the adoption of qualitative methodologies to conduct the current research (Wincup, 2017).

Qualitative methodologies allow the researcher to emerge as the subject under study and to develop concepts of sensitization that improve the understanding and explanation of the reality and phenomena (Miller & Palacios, 2015). Since the 1970s, qualitative approaches have become more important and notable (Flick, 2002; Wengraft, 2001; Denzin & Lincoln, 1998; Hayes, 1997) not only in social research but particularly in the criminological field. It is worth noting the ethnographic studies conducted by the Chicago School in the 1920s and 1930s that established the importance of qualitative research in the study of crime and deviance (Wincup, 2017). According to Tewksbury et al. (2009), qualitative approaches are based fundamentally on the analysis of subjective meaning criteria that drive the ways of thinking, acting, and being of subjects. Therefore, it is possible to state that qualitative approaches explore the social constructions of reality.

For Silverman (2013), qualitative research encompasses methodologies that seek to find, in the social processes, the point of view of the subjects. In fact, the work of Max Weber (1949, pp.6) played a central role in qualitative methods, particularly the concept of "*verstehen*", which relates to the interpretive process in which an outsider empathically seeks to understand the social world of the research participant. According to Davies & Francis (2018) this methodology observes the subject and society in interaction, and, simultaneously, the facts and emotions that accompany such subjects. This way, qualitative research is intended to listen to the voices of the research participants,

particularly relevant when the sample being studied is composed of marginalized people or victims of crimes. For Berg (2007, pp. 3) “*Quality refers to what, how, when, and where of a thing – its essence and ambiance. Qualitative research thus refers to the meanings, concepts, definitions, characteristics, metaphors, symbols, and descriptions of things.*”. In that way, qualitative research enhances context and seeks to gather data in natural settings.

Qualitative research methods prioritize the assembly of rich and thorough data, giving more emphasis on the interpretation, and providing participants with complete views (Hesse-Bier, 2016). In this sense, qualitative studies are often small-scale, looking at contexts, environmental immersions, and the depth of understanding concepts (Wincup, 2017; Gadd et al., 2011). According to Pais (2007, pp. 100) qualitative approaches are fundamentally based on the analysis of the criteria of subjective meaning that guide the ways of thinking, acting, and being of the subjects, and it allows the analysis of “*(...) the practices and ways in which individuals build stability of the social world, at the same time as they make it describable, observable, an object of report.*” For Guerra, methodologies must be centered in “*(...) the social logic of the phenomena, which can only be accomplished from the centering of the analyzes on the rationalities of the subjects.*” (2006, pp. 15).

When adjusted to the historical subject in action, according to the same author, “*[...] this methodology observes, in the same movement, the subject, and society in interaction, but also, and simultaneously, the facts and emotions that accompany them.*” (Guerra, 2006, pp. 19). Flexibility is integral to the qualitative process, that is, to the analytic descriptions for identification of recurrent patterns or themes, and it must pursue to construct a consistent illustration of the data (Palacios, 2015; Loseke, 2013). Data gathered should be constantly subjected to reflection on and used as a guiding source for future data collection. Qualitative methods privilege an approach that centralizes and places primary value in reasoned understandings, and in on how people recognize, experience, and operate within environments that are dynamic and social in their base and structure (Hesse-Bier, 2016).

The qualitative approach was, thus, considered the most beneficial and suitable one to conduct the current research because it allows the researcher to access the social, political, cultural, and economic world of refugee women. Likewise, this thesis established, from its very beginning, that the research project would be conducted with a minimum of conceptual references, in order for the researcher to immerse in the empirical

work with an open attitude and with a logic of discovery. This logic does not correspond to most Cartesian approaches, which determine that research must be conducted with a prior construction of a theoretical framework, and with the fulfillment of a rigid sequence of research stages (Tewksbury et al., 2010). This type of approach, by over-framing the research, compromises, a priori, the possibility of studying unexpected places and events in the social context, which may become surprising during the research and central to responding to research questions (Loseke, 2013). By opting for a qualitative approach, it is possible to orient and reorient methodological and epistemological options in articulation with the ongoing field research, by alternating between deduction (arriving at a particular and/or specific truth from a more general or covered one) and induction (observing particular, isolated cases and searching for a pattern in them, or a general law that explains them and applies them to all isolated cases analogous to those being observed).

On one hand, the use of a qualitative approach emphasizes the researcher's need to focus on the potentialities and limits of the chosen method, from the very outset of the research. Accordingly, special considerations must be given to the type of data that the researcher intends to collect, and to the consequential effect that the data collection process will have on the research results. On the other hand, qualitative tactics stress the importance of the researcher to consider, when stepping into the research field, the several challenges that might emerge from studying sensitive subjects, such as refugee women.

To accomplish all the preparatory steps needed to conduct qualitative research, this thesis will explain the epistemological antechamber chosen to support this research design, that is, the "methodology" adopted. For Smith (2002), "methodology" is the description of the approach, methods, and procedures, with reasoning for their selection. When conducting qualitative research, it is essential that researchers have robust theories that underpin the way they conduct their research. In that light, next section will present the reasons for the adoption of a multi-theoretical approach by showcasing the knowledge provided by the scientific fields of victimology, criminology through intersectionality, and feminist studies.

1.1. Victimology, intersectionality, and feminist studies

Despite few exceptions of discussions about victims which appeared in some early criminological works (e.g., Lombroso, 1876; Ferri, 1892; Hindelang et al., 1978; Sutherland, 1924; Hentig, 1947; Nagel, 1949; Ellenberger, 1955; Wolfgang, 1958;

Schafer, 1968) academic research on victimization has not always been a subject of much discussion among criminologists. Although the term “victimology” had its origin with the early writings of Benjamin Mendelsohn (1937; 1940; 1956), who used it to describe the scientific study of the victims of crime, the importance of studying the phenomenon of victimization was only brought to the spotlight in the 1970s, with the studies of Hindelang, Gottfredson, and Garofalo (1978), and of Cohen and Felson (1979). Victimology continued to grow in the 1980s, 1990s, and 2000s, through the work developed by Walklate, (1989) Mawby & Walklate, (1990) Baurmann, & Schaedler, W. (1996;1999), Davies et al., (1997), Garland (2002) and such (e.g., Straus, & Gelles, 1990; Kaiser, 1991; 1993; Albrecht et al., 1993; Kaiser, & Albrecht, 1991; Kaiser, & Jehle, 1994; 1995; Karmen, 1996; Sheley, 1996; Sumner et al., 1996; Newman, 1999; Kangaspunta et. al., 1998; van Dijk & Mayhew, 1992; van Dijk et al., 1990; van Dijk et. al., 1999; Shoham, & Kett, 2010; Neves & Favero, 2010; Sebba & Berenblum, 2014).

Nowadays, victimology is considered a subfield of criminology, and victimization is recognized as a noteworthy social problem that takes a significant toll on victims, causing financial, emotional, physical, and psychological harm (Turanovic, 2018). The importance of studying victims, how victimization unfolds across time, its impacts on people’s lives in the short and long-term, and the social contexts that shape it, is consensual among academics. Studies about victimization not only allowed a deeper understanding of the phenomenon but also led to the creation of improved interventions with victims, as well as more effective prevention (Sebba & Berenblum, 2014).

In the fields of criminology, intersectionality is seen as a theoretical method that critically explores the effect of interconnected identities and categories of individuals and groups regarding anything crime-related (Potter, 2015). Crenshaw (2002, pp. 177) defined intersectionality as “(...) *a conceptualization of the problem that seeks to capture the structural and dynamics of the interaction between two or more axes of subordination*”. Intersectionality (or intersectional theory) is a theoretical framework that suggests that the overlap or intersection of multiple social identities and categories (e.g., race, ethnicity, gender, sexual orientation, socioeconomic status) impacts individual experiences. At the micro level, it mirrors multiple interlinking systems of domination, oppression and/or discrimination at the macro, social-structural level (e.g., gender, race, class, ability, heterosexism, sexual orientation, religion, caste, age, racism, sexism) (Barsigian et al., 2020; Chan, & Erby, 2018; Moradi & Grzanka, 2017; Brown, 2015; Choo & Ferree, 2010).

Moradi and Grzanka (2017) pointed three main constructions of intersectionality: intersectionality as a field of study, as an analytic strategy or disposition, and as a critical praxis for social justice. Intersectionality's objective is to understand how prejudice and systemic social inequality arise from a multidimensional root (Brown, 2015). According to the concept of intersectionality, different forms of oppression such as racism, sexism, classism, xenophobia, biphobia, homophobia, belief-based transphobia, gender intolerances, and violence are interconnected and produce a system of oppression that reproduces an overlap of multiple forms of discrimination (Potter and Brown, 2014).

For Choo & Ferree (2010), there are three different approaches to understand intersectionality in practice: 1. "group-centered", when the focus is placed on marginalized groups and their perceptions; 2. "process-centered", in which power is understood as relational, that is, as related to the link between increasing coercions at various intersections and the connections between variables, with special focus on unmarked groups²⁶; and 3. "system-centered", that instead of simply connecting precise disparities with single institutions, interprets intersectionality as shaping the complete social system, and its processes as fully interactive, historically co-determining, and complex. Although it can be considered a "late bloomer" in the criminological field, both victimology and intersectionality have always played an important role in feminist studies (Dancig-Rosenberg & Yosef, 2019).

Producing empirical studies on gender thus implies an immersion into the field of feminist studies that aim to understand the construction and the meanings of gender differences, as well as the networks between gender, sex, and sexuality, and the linkage between gender inequalities, gender bias, and gender violence. The feminist approach, in addition to being a powerful tool to gain insight into the social existence of gender (Hesse-bier, 2014), also seeks to produce knowledge that will be useful to transform social models that can produce and reproduce violence (Leavy & Harris, 2019; Belknap, 2021). Feminist research places women and other marginalized groups at the center, which makes this perspective appropriate and advantageous for understanding the phenomenon under study (Sprague, 2016).

Feminist researchers question, disturb, modify, and challenge existing forms of knowledge within and across disciplines (Hesse-bier, 2014). According to Bosworth et al., (2011, pp. 773) *"If women are to overcome abuse, control or oppression, whether at*

²⁶ These are groups that, in general, have not received as much attention as they should, or are only now beginning to be studied.

the hands of individual men or of the state, feminist academics must create knowledge of their experiences and their viewpoints, not simply report the voices of those charged either with support or punishment.” It is important to emphasize that feminist researchers ask: “who can know?” and “what can be known?” (Carlen, & Worrall, 1992; Goodstein et al., 2006). In addition, it also argues that feelings and emotions play an integral role in the researcher's decision to conduct an investigation and determine which questions to ask (Belknap, 2021). By listening to the experiences of “the other”, a meaningful understanding and knowledge can be achieved (Leavy & Harris, 2019).

Taking the above into account, the combination of qualitative methodological principles, victimology, intersectionality, and feminist studies was considered the most appropriated epistemological framework to enable this research to place a meaningful emphasis on refugee women's narratives and on the impact of their political, cultural, and social context on their identity, gender, socioeconomic class, religion, and mobility. This combination is also central to better understand the possible overlapping of different sources and forms of violence in the lives of refugee women, as well as the consequences, over time, for these women, of the instabilities, insecurities, and constant changes enabled by the intersections of systems of power (e.g., race, class, gender, and sexual orientation) and oppression (e.g., prejudice, class stratification, gender inequality, and heterosexist bias).

2. Methodological methods: The use of interviews and biographical narratives

As previously explained, the chosen methodology for this thesis follows a qualitative nature, put in practice through a multi-theoretical approach. The multi-theoretical approach led to the adoption of two methods, for the data collection, namely, in-depth semi-structured interviews and biographical narratives, which will be explored next.

The conduction of interviews is particularly useful for research that intends to do an in-depth study of a selected sample. The flexibility of this method, which translates into the possibility of more free and extensive use of several techniques, is suitable for investigations that intend to analyze a large quantity of personal information (Roulston & Choi, 2019). Thus, it is a method that allows access to a multitude of interacting factors, and events in progress, and guarantees access to various levels of analysis. Therefore, in the current thesis, the method chosen to collect the data are in-depth interviews.

According to Wengraf (2001) *“To go into something in-depth means to get a deep understanding of how little you knew about it, and how provisional one’s formulation of truth has to be – even by or about, depth-interviewing.”* This definition is in tune with the principle of Grounded Theory that suggests that the researcher should go into the research field knowing as little as possible about the research topic. According to Arksey and Knight (1999, pp. 3, cit. in Wincup, 2017, pp. 97), interviews should be considered as *“(...) a family of research approaches that have only one thing in common – a conversation between two people in which one person has the role of the researcher.”*

The current research project prioritizes the use of in-depth semi-structured interviews due to the possibility of changing the sequence of questions, or of introducing new questions and probes in search of more information, and of adapting the collection to the level of comprehension and reception of the respondents (Kvale & Brinkman, 2009, Hesse-Biber, 2016). As Hesse-Biber recommends (2011, pp. 116), it is most important to allow *“(...) spontaneity on the part of the researcher and the interviewee.”* In-depth semi-structured interviews have a fluid structure, with a series of questions or topics to cover, and with no obligation to ask each question in the same form or in the same order, or even ask the same group of questions (Wengraft, 2001). As such, these type of interviews enables that more or fewer open questions are brought to the interview circumstance in the form of an interview guide, which should not restrict the interviewees’ answers or confuse them, but rather clarify the subject’s point of view.

In-depth semi-structured interviews actively encourage participants to freely share their experiences with the researcher on matters that are important to them, allowing for deeper input from the interviewees on the research. For that reason, topics that were not previously thought of by the interviewers may arise from the interviewee’s narratives. Thus, three recommendations are worthy of note when conducting in-depth semi-structured interviews: 1. the interviewer must decide during the interview when and in which sequence to ask each question; 2. the interviewer should choose if and when to explore in greater detail the interviewee’s answer, or when to return to the interview guide if the interviewee is rambling; and 3. the interview needs to conciliate the topics previously established in the interview guide, and the topics that are relevant for the interviewee’s individual means of expression (Davies & Francis, 2018).

Choosing to collect data via interviews also has implications for the sorts of assumptions that can be gained from the study. For this reason, the current research combines *in-depth semi-structured interviews*, with the *biographical narratives* method,

both particularly useful to carry out a qualitative study with a selected sample (Murray, 2018; Gibson & Krohn, 2013). The biographical narrative method allows the collection of data in the form of a story or narrative, to understand the lives and actions of the research participants (Apple, Ball, & Gandin, 2009). Consequently, in this research, theoretically supported by the biographical narrative method will be used to design the questions of the interviews, and analyze the data collected, present the research findings, and consubstantiate the theory formulated (Murray, 2018).

Recently, the strand of narrative criminology allowed for innovation in empirical research (Pemberton, Mulder, & Aarten, 2019; Presser & Sandberg, 2019; Pemberton & Aarten, 2018; Sandberg & Ugelvik, 2016). Criminologists such as Presser & Sandberg, describe narrative criminology as a theoretical paradigm entrenched in an interpretation of stories as prompting damaging activities and arrangements, “(...) *narrative criminology is fundamentally concerned with harm or resistance to harm; underscores collective involvement in the genesis of harm; illuminates the dynamism of harm and therefore the possibilities of resistance, and compels a reflexive stance on one’s research.*” (Presser & Sandberg, 2019, pp.131). For Pemberton and Aarten (2018), narrative criminology is personally linked to victimization, that is, the experience of suffering intentional harm. In summary, narrative criminologists seek to understand the roots of harmful experiences, the consequences for the personal history of its victims, and the narratives involved in the process of resistance to damage patterns.

According to Pemberton and Aarten (2018, pp. 542), there are three constructs central to narratives: 1. “*The centrality of narrative to identity*”, regarding the internalized, evolving, and the integrated story of the self; 2. “*The role of narrative in emotions*”, related to the critical events that work as turning points in an individual’s life story and can trigger strong emotions; and, 3. “*The importance of narrative in connecting individual lives to the wider cultural context*”, connected with the shaped and reshaping of collective memories which are influenced by the cultural narratives of history, ethnicity, religion, and politics. Such cultural narratives form the individual stories people live by, and, therefore, as a joint group, these individuals can choose either to maintain or change their culture. In relation to these three constructs central to narratives, narratives are told at multiple levels of social life, where emotions play a major role, and the personal constructions can become group constructions. Narratives are stories that are creatively constructed and integrated daily, and marked by what is said and what is silenced (Presser & Sandberg, 2019; Smith, 2013; Suárez-Ortega, 2012).

For example, McKenzie-Mohr and Lafrance's study (2014) evidenced the dominant cultural narratives that oppress women and explore the developing process of alternative narratives of resistance. In that sense, the process of sharing stories seems to work as a process of resistance in itself. People are fundamentally driven to share their experiences and listen to the experiences of others. Telling personal stories plays an important role in human interactions, which can generate ingroup solidarity (Sandberg & Ugelvik, 2016).

For Pemberton et al. (2019, pp.394) telling stories *"(...) is a basic device for creating, providing and assigning meaning. Stories are good at making simple what is complicated. At the same time, some of the complexity is retained because stories by their very nature are ambiguous and open-ended."* More so in the case of stories being told by victims, that is, *"the experiences following an act that is intentionally and wrongfully done to us."* (Pemberton et al., 2019, pp.394). On the other hand, victims may also face challenges such as placing the blame for the harmful damage suffered on themselves, or they may have difficulties identifying the aggressors (e.g., by an individual aggressor or by the State). Narrative criminology acknowledges the difficulties in making sense of the victims' coping mechanisms, and also the possible variations of interpretations not only between victims but within the same victim, and also between the victims and the researcher (Pemberton et al., 2019).

Narrative criminology is personally linked to victimization and seeks its roots in the personal history of individuals, by looking to understand which narratives are involved in the process of resistance to damage patterns, and in one's perception of its own identity (Pemberton & Aarten, 2018). Given this, narrative criminology seemed a crucial field of scientific knowledge for the conduction of this thesis, both when planning the semi-structured interviewer's questions, that is, during the data collection, and when interpreting the meanings of the answers provided by the interviewees, during the process of data analysis.

Conveyed the epistemological and methodological decisions taken for the current research, the next section will dive into sampling and data collection processes.

Chapter 5

Sampling and data collection processes

This chapter will showcase the layout of studies 1 and 2 and the data collection process. In this regard, chapter 5 will provide detailed information on the ethical and practical steps taken for the sample recruitment and the conduction of the interviews. It will also explain and justify the dimensions of analysis, the interviews script, and how the empirical saturation was achieved. This research was designed with a minimum of conceptual references, to start the empirical work with an inductive attitude, in a logic of discovery.

1. Sampling theorization and construction

In qualitative research, choosing an appropriate sample composition and size is a task involved in a great theoretical debate, and practical uncertainty (van Rijnsoever, 2017). With its holistic and in-depth case-oriented analysis, samples in qualitative research tend to be smaller than in quantitative research and may comprise very diverse natures: people, documents, events, interactions, behaviors (Schreier, 2018). However, the minimum size of a sample needed to reach theoretical saturation is difficult to estimate (Bowen, 2008). Qualitative research is not usually performed with representative samples, rather, non-probabilistic sampling techniques are often used to select informants of interest, for example, based on their position, expertise, or views (Azarian, 2011). Most qualitative researchers whose purpose is to reach theoretical saturation, do not depend on probability sampling. Rather, the sampling procedure is purposive, and the researcher chooses which cases to take in the sample grounded on previous information, such as theory or insights obtained during the data collection (Marshall et. al., 2013).

The term “purposive sampling” refers to a group of sampling strategies typically used in qualitative research that serve to select instances that have information-rich information to respond to the research question (Patton, 2015; Ritchie et al., 2014, Emmel, 2013; Flick et al., 2004). Information-rich cases are those from which it is possible to acquire a greater knowledge regarding themes of crucial importance to the purpose of the research (Palinkas et al., 2015). Some purposeful sampling strategies have been described in the literature (e.g., homogeneous sampling, heterogeneous sampling, theoretical sampling, snowball sampling, sampling typical or outlier cases) (Flick, 2014).

However, the selection of a specific strategy depends on the research question and on the goal of the study (Palinkas et al., 2015).

When the research goal is to generate theory, the appropriate strategy to choose seems to be the “theoretical sampling”. “Theoretical sampling” was developed in the context of the Grounded Theory itself and is very much part of the overall iterative Grounded Theory methodology, combined with a process of constant comparison of the data collected (Flick, 2014). At first, *“theoretical saturation” seems to support the idea of “the more the merrier”* in terms of sampling approach, minimizing, therefore, the possibilities of codes and categories being missed or overlooked. But at a closer glance, because coding and categorizing processes in qualitative research are complex and time-consuming, researchers that choose to conduct qualitative research, especially with scarce resources, do not desire to oversample (van Rijnsoever, 2017). Some researchers provide cautious suggestions of sample sizes that range from 20 to 40 and are frequently below 50. However, the theoretical framework on which these evaluations are grounded is unknown and relies more on the researchers’ experience in conducting qualitative research (Marshall et al., 2013; Mason, 2010).

For example, while Bertaux (1981) declared that 15 is the lowest acceptable number for qualitative research sample’ size, according to Bernard (2000), most qualitative research encompasses 36 interviews. Kuzel (1992) recommended 6 to 8 interviews for a homogeneous sample, and 12 to 20 interviews *“when looking for disconfirming evidence or trying to achieve maximum variation.”* (pp. 41). According to Green and Thorogood (2004) little new information is generated after interviewing 20 people or so on a specific topic of analysis. Morse (1994) recommends that phenomenological studies have at least 6 participants; ethnographies, grounded theory, and ethnoscience studies require around 35 participants; and qualitative ethology (understand people’s behaviors through observation) must include from 100 to 200 units of the topic under study. Britten (1995) reported that research with large numbers of interviews will often encompass 50 to 60 people. Likewise, Ritchie et al. (2004) advocate that researchers should not perform more than 50 interviews, to properly analyze the data collected. Creswell (1998) recommended for phenomenological studies to be between 5 and 25 interviews and for grounded theory studies, between 20 and 30 interviews. But, according to van Rijnsoever (2017), most researchers argue that whether theoretical saturation has been accomplished or not remains at the judgment and discretion of researchers.

In that sense, constantly guided by the concepts and theories emerging in the research process, “theoretical sampling” occurs in constant interrelationship with data collection and data analysis (Patton, 2015; Emmel, 2013). In terms of sample composition, “theoretical sampling” must encompass a heterogeneous sample that allows comparison of different instantiations of a concept, as more examples and more data are added to develop emerging categories and their dimensions and relate them to each other (Schreier, 2018; Flick, 2014). With the objective of developing a data driven theory, the sampling process is emerging and flexible. However, it is not easy to find detailed descriptions of how sampling choices are reviewed and modified in response to emerging concepts, although the sampling strategy is well established in the methodological literature and is the standard strategy in Grounded Theory studies (Schreier, 2018). Since, according to some authors (e.g., Etikan & Bala, 2017; Benoot et al., 2016; Palinkas et al., 2015; Sandelowski, 2000; Coyne, 1997) combining sampling strategies may be more appropriate to the aims of conducting qualitative research, “purposive sampling” and “theoretical sampling” were the samplings adopted in the present research.

That said, it is opportune now to pay attention to the multi-informant method adopted for the conduction of this project. The performance of qualitative studies using multi-informants is recommended by the scientific literature which considers it to be a good practice (Archibald et al., 2019; Alvesson, & Skoldberg, 2009). Researchers choose the participants during the design of the research project. The participants must be resources to obtain access, evidence, and continuing feedback throughout the collection and gathering of data. Informants, also referred to as gatekeepers or insiders of an organization, are subjects that have detailed information and/or knowledge about a specific culture or individuals of a group, because they are either members of that culture or because they interact and build relationships with people from that particular group. Regarding the latter, it is, therefore, expectable that these informants are knowledgeable about those individuals' opinions, concerns, emotions, and creeds.

In this research, two groups of informants were selected: refugee women living in Portugal and professionals²⁷ working, directly and indirectly, in the Portuguese asylum system, who assume leadership positions and/or with daily contact with asylum seekers and refugees. The option for these informants is directly related to the research topic, data collection and analysis. To properly understand the personal and the legal process of

²⁷ Hereinafter referred to as “the professionals”.

becoming a refugee woman, the data collected through the interviews conducted with refugee women were divided in tripartite analysis of three stages and (geographical and symbolic) places of the process of becoming a refugee woman, included in two studies:

- Study 1, which comprises the research findings regarding the refugee women's experiences of violence and agency in their countries of origin and during the displacement journey²⁸; and

- Study 2, which comprises the research findings regarding the refugee women's experiences of violence and agency in the asylum country, through the analyses of the reception conditions and integration practices in place in the Portuguese asylum system, from a gender perspective.

It is important to stress that, in the current research, the displacement journey will include two stages and (geographical and symbolic) places: the escape journey and the time spent in 'transit' countries. Likewise, it is fundamental to clarify that, although study 2 will also include an integration of data provided by the professionals regarding the reception conditions and integration practices in place in the Portuguese asylum system, the option to resort to these privileged informants does not intend to reduce the central role attributed to the refugee women, who are considered the principal informants, and in which this research is centered.

In sum, both findings of studies 1 and 2 will be used to answer the question that guided this investigation from its inception: "What does it mean to be a refugee woman in the twenty-first century?" and the nine sub-questions that emerged during the planning of the methodology. In this sense, both studies share a common main objective: to access refugee women's narratives to validate their experiences of violence and agency as a direct source of knowledge.

The main aspects related to studies 1 and 2, such as its objectives, dimensions of analysis, the interviews script, sample recruitment, sample characterization, and conduction of the interviews, will be described next.

2. Study 1

Study 1 main objective is to analyze individual dimensions that allow access to the meanings, intersubjective constructions, and perceptions of refugee women regarding their life trajectories in two stages and (geographical and symbolic) places: in their

²⁸ The displacement journey, in this thesis, will include the escape journey and the time spent in 'transit' countries.

country of origin and during the displacement journey. From this main goal, other objectives emerged.

2.1. Objectives

Starting from the general objective presented above, study 1 aims specifically:

a) to access refugee women's lived experiences of violence in the country of origin and during the displacement journey.

b) to understand the use of agency by refugee women in the country of origin and during the displacement journey.

c) to validate refugee women's narratives and their experiences of victimization and survival as a direct source of knowledge.

2.2. Dimensions of analysis and the interviews script

Several studies drawn attention to the perpetuation of violence against refugee women, in three stages and places: in the country of origin, during the displacement journey, and in the asylum country (e.g., Horn et al., 2021; Le Bellec, 2021; Jasso, 2021; Reilly, Sahraoui & McGarry, 2021; Sahraoui & Tyszler, 2021; Tastsoglou, Petrinioti & Karagiannopoulou, 2021; Freedman et al., 2020; Freedman, 2019; Sapia, 2017; Freedman, 2016b); or as Canning (2017, pp. 27) coined it, to the "*intersectional continuums of violence*" in refugee women's lives. And while it is true that not all refugee women will experience violence in the same way (Canning, 2017), all refugee women will experience some type of violence in their lives.

Although less study than violence against refugee women (kanal & Rottmann, 2021), refugee women's agency was considered an important dimension of analysis for the understanding of the process of becoming a refugee woman. In the current research, agency is conceptualized as the following: as an emancipatory confrontation against the oppressive structures (political, social, cultural; economic) that try to limit women's scope for action (resistance), and simultaneously, women's capacity to adapt and to act within those same structures (resilience). The purpose of this approach to agency is to extend its meaning in gender and migration studies and to bring attention to refugee women's agency in their daily context, in terms of resistance and resilience. This thesis stands by its argument that, in this way, it is possible to achieve a more integrated view of refugee women's narratives, that not only showcase their lived experiences of violence but also of agency.

Given the above, in study 1, the semi-structured interview was designed around two dimensions of analysis to achieve a contextualization of the refugee women's life trajectories, both in terms of violence and of agency:

Dimension 1: To access structures (political, social, cultural; economic) in the refugee women's lives and their impact on the participants' memories/experiences of violence and agency in their daily lives. For this purpose, the interviews script includes questions related to their physical, psychological, and emotional states in their countries of origin, and their perspective on their upbringings, family dynamics, school attendance, employment, marriage, motherhood, children, social endeavors, vulnerabilities, and motives to escape their countries of origin.

Dimension 2: To characterize the refugee women's experiences of violence and agency during the displacement journey: in relation to the escape journey, to investigate the dangers faced by refugee women, and the impacts of survival on refugee women's narratives. In order to do so, it is fundamental to understand means and ways of traveling, the presence of other individuals during the escape, such as family members or other people escaping as well, and the use of smugglers; in relation to the time lived in 'transit' countries, to analyze the refugee women's lives until the moment of their arrival in Portugal, the asylum country. For this aim, it is crucial to investigate the structures (political, social, cultural; economic) that marked the refugee women's experiences in 'transit' countries; their physical, psychological, and emotional states; the reasons for them to apply for international protection, and how Portugal became their country of asylum.

Both dimensions 1 and 2 of study 1, will contribute to theorizing a new perspective on the process of becoming a refugee woman.

The in-depth semi-structured interview contained a total of twelve broadly framed questions regarding the women's perspectives about their lives in the country of origin and during the displacement journey, presented in the following table:

Dimension 1	1. <i>Can you describe to me what your life was like in your home country;</i> 2. <i>Did you experience any form of discrimination or violence?</i> 3. <i>Now, can you tell me a little bit about your departure from your home country;</i>
Dimension 2	4. <i>Could you tell me a little bit about your journey to Portugal;</i> 5. <i>What were the biggest difficulties you encountered during the displacement journey;</i> 6. <i>Let's now talk a bit about more sensitive topics. During your journey, did you ever felt like your life was being threaten? Can you tell me what happened?</i> 7. <i>Did you feel scared?</i> 8. <i>Had you ever experienced anything like that before, at home?</i> 9. <i>Did you lived in other countries before coming to Portugal?</i> 10. <i>When/where/with whom did you apply for international protection?</i> 11. <i>Did you decided to be resettled in Portugal?</i> 12. <i>What does it mean to you to be called a refugee women?</i>

2.3. Sample recruitment and characterization

The sample was recruited from the country where they applied for international protection, that is Portugal. The first step taken to gather participants for the current research was to establish contact with different institutions and other national entities involved in the Portuguese asylum system, whose contacts were sought via the internet. The Resolution of the Council of Ministers of Portugal, No. 103/2020, established a single system for the reception and integration of applicants and beneficiaries of International protection, and the creation of a “Single Operative Group” that works in restricted or extended training, with coordination and technical-operational functions. The restricted training with coordination functions of the “Single Operative Group” is composed of the ACM, SEF and the ISS. The extended training with technical-operational functions is constituted by the Directorate-General for Higher Education; The Directorate-General for School Establishments; The Portuguese Institute of Sport and Youth; IEFP; The National Agency for Qualification and Vocational Education; SCML; The Central Administration of the Health System; The Directorate-General for Health; and o The Institute for Housing and Urban Rehabilitation.

Therefore, there are a multiplicity of institutions involved in the Portuguese asylum system to support to asylum-seekers and refugees upon their arrival in the country and during their integration process. The support provided these institutions ranges from the issuance of identity papers and civil and travel documents, to the setting up of registration, and refugee status determination procedures. Furthermore, it also includes distributing relief items, building, or improving infrastructure, and bearing the administrative, staff, and other costs of managing resettlements, reception centers, or other types of accommodation. Other national stakeholders considered value to be included in the current research were entities that are directly and indirectly related to the Portuguese asylum system, such as non-profit organizations, like Red Cross (Cruz Vermelha, CV).

There are also some institutions that are exclusively in charge of the reception of asylum seekers and refugees. These reception institutions provide the first location with facilities, normally called reception centers, which attend to the immediate needs of asylum seekers and refugees upon their arrival in a country of asylum. Integration institutions are the ones involved in more complex and gradual practices, comprising distinct but interrelated legal, economic, social, and cultural support, all of which are considered important for refugees to be successfully integrated, and be considered as full members of asylum society. In the Portuguese asylum system, it is also frequent for an overlap to occur and for the same institutions to assume practices of reception and integration.

Due to the acknowledgment of the complexity of the field, the use of mixed tactics to recruit participants has become progressively common in social sciences (Irwin, 2008). Most all of the first contacts for the sample recruitment were made by sending an email to the institutions involved in the Portuguese asylum system. In the emails, the objectives of this thesis were briefly explained, all ethical procedures were ensured, such as informed consent and confidentiality, and the researcher's contacts were provided so that professionals from institutions could call and clarify additional questions. After establishing relationships with a range of professionals across a number of reception and integration institutes, it was possible to start recruiting participants.

Instead of looking for refugee women in the community, by placing an advertisement in local newspapers or thought online advertisements for research subjects, these women were sought out with the help of professionals from the institutions. As well as asking the professionals to explain to these women the objectives of the research, an additional letter from the researcher was sent for the professionals to pass along to

prospective women participants. With this procedure, a more personalized approach was intended where prospective participants were also provided with details for further contacts.

Initially, the sample design for the research was 15 refugee women. Nevertheless, as it will be shown next, the final sample consisted of 24 refugee women, due to the fact that, after 15 interviews, the researcher felt that empirical saturation had not yet been achieved, and, therefore, the sample was expanded. However, it is important to stress that the set of refugee women who collaborated in this research with their testimonies cannot be considered representative of cultural, political, and ideological universes. Nonetheless, and keeping in mind the objectives of the “purposive sampling” and of the “theoretical sampling” described above, it is believed that their stories are information-rich cases that can provide clues to understand the social, cultural, and political systems in which their lives are embedded, as well as to develop a theory able to understand and explain the process of becoming a refugee woman.

The sample selection followed four criteria:

- i.** Gender and age – the sample only intended to include women aged 18 years or older.
- ii.** Legal status - Women had to have been accepted by the Portuguese asylum system, either at the time of data collection or before, and therefore to be protected by the asylum law, either as asylum seekers or as refugees.
- iii.** Time period – The women must have arrived in Portugal during the last European crises of refugees (from 2014 until the present).
- iv.** Communication skills – The women must understand and speak Portuguese or English, or, if not, to agree to the presence of a translator during the interviews.

All the twenty-four refugee women that agreed to participate in the present research were recruited, as mentioned above, with the professional's help, and therefore, it was not a snowball sampling, since the participants did not recruit future subjects from among their acquaintances to participate. The professionals only reported back to the researcher the participants that agreed to be interviewed, therefore it is not known how many women were contacted by the professionals, and how many women did not agree to participate.

From the twenty-four women that agreed to participate in the study 1, fourteen women from the Middle East, eleven from Syria and three women from Iraq. The other

ten women were from Africa, namely, three from Angola, two from Congo, one from Togo, one from Sudan, one from Somalia, one from Gambia, and one from Morocco. The ages of the women interviewed ranged from a minimum of twenty-one years old to a maximum of forty-eight years old. It is important to disclose that regarding the interviewees' legal status upon their arrival in Portugal, from the twenty-four women interviewed, nine (eight from Africa and one from the Middle East) were considered spontaneous asylum seekers, and fifteen (fourteen from the Middle East and one from Africa) were considered Asylum seekers under the EU's relocation and resettlement protocols.

The 1951 Refugee Convention defines a refugee as *“someone who is unable or unwilling to return to their countries of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.”* (the Refugee Convention, 1951), regardless of whether or not legal refugee status has already been received. Following the same logic, it is also important to explain that, in the chapters related to the research findings (eight, nine, ten, and eleven) and in chapters twelve and thirteen reserved for the building of a new theory, the women that agreed to participate in this research will be always referred to as “refugee women”. It is also important to disclose that fake names were given to these women to ensure their anonymity.

Regarding their arrival, the average number of years that these women have been living in Portugal varied from six months to two years. The woman who had been in Portugal for the longest time arrived in late 2014, and the woman who had been in Portugal for the shortest period arrived in January 2021.

2.4. Conducting the interviews

At the start of all interviews, participants were reminded of the objectives of the research, reassured of the confidentiality of the data as well as the anonymity of their participation and they all signed the informed consent. The average length of each interview was slightly more than 2 hours. Two translators were used in the conduction of thirteen interviews: one French translator for three interviews, and one Arabic translator for ten interviews.

The first four interviews were conducted face-to-face, in January of 2020, in one of the integration institutions' facilities, namely, a private area that is only used for meetings, so the confidentiality of the data collected could be achieved. The fifth interview was also

conducted face-to-face in February of 2020, in the private home of the participant, in a time when there was no one else in the house. According to the planned schedule, data collection was supposed to occur from January to September 2020. However, interviews had to be paused due to lockdowns in Portugal after the declaration of the COVID-19 pandemics. The pandemics had a significant impact on the current research, particularly because it overlapped with the data collection phase. In fact, when the first lockdown was declared in Portugal in March of 2020, the interviews that had already been scheduled were all canceled, and it was only possible to reschedule them after October 2020. This was due to the fact that even after the first lockdown ended, in May 2020, most of the institutions continued to implement heavy measures of sanitary protection and were dealing with a lot of subsequent problems, unavailable to respond to requests, or to grant interviews.

Another change created by COVID 19 in the data collection was the way in which the interviews were conducted. Initially, it was decided that the interviews would be carried out face to face due to the fact that data would be collected with a sample from a vulnerable group. It was believed that face-to-face interviews would better help in the creation of *safe spaces* for the participants, allowing for more deep and powerful narratives. But due to the COVID-19 contention measures, such as social distance, lockdown and curfews, techniques had to be readjusted, and all other nineteen interviews were conducted online using the *Zoom* platform²⁹.

Overall, conducting these interviews was a very positive experience. The researcher felt very confident and at ease with the interviewees, and she manage to maintain fluidity in the conversation, to establish empathy and rapport, to ask follow-up questions, to avoid repeating questions to which the interviewees had already answered spontaneously; and to understand and respect the silences and the questions to which some of the interviewees refused to answer. All of the women interviewed, showing awareness of the vulnerability and invisibility of their status as refugees in Portugal, revealed a huge openness and willingness to tell their stories. On the one hand, they had some expectation of being able to improve their condition, and, on the other hand, they felt that giving their testimony was contributing to a common cause (that of refugees) and could help other women in the same situation. At the end of each interview, the researcher sensed that the refugee women felt what seemed to be some form of relief in sharing their stories, and gratitude for finally

²⁹ Reflexive consideration regarding the use of translators as well as the impact of the COVID 19 on the current research will be presented in chapter 7.

having someone showing interest in hearing what they have to say, a right that had been denied to them so frequently in the past.

3. Study 2

Study 2 main objective is to analyze individual dimensions that allow access to the meanings, intersubjective constructions, and perceptions of refugee women regarding their life trajectories in one stage and (geographical and symbolic) place: in the country of asylum, through the analyses of the reception conditions and integration practices in place in the Portuguese asylum system. To this end, study 2 will collect the perspectives of the ones under its tutelage, that is, refugee women, complemented with information from the professionals working, directly and indirectly, in the Portuguese asylum system, who assume leadership positions and/or with daily contact with asylum seekers and refugees. From this main goal, other objectives emerged.

3.1. Objectives

Starting from this general objective, this study aimed to:

- a)** to access refugee women's lived experiences of violence in Portugal;
- b)** to analyze refugee women's feelings regarding the Portuguese asylum system (e.g., the labelling effects; their feelings of belonging in the asylum country; well-being of their children, and such).
- c)** to understand the use of agency by refugee women in Portugal;
- d)** to evaluate the gender-based practices that exist in the Portuguese asylum system.
- e)** to validate refugee women's narratives and their experiences of victimization and survival as a direct source of knowledge.

3.2. Dimensions of analysis and the interviews script

Reception has been used in reference to the international protection applicants' right to have access to housing, food, clothing, health care, education for minors, and access to employment (within a maximum period of 9 months) in asylum countries (Demarchi & Lenehan, 2019; Bekyol, & Bendel, 2016; Pichou, 2016; Keynaert, Dias & Degomme, 2014; Williamns & Phillmann, 2011). Portuguese Law no. 27/2008, as amended by Law no. 26/2014, establishes the conditions and procedures for granting asylum or subsidiary protection and the statutes of asylum seekers, refugees and subsidiary protection. In its

article no. 2(e) "*material reception conditions*", are established, which must "*include accommodation, food, clothing and transport costs, provided in kind or in the form of allowances or vouchers or allowances for daily expenses.*" In this thesis, reception conditions will be analyzed from this perspective, but it will also include the Portuguese airport police forces' actions in relation to spontaneous asylum seekers, as well as the way in which asylum seekers under the EU's relocation and resettlement protocols are received by the various institutions involved in the Portuguese asylum system.

Integration has been addressed in reference to the inclusion of asylum seekers and refugees in the labor market or as a "two-way process" between the asylum country and the refugee community (Brell, Dustmann & Preston, 2020; Lochmann, Rapoport & Speciale, 2019; Dustmann et al., 2017). Durkheim (1984) argued that integration, a means towards social cohesion, is not merely an issue of objective division of labor, but also a matter of shared moral convictions, symbols and ideas. The author stressed the importance of individuals' social encounters in determining different practices of national solidarity.

In light of Durkheim's (1984) perspective, this thesis further proposes that, along with social encounters, institutional encounters are the determinant factors that shape different practices of national solidarity. Following the above considerations, integration will be used in the current chapter not as a category of analysis but as a category of practice (Korteweg, 2017; Dahinden, 2016; Oosterlynck et al., 2016; Wieviorka, 2014). This means that integration will be conceived as a process that not only involves many actors, agencies, logics, and rationalities but also includes several fundamental areas of social intervention.

In study 2, the semi-structured interview was designed around two dimensions of analysis to achieve a contextualization of the refugee women's life trajectories, both in terms of violence and of agency:

Dimension 3: To explore eleven key areas of intervention regarding the reception conditions and integration practices in place in the Portuguese asylum system: airport detention centres; welcome measures; housing; health; translator; education and training; financial support; labor market integration; legal support; psychological support; and public services. In order to do so, this thesis will collect data on the conditions of the shelter; safety; affordability of housing; accessibility; access to public transport; proximity to services; interpreters; ethnic support networks; elementary and secondary

school registration for children; educational upgrading for adults; recognition of educational and professional or vocational qualifications; accessible language courses; experience and qualifications; employment; counseling; family reunification; advocacy and community outreach; transition to mainstream services; and specialized services as required for survivors of violence and/or torture.

Dimension 4: To access refugee women's feelings about Portugal. In that regard, this thesis will analyze these women's experiences of welcoming, solidarity, and discrimination, by the Portuguese citizens; their feelings about their integration into the Portuguese society, and their desire to stay in Portugal. Complementarily, this thesis will also gather the opinions of professionals on the effect of labeling on applicants for international protection, especially for women, for example, experiences of discrimination/violence perpetrated by the Portuguese citizens, feelings of belonging or selflessness in Portugal, pros and cons of being an asylum seeker or refugee in Portugal, and such.

Like dimensions 1 and 2 from study 1, both dimensions 3 and 4 of study 2, will also contribute to theorizing a new perspective on the process of becoming a refugee woman.

These dimensions, with a total of sixteen broadly framed questions, were added to the interviews script of study 2 for the refugee women:

Dimension 3	1. <i>After arriving in Portugal, how does the reception process take place?</i> 2. <i>Can you tell me a little bit about that?</i> 3. <i>Can you describe to me the integration process, in terms of housing and living conditions?</i> 4. <i>How is the educational support or training support, in particular, to overcome possible language barriers, provided?</i> 5. <i>Which is the type of support or help, workwise?</i> 6. <i>Can you describe to me how the support for those seeking employment works?</i> 7. <i>In terms of other legal systems or national agencies, is there any type of social support provided?</i> 8. <i>Was any type of psychological support offered to you?</i> 9. <i>If so, can you tell me a little bit about in which ways and what kind of support was offered?</i>
Dimension 4	10. <i>How do you feel about being an asylum seeker or a refugee under the protection of the Portuguese State?</i> 11. <i>What do you think about Portugal and the Portuguese people;</i> 12. <i>Did you ever feel discriminated against or suffered any form of violence since your arrival at Portugal;</i> 13. <i>Do your children like to live in Portugal;</i> 14. <i>Would you like to stay in Portugal, or would you rather go to other country;</i> 15. <i>What are your feelings about your home country</i>

Study 2, as already mentioned, includes interviews to the same sample of refugee women from study 1, but also interviews with the professionals working, directly and indirectly, in the Portuguese asylum system, who assume leadership positions and/or with daily contact with asylum seekers and refugees.

The interviews with the professionals were divided into two parts: the first part of the interviews included the same nine questions asked to the sample of refugee women presented in dimension 3, and the second part of the interviews asked a total of four broadly framed questions regarding the professionals' opinions about the refugee women's integration in the Portuguese society.

Dimension 5	1. <i>How do you think that these women feel about the protection offer to them by the Portuguese State?</i> 2. <i>Do you think they feel welcomed by the Portuguese people?</i> 3. <i>To your knowledge, do asylum seekers and refugees? experience any form of discrimination or violence by the Portuguese citizens?</i> 4. <i>Do you think they want to start a new life in Portugal, or do you think they would prefer or intend to move to another country?</i>

Since considerations regarding the constitution of the sample for study 1 were already mentioned, in the next section this thesis will provide information on the process of gathering the sample of professionals.

3.3. Sample recruitment and characterization

Surprisingly, study 2 faced more challenges than study 1, in terms of the recruitment of professionals. As mentioned above, the first step taken in study 1 involved contacting different reception and integration institutions directly or indirectly involved in the Portuguese asylum system. Therefore, the recruitment of the participants for studies 1 and 2 occurred simultaneously, because when the professionals were asked if they could help in the recruitment of refugee women, they were also invited to participate in study 2. And in the case of the refugee women, when asked to participate in study 1 they were also invited to participate in study 2.

The sample selection for the professionals followed two criteria:

- i. Online research of information on existing reception and integration institutions in Portugal - through the Official Webpage of each institution and the content regarding their employees, it was possible to choose specific participants to recruit for the research. Therefore, to be recruited, the professionals would be referred by online information regarding their connection to the Portuguese asylum system in the institutions' Webpages.
- ii. Variety of interlocutors – although as mentioned above it is not possible to disclose information regarding the position or the job that the professionals held at each institution, the criteria predetermined was to include in the study a sample of professionals with a range of functions regarding the Portuguese asylum system such as decision-makers, field technicians, support providers for diverse areas of integration and so on.

Although the circumstances in which the professionals were contacted have already been explained above, it is important to mention that some refused to participate in the current research. Their motives to decline were related to their alleged lack of theoretical or practical knowledge about the topic under research, or not having the time to participate. Professionals took longer than refugee women to schedule the interviews, with cases of more than a month to reply to the emails; they were more curious than refugee women about the research's objectives and the questions that would be asked, and they frequently referred other professionals they believed would be more suitable for the research. Therefore, a snowball sampling technique was used, since prospective participants referred to other potential participants, and helped in establishing contacts, and encouraged colleagues to participate in the current research.

Initially, this thesis intended to recruit fifteen participants from host, reception, and integration institutions directly and indirectly involved in the Portuguese asylum system, such as SEF (Serviço de Estrangeiros e Fronteiras), ACM (Alto Comissariado para as Migrações), CPR (Conselho Português para os Refugiados), IPSS (Instituição Particular de Solidariedade Social), municipalities, ONGs, volunteer associations, religious institutions, schools, etc. However, the final sample is larger and constituted of twenty-eight participants. This happened for two reasons: more than one person from the same institution was referred to by the institution's directors to participate in the research; and the use of a snowball sampling technique, as explained above, enabled the recruitment of more participants that initially had not been considered, but were suggested by the participants throughout the interviews and this suggestion was considered value and worthy of following.

Although study 2 includes a sample of twenty-eight professionals, the number of semi-structured interviews conducted was twenty-five. This discrepancy is due to the fact that, in one case, four professionals participated in the same interview. The researcher was not notified of this in advance and, when confronted with the situation, decided to proceed with this collective interview. Another important disclosure is related to the fact that there were a total of five interviews that were conducted but were not included in the final sample of the professional because the information provided by those professionals was considered not relevant in terms of the objectives of study 2. This happened because, although the research objectives and the criteria for the inclusion of participants in the research were explained in detail, these five professionals worked with, or were involved in some way, in providing support and assistance to migrant women overall, and not to

refugee women, thus lacking the expertise, know-how or knowledge necessary to reply to questions posed during the interview.

3.4. Conducting the interviews

All the professionals who agreed to participate in the research were, before the interviews started, reminded of the research objectives, reassured of the confidentiality of their data as well as the anonymity of their participation and they all signed informative consent.

The average length of each interview was slightly more than 1 hour. Although the Portuguese asylum system includes a vast number of institutions, the decentralized process in place implies that all of the professionals of those institutions have contact with each other. For this reason, to guarantee the total anonymity of the participants, it is not possible to reveal any type of information regarding their age, professional training, or what position or role they have in the institutions to which they belong.

Likewise, it is not possible to reveal which institutions the interviewed professionals worked for. Suffice to say that they were recruited and sampled from institutions most commonly working with asylum seekers and refugees in Portugal. Their names were replaced by fictitious names. The first three interviews were conducted face-to-face, between January and February of 2020, in two integration institutions' facilities, in the private offices of the professionals being interviewed. The remaining twenty-two interviews were conducted online due to the pandemic situation caused by COVID 19³⁰.

It is also important to mention that in some cases, the person appointed by the institution to be interviewed did not have direct participation in the Portuguese asylum system or did not possess much knowledge about the topic. That restricted the data collected in those specific cases and created moments of awkward silence, with the participants' discomfort being quite noticeable due to their lack of knowledge to answer the questions. The researcher tried to reassure the subjects that it was ok for them not to know the answers, and to quickly move on to the next question, but, internally, this situation created more doubts than certainties regarding the institutions' intentions in choosing a certain professional to give the interview when that professional was clearly uncomfortable and insecure to do so. It was not clear, in all cases, if the refusal to answer

³⁰ Reflexive consideration regarding the impact of the COVID 19 on the current research will be presented in part II, chapter 7.

some questions was due to the lack of knowledge or practical work in the field, or if, in some way, the participant had been previously instructed not to answer some of the questions. Some of the professionals who were assigned to do the interviews by gatekeepers also did not seem willing to provide much information or to participate in the research project at all³¹.

Inevitably, all these impacted the quality of the data. On the contrary, with the professionals that presented themselves as being pleased and interested in participating in study 2 and demonstrated how important and necessary it was to debate the topics covered, the researcher felt more empathy and able to establish the necessary conditions for the interviewee to develop trust and rapport with them. That allowed for the interview to be smoothly conducted and created room for the researcher to ask more “uncomfortable” questions, such as asking about malpractices within the Portuguese institutions, which had been previously reported by the refugee women interviewed. These interviews were longer, more detailed, and had more pertinent and richer data which ultimately, had an impact on the data analysis. A pattern was established: the smaller the institution, the better-informed participants were about the integration practices in place while, simultaneously, showing higher degrees of hands-on participation in the Portuguese asylum system.

4. Generalization and Empirical Saturation

Lastly, a final word about generalization. In quantitative research, generalization is defined as the possibility of, from a sample, generalizing the knowledge acquired to the general population insofar as the sample is, in fact, representative of the population (Roulston & Choi, 2018). Statistics are then used to provide the confidence level or, conversely, the margin of error underlying this representativeness estimate. Several suggestions have been made to be able to apply the concept of generalization to qualitative research. Such suggestions can be divided into three groups: 1. *modifying the notion of empirical generalization*; 2. *transferability as an alternative conceptualization*, and 3. *theoretical generalization as an alternative conceptualization*.

The first two notions are based on considerations concerning the relationship between a sample and a population and the third one is based on *replication logic* (Yin,

³¹ Reflexive consideration regarding the role of gatekeepers in designating professionals to participate in qualitative research will be presented in part II, chapter 7.

2014). Instead of generalizing to a population or to other instances, the research objective of theoretical generalization is to construct a theory or identify a causal mechanism. This notion of theoretical generalization is quite in line with the methodology used in Grounded Theory and therefore, it was this generalization that the current study intended to achieve.

As mentioned in the previous section, the current research followed the feminist approaches that seeks to produce knowledge about the life of women while promoting equal relations between women researchers and participants. One of the great differentiating factors of feminist interviews is that the application of the method authentically reflects the feminist interests in promoting equality for women (Roulston & Choi, 2018). In that sense, contrary to what is advisable in other sorts of research, the interviewer develops a closer relationship with the interviewees, attempting in that way to minimize status differences and eliminate the traditional hierarchical situation of interviewing.

In the current research, interviews allowed the gathering of various sorts of data by accessing the voices and experiences of refugee women, as well as of the professionals, and by creating a safe space for interviews to evolve naturally. Higher sensitivity to the concrete course of the interviewer and the interviewee was one of the major concerns considered when conducting these interviews. Thus, with ethics principles as background, in highlighting the voices of these women, the use of language and discourse was central points of the conducting of the interviews. So, the interviewees were reassured over and over that they were free to talk openly about their experiences, and the interviewer tried to listen carefully and to collect all the information needed.

Regarding the collection of information, a constant exercise of reflection on what was said and its relevance to the research question was carried out. Particular attention was placed on the productive powers of language, the subtle tones of meaning conveyed through nuances, gestures and expressions, silences, and so on. It has also proved to be quite pertinent in conducting the interviews to use terms used by women in their daily lives (e.g., Hijabe, Ramadan, “Cut” – as a reference to FGM), listening intensely for incompletely articulated issues and respectfully validating the situations that the participants reported as experiences of discrimination or violence. A permanent mediation was executed between the desire to collect further information and the saturation point of the interviews.

“Empirical saturation” has established its wide acceptance as a methodological principle in qualitative research. “Empirical saturation” indicates when the collection and/or analysis of additional data is unnecessary, considering the data collected or analyzed in a research project (Saunders et al., 2018). The saturation principle is in accordance with the Grounded Theory, which argues that the collection of data should be conducted only until new and pertinent information arises. According to Saunders et al. (2018) “empirical saturation” must be operationalized consistently with the research question(s), the theoretical position, and the analytical framework adopted.

The same authors (Saunders et al., 2018) also pointed the need for saturation’s scope to have some parameters, so that saturation does not lose its coherence and effectiveness if its conceptualization and uses are too stretched. In the current research, the chosen method for collecting data, semi-structured interviews, were carried out until the emergence of new ideas and perceptions was verified and were interrupted when the researcher noticed a strong repetition in the articulated topics.

The next chapter will exhibit the analytical support chosen for the interpretation of the data collected, namely, the Grounded Theory, and how it was used by the current research.

Chapter 6

Data analyses and report

This chapter will provide information on the analytical support chosen for the interpretation of the data collected, the Grounded Theory, which seeks to produce concepts and categories throughout the empirical work, enabling the creation of a new theorization (Thornberg & Charmaz, 2014). Since one of the intentions of the current thesis is to contribute to theorizing a new perspective regarding the process of becoming a refugee woman, the Grounded Theory seemed the best option to fulfill this objective. Nevertheless, the current research adopted an approach that guaranteed a certain compromise between induction and deduction: the abduction approach (Kennedy, & Thornberg, 2018).

1. The Grounded Theory approach

In the current research, the methodology approach for analyzing the data collected was the Grounded Theory, formulated by Glaser and Strauss in 1967 (Glaser & Strauss, 1967). Its goal is to produce general theories from the analysis of empirical data, as opposed to testing previously existing theories. These proposals, instead of promoting the researcher's leadership in the production of knowledge, challenge the researcher to take a more epistemological position, that is, the systematic and grounded reflection on what scientific knowledge is and how it is articulated with the methodologies, methods, and conditions for the production of knowledge, and the knowledge acquired through the research itself.

According to Briks (2014, pp. 18) philosophy is “*a view of the world encompassing the questions and mechanisms for finding answers that inform that view.*” In fact, every single human being has an exclusive conceptualization of life and reality. And this view of life and reality will play a part in deciding a research topic or question. But before the final decision on that is made, it is necessary to consider the research methodology. According to Briks and Mills (2015, pp. 4), “*a methodology is a set of principles and ideas that inform the design of a research study*”. In other words, the methodology is related to the process of analyzing methods and establishing comparisons between the types of knowledge that these methods produce.

On the contrary, “*methods (...) are practical procedures used to generate and analyze data.*” (Briks & Mills, 2015, pp. 4), that is, a method is a final product that is implemented to lead the research. Simply put, it can be said that methodology is a system and methods are the tools to implement that system. For Grounded Theory, the choice of methodology is critical since this choice will influence the data analysis. In fact, the chosen methodology directs the researcher’s attention to different dynamics and to the possible analytical configurations in the process of conceptual and theoretical abstraction. In conclusion, epistemology, methodology and methods are all fundamental, constant, iterative, and recursive throughout the Grounded Theory research process, that is, throughout the preparation, implementation, and dissemination process (Chamberlain-Salaun, Mills, & Usher, 2013).

To plan a research based on the Grounded Theory, it is necessary to guarantee some structural principles. Differing from many qualitative studies, which seek to describe and explore phenomena, the Grounded Theory allows the production of scientific explanations about the phenomenon being studied. The formulation of the theory comes from the strategies used in the collection and analysis of data and reproduces a phenomenon through the perspective and context of those who have experienced it (Bryant & Charmaz, 2007). In general, the use of the Grounded theory is appropriate when little is known about a phenomenon and when the research objective is to produce or construct an explanatory theory that uncovers a process inherent to the substantive area being investigated.

But Grounded Theory has various distinct methodological categories, each of them being an extension and advance of the original theorization: a) the traditional the Grounded Theory acknowledged as its main goal the generation of a conceptual theory that accounts for a pattern of behavior that is relevant and problematic for those involved; b) the evolved Grounded Theory is founded on symbolic interactionism, that is, on the sociological perspective regarding the symbolic meaning people ascribe to the processes of social interaction, by addressing the subjective meaning people place on experiences, behaviors, and interactions; and c) the constructivist Grounded Theory where methodological groundwork places emphasis on how participants’ construction of meaning in relation to the field of investigation.

Therefore, a constructivist researcher co-constructs experience and meanings with the subjects of the research (Chamberlain-Salaun et. al., 2013; Bryant & Charmaz, 2007; Clarke, 2005). In line with the structural principles of the Grounded Theory, the current

research has the objective of contributing to theorizing a new perspective on the process of becoming a refugee woman. Conducting scientific research on these two fields is crucial and urgent, since only recently started to emerge research conducted on violence against refugee women and refugee women's agency. Likewise, almost no scientific data has been produced until the present moment, regarding the Portuguese asylum system. The current research also intends to move its analytical processes beyond the simple description through exploration, and to contribute to produce new and well-founded theoretical perspective, based on the subjective interpretation that people make of their lived experiences, and on the interactive processes between the researcher and the subjects of the research in the co-construction of the meanings.

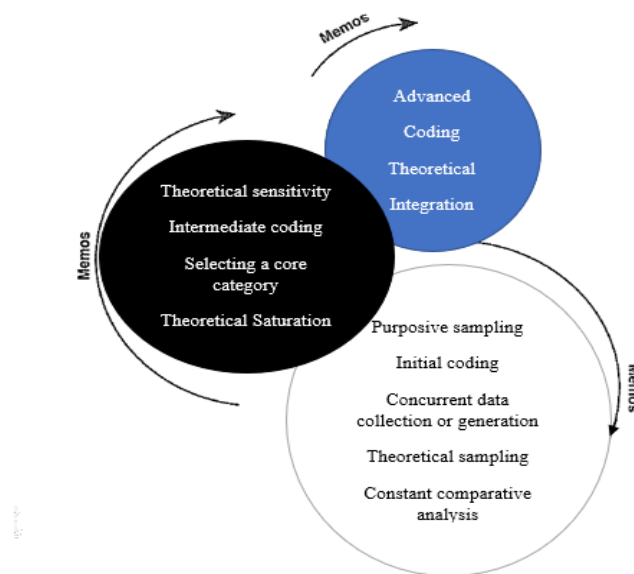


Figure 1. Grounded Theory methods. Retrieved from Birks and Mills (2015) “Grounded Theory: A practical Guide”.

To carry out qualitative research it is necessary to consider the relationship between data collection and data analysis and the relationship between theory and data. There are usually two processes to relate data collection to data analysis: a linear-sequential approach, where researchers first collect all data and then begin the analysis process, and, an iterative approach, where interaction between data collection and data analysis is developed (Kennedy & Thornberg, 2018). Therefore, these approaches must be explained as ideal types or the opposite ends of a continuum, in which researchers could be close to one of the ends.

Regarding the relationship between theory and data, there are two ways of doing this: researchers can use theoretical knowledge to interpret and analyze the data

(deductive process), or else, researchers can ignore previous theoretical knowledge and be open to discovering patterns, themes, concepts or theories from the data (inductive process) (Charmaz et al., 2018). These two approaches should be considered in a *continuum*. Grounded Theories seek to produce concepts and categories that build data and allow the comparison between that data, throughout all empirical work, thus giving rise to theorizing. Therefore, the researcher must enter the field of investigation without pre-defined or limited questions/hypotheses, a common procedure in other research designs. According to Glaser (1978; 1992; 2005) grounded theory outcomes must then emerge in response to the evolving data collection and analysis, as a genuine iterative process.

The Grounded Theory method allows the researcher to produce, develop, and integrate data, a process that is closer to induction. The same happens regarding literature review, which should be used to enhance theoretical sensitivity, as data during analysis, and as a source of theoretical codes. In fact, the literature review is one of the most sensitive topics related to the Grounded Theory approaches, with the original authors, Glaser and Strauss (1965; 1967; Birks & Mills, 2015), encouraging the delay of a formal literature review to avert the researcher imposing existing theories or knowledge on the study processes and outcomes.

However, the current research adopted an approach that suggests a certain compromise between induction and deduction, the abduction model. Abduction was developed by Pierce (1960/1979) as a third mode of reasoning or inference, a definition that has been developed over the years by other researchers (e.g., Tavory & Timmermans, 2014; De Waal, 2013; El Khachab, 2013; McKaughan, 2008; Schurz, 2008; Reichertz, 2007; Paavola, 2004; Anderson, 1987). In a more up-to-date perspective, Kennedy and Thornberg (2018) defined abduction as a process of selecting or inventing a provisional hypothesis to explain an empirical case or data set better than any other candidate hypothesis and the pursuit of that hypothesis through additional investigation.

Abduction can thus be understood as a way of discovering new concepts, ideas and explanations by finding phenomena, data, or surprising events that cannot be explained by preexisting knowledge (Kennedy & Thornberg, 2018; Thornberg & Charmaz, 2014). In abduction, qualitative researchers use the selective and creative process to examine how the data supports theories or hypotheses, and the data may require modification of existing understandings (Kennedy & Thornberg, 2018).

In abduction, research goes beyond pre-existing theoretical data and knowledge, modifying, elaborating, or rejecting the theory, if necessary, or bringing together old ideas to examine, understand, and explain the data (El Khachab, 2013). While abduction allows the use of pre-existing theories, not to mechanically derive a hypothesis to test (as in deduction), but as a source of inspiration and pattern identification and interpretation, it also consents openness and sensitivity to data. In fact, since in the Grounded Theory, initial purposive sampling directs the collection and/or generation of data, abduction allows for the creation of categories that support the selection of participants for the research.

Abduction implies an iterative interaction between: (a) data collection and analysis, in which continuous data analysis suggests plausible hypotheses to investigate further, and b) data and theory, in which researchers must draw implicit or explicit knowledge (Kelle, 2014). These two moments of interaction also allow researchers to reconsider, review or contest established theoretical assumptions to unravel astonishing or absorbing data (Alvesson & Kärreman, 2011).

The present research, thus, adopts the abduction model for two reasons. Firstly, because the fieldwork was carried out using only a few analytical categories and previously defined observation grids in terms of the initial purposive sampling. That is, the categories were created considering the participants being selected and who could provide valid and pertinent information and could answer the interviews' questions. In this way, a wide field of analytical possibilities was left open.

Secondly, due to the research objectives, a brief theoretical and hypothetical framework was initially formulated relating to the assumption that refugee women suffer from gender-based discrimination and violence, and also from symbolic and structural violence at different stages of their lives trajectories. However, this formulation was mainly carried out with the aim of guiding the first empirical endeavors and was not adopted as a static model. Abductive inference occurs when empirical impressions encourage and present the need for new theoretical thinking, that is, when the researchers recognize an anomaly or surprising data and, therefore, are interested in the problematization and the re-thinking of dominant ideas and theories (Tavory & Timmermans, 2014).

Following this thought, the present thesis also considers that reviewing the literature on the researched topic would offer a more precise indication as to the extent of current knowledge and fieldwork already undertaken, as well as the existing theoretical needs.

Therefore, a general literature review was carried out at the beginning of the investigation (part I, chapters 1, 2, and 3). The literature review can be used as an effective source to lead the Grounded theorist/researcher into the field of study, which does not imply contamination in relation to the existing theoretical concepts (Thornberg & Charmaz, 2014). According to Corbin and Strauss (2008) theoretical contexts have some practical value, frequently in relation to understanding the results.

Thus, the literature review in the current research was not used as the basis from which a deductive work would be drawn. And, despite the general literature review initially undertaken, Grounded Theory was only completed during the sorting and writing phase of the study. In fact, one of the objectives always considered in the present study is the establishment of a continuous dialogue between empirical and theoretical work, as proposed by the adduction model. Another important goal was to allow bibliographical research to be developed and transformed into Grounded Theory, based on constant comparisons between the data collected.

2. The use of the Grounded Theory methodology in the current research

It is now time to detail how the Grounded Theory methodology was used in this study. Following the chronological order of application of the Grounded Theory methods, all the interviews conducted in this study were literally transcribed. Next, initial coding was used to identify significant themes and then focused coding came into place, to code for more conceptual units of meaning (Charmaz et al., 2018). Then, categorization and cataloguing of data were performed to classify fundamental words, or groups of words, found in the data of this research. Subsequently, concurrent data generation/collection and its analysis were conducted with the initially purposive sample. Memos, that is, taking notes of the researcher's thinking during the data collection, were also used. Theoretical sampling came into place to focus and to feed the researcher's constant comparative analysis of the data. Intermediary coding helped the researcher to exercise a constant comparative analysis of incident to incident, incident to initial coding, initial coding to focusing codes, focusing coding to categories, and within categories to new categories. Making it clearer, fully individual categories were developed by correcting sub-categories and by fully exploring their range of dimensions. Finally, all of those categories were linked together. Next, two concrete examples are offered to represent how this process was conducted in practice.

During an interview with a refugee woman who was living in a Portuguese reception center, a professional working in that reception center entered the private room where the interview was being conducted, to check whether the internet connection was working properly. In another case, the refugee women suddenly ended the interview because a professional from the institution in charge of her asylum process entered the shared apartment she was living in, and she was afraid to continue to speak with the interviewer because she did not want the professional to hear complains in relation to the institution's practices. These two incidents were translated into a specific initial code, namely “the reaction of women to the interruptions of the interviews by professionals”; then, through focusing coding, it was then considered part of a broader category, “The type of relationships formed between refugee women and the professionals from the institutions”. This broader category was then used as sub-category “Professionals’ behavior” included in a core category, “integration practices”. Additionally, the current thesis also documents and integrates non-verbal behaviors of each participant into the data collection, as well as: differences in voice intonation (e.g., when talking about more sensitive issues, the participants speak in a lower tone of voice, while issues that caused feelings of revolt were intonated louder); particular gestures (e.g., some participants wave their heads as a form of answer before actually answering the question; other participants lower their heads when speaking about sensitive matters such as sexual assault). In total, twenty core categories were identified and achieved through full theoretical saturation of the refugee women’s interviews, composed by one hundred and thirty categories, including more than two hundred codes.

Lastly, advanced coding and theoretical integration were performed, which included the use of the storyline technique. By using the storyline technique, the refugee women reports were categorized and analyzed, following a particular order: the lived experiences in the countries of origin, during the displacement journey, and in the asylum country. Regarding the professional's recounts, the information provided was categorized and analyzed, following the subsequent order: reception conditions and integration practices, both with a special focus on gender-based interventions. A key tool used in the data analysis was the qualitative data analysis software QDA Miner, a particularly useful program when handling large amounts of data.

The next chapter will thoroughly expose considerations on the importance of using reflexivity when conducting a scientific research.

Chapter 7

Practicing reflexivity in social sciences: Situating the researcher in qualitative research methodology

This chapter will highlight the importance of, when conducting qualitative research, using reflexivity to consider the relationship between the data collected and the reflections that such data was subjected to; negotiations between the various subjects involved in the investigation process; and the performance of the researcher and its relationship with the participants. Reflexivity in research is an active and continuous process of critical reflection on the type of knowledge produced from the research, and, simultaneously, on how this knowledge is generated/acquired, that saturates all stages of research. Reflexivity is not only focused on the production of knowledge in research, but also on the research process as a whole (Mann, 2016; Forbes, 2008).

1. From theory to practice: how to become a reflexive researcher

The methodological literature underlines numerous characteristics of evaluation criteria for scientific methods (Emden, 2021; Suri & Clarke, 2009; O'Malley, 2007). Despite having fulfilled all the methodological assumptions presented, the current research faced some challenges relating to the objectivity of scientific knowledge. These problems correspond first and foremost to those involved in any research using qualitative methodologies, but also, in particular, to those resulting from the application of data collection techniques that require a more intimate relationship between the researcher and the researched. The knowledge produced under these conditions is subject to question and often doubt, especially among the positivist researchers, regarding the validity, reliability, and objectivity of the results obtained in investigations.

For the positivist epistemologies, in general terms, validity, reliability, and objectivity come from the suppression of any subjective interpretations and arguments in the production of knowledge (Imai, 2017; Alawe, 2017; Alvesson & Skoldberg, 2009; Porta & Keating, 2008; Corbin & Strauss, 2008). Patton (2002) is an example of qualitative research promoting criteria in this tradition to establish the trustworthiness of research. However, if the researcher develops qualitative research based on constructivist approach, validity, reliability, and objectivity, which are criteria well accepted in the positivist approach for the evaluation of quantitative empirical research, yet not sufficient

for establishing trustworthiness and hence require different principles (Chandra & Shag, 2017). Therefore, a wide group of researchers (e.g., Attia, & Edge, 2017; Lauckner et al., 2012; Suri & Clarke, 2009; Finlay, 2006), offered different criteria regarding research findings, following the constructivist research tradition, such as Lincoln and Guba (1985) who suggested replacing the traditional notion of internal validity with credibility, external validity with transferability, reliability with dependability, and objectivity with confirmability, to achieve trustworthiness.

Although some authors (e.g., Attia & Edge, 2017) chose different words from the ones used by Lincoln and Guba (1985), the concept meanings of those words are mostly the same (Lincoln & Guba, 1985). The core of trustworthiness can be described as how the means by which qualitative researchers ensure credibility, transferability, dependability, and confirmability are evident in research. Research possesses inter validity if the researchers have successfully measured what they sought to measure (Korstjens & Moser, 2018). According to Williams and Morrow (2009, pp.577) there are three main categories of trustworthiness that should be followed by qualitative researchers: (1) integrity of data; (2) balance between reflexivity and subjectivity; and (3) clear communication of findings.

Regarding the second category provided by Williams and Morrow (2009, pp.577) – “balance between reflexivity and subjectivity” - the criticisms directed at the problem of subjectivity in qualitative investigations are not limited to the type of data used and the results obtained. These criticisms are related to the way in which the objectivity of knowledge is conceived. In general terms, for most positivist approaches, objectivity means the neutrality of knowledge, that is, knowledge free of any subjective interference (Imai, 2017). A neutral knowledge, according to these approaches, depends fundamentally on the way knowledge about reality takes place.

These approaches also point out three obstacles to the neutrality of knowledge: 1. the relationship of proximity between the researcher and the subjects under study; 2. the relationships of trust established between them; and 3. feelings, expectations, and profiles of the subjects involved in these relationships and the cross production of knowledge within the scope of qualitative methodologies. According to these conceptions, without this neutrality there is no objectivity and, therefore, knowledge produced in these conditions lacks scientific validity (Imai, 2017). The constructivist assumption is that: knowledge is socially constructed; is a product of subjectivity; and a product of the

relationship between the subject and object of knowledge, a relationship that is historically, socially, and subjectively situated (Chafetz, 2006).

Mann (2016, pp.28) describes reflexivity as being “(...) *focused on the self and ongoing inter-subjectivities. It recognizes mutual shaping, reciprocity, and bi-directionality, and that interaction is context-dependent and context renewing.*” For Attia and Edge (2017, pp. 33) reflexivity “(...) *involves a process of ongoing mutual shaping between researcher and research.*” Edge (2011) characterized reflexivity as encompassing two interacting elements: prospective reflexivity, which concerns itself with the effect of the whole-person-researcher on the research, and retrospective reflexivity, which concerns itself with the effect of the research on the researcher. Prospective reflexivity helps researchers increase their ability to understand the meaning of knowledge, feelings, and values they brought to the field to formulate the research questions, to the analytical lenses employed, and to the findings (e.g., how to deal with the researcher’s status; insider/outsider, gender or ethnicity) (Edge, 2011).

Retrospective reflexivity refers to the changes provoked within the self by the reflexive action, that is, it establishes a metaphorical sense of movement, of distance covered, inherent to the research. The interpretation of such trajectory, including its consequences, catalogs the individual development experienced (Attia & Edger, 2017). Reflexivity is exercised through observation and reflection and through interaction with colleagues: the researcher observes in action; the researcher comes back (from where?) to reflect; and the researcher rises again into action (Mann, 2016). “*It is the focus on self-consciousness that gives reflexivity its trademark*” (Mann, 2016, pp.16, emphasis on the original). A reflective researcher must be fully available as an element of the phenomena to be investigated. In research conducted by reflective researchers, it is important that the methodology used is equally open to the possibility of changing insights, emerging goals, and evolving methods in pursuit of more meaningful results than those which initial research questions may have predicted (Finlay, 2012).

Reflexivity also plays an important role regarding ethical issues involved in the conducting of any research. The present research gained the approval of a research ethics committee from the faculty of law and criminology of the University of Porto. This was a fundamental step to take before the data collection. Still, ethical research is much more than research that has gained a research ethics committee approval. Reflexivity is closely linked to the ethical practice of research and can be particularly useful in the work field where research ethics committees are not available (Attia & Edger, 2017). According to

Harding (2015), there is a range of factors that affect researchers and, subsequently have an impact on the research process: social and political location; personal values and principles; research interests and research questions both posed and rejected; the choice of research model, research methodology and theoretical framework that informs the research; the subjects included and excluded from the research; interpretation and analysis of data; the data and the way it is presented.

By adopting a posture of reflexivity, the researcher becomes aware of both questions related to knowledge creation and to ethical questions in research (Cowburn, Gelsthorpe & Wahidin, 2017). Such a state of awareness leads to the conscious consideration of a number of formal ethical positions and the adoption of a specific ethical posture. It also makes the researcher more aware of situations where the theoretical position may not be the best way to defend the interests of its participants. According to McGraw, Zvonkovic, and Walker (2000, pp. 68) reflexivity is “*(...) a process whereby researchers place themselves and their practices under scrutiny, acknowledging the ethical dilemmas that permeate the research process and impinge on the creation of knowledge.*” Thus, in conducting research, a researcher that is reflexive will be in a better condition to be aware of the ethically significant moments as they arise and will have a foundation for answering in a way that is likely to be ethically appropriate even in unexpected circumstances (Cowburn, et al., 2017).

Reflexivity should be considered and promulgated as a way of ensuring not only rigorous research practices but also ethical research practices. Regarding ethics, reflexivity has a respected role in compelling the researcher to study and reflect on the fundamental guiding principles that govern the integrity of research (Berger, 2015). In an ethical sense, being reflective means recognizing and being sensitized to the micro-dimensions of research practice. At the same time, it also implies that the researcher is alert and prepared for the ways of dealing with the ethical tensions that may arise, to be attentive and active in protecting research participants (and the researcher himself) from undue harm and risk, as well as to be respectful of autonomy. In conclusion, reflexivity does not function as an instruction manual with answers to certain situations, but rather to an awakened sensitivity that can allow an ethical practice to occur in the complexity and richness of social research (Cowburn, et al., 2017).

The function of reflexivity involves the awareness of its processes with, first, the purpose of enriching the lived experience and, secondly, articulating this awareness as a contribution to the deepening understanding of the field. The present research follows a

constructivist approach that considers knowledge as non-neutral and, at the same time, considers the achievement of trustworthiness in a researcher to not only depend on validity, reliability, and objectivity but can also be achieved through a balance of reflexivity and subjectivity, as stressed by Williams and Morrow (2009). In that sense, the following two sections will explore the evaluation of trustworthiness in the current research through two different glances: (1) regarding the methodology adopted, and (2) the relationship between the researcher and the researched.

2. Evaluating trustworthiness in the methodology adopted

The present research adopts the perspective advanced by Harding (2015) to maximize the objectivity of a knowledge that is assumed to be partial and situated, and which is based on strong reflexivity (e.g., Berger, 2015; Finlay, 2012; Forbes, 2008; Finlay & Gough, 2003; Fook, 2002). Harding (2015) assumes that objectivity is mystified, especially between approaches that do not consider the various constraints affecting any scientific input and output. On the contrary, feminist theory is consistent with strong objectivity because it places the subject of knowledge on the same critical and causal plane as the objects of knowledge (Harding, 2015; Speer, 2005). To criticize knowledge, as well as the subject that produces it, strong reflexivity that goes through the whole design of the research is needed: from the selection of the problem, through all phases of data collection, analysis, and interpretation. Although this program of reflexivity is an exercise in maximizing objectivity, Berger (2015) concludes that there is no single way of conceptualizing it. The current research is more in alignment with feminist perspectives (Attia & Edge, 2017; Guillemin & Gillam, 2004; Speer, 2002; 2005; Denzin, 2001; Robertson, 2000), according to which knowledge is situated and partial.

According to feminist standpoint theorists, knowledge is a product of the time and place from which it is produced (Harding, 2015), which has several implications as to the way knowledge is conceived in general, and to the problem of its objectivity. Feminist standpoint theory contributed to epistemological and methodological debates within the social and natural sciences. The product of knowledge is collective, generated by the diverse experiences involved in this epistemological relationship.

Therefore, even if the researcher tries to minimize the impact of the researcher/researched relationship on the data collection process, this impact will still exist, and the data is therefore always an interaction product (Speer, 2002). For Harding (2015), no knowledge is built without containing the marks that reveal its production

process, that is, the researcher's personal, social and political interests and position. And the circumstances conditioning knowledge can also condition researchers and projects. The same author also argues that adopting this point of view does not only reveal how the social situation affects any research but also how the scientific knowledge produced when made available, will in turn influence the social situation. In doing so, these perspectives encourage the focus on the social positioning of participants as a way to maximize the objectivity of the research.

Next, this thesis provides examples in four different themes on how to become a reflexive researcher, considering lessons learned in the current research.

2.1. The use of translators when conducting qualitative research

Regarding the sample of refugee women for studies 1 and 2, as previously mentioned, two translators were used, one interpreting French and the other Arabic. According to Lopez et. al. (2008), due to the difficulties of collecting reliable and valid information, presently, cross-cultural qualitative studies involving the conduction of interviews in languages other than the researcher's main language are infrequent and particularly thought-provoking. Wong & Poon (2010), drawing from the field of translation studies, argued that contrary to the canons of rigor occurring in the data collection, analysis, interpretation process, and results; no such canons were yet considered and implemented regarding the use of a translator when conducting qualitative research. The same authors, based on the findings of a translation exercise conducted with three bilingual Cantonese-English translators, argued that researchers can only expose the richness entrenched in the data collection and grasp diverse ways of attributing meanings to the research findings, by making the use of a translator a central and debatable aspect of qualitative research (Wong & Poon, 2010).

Following the same train of thought, in terms of the reflexivity process, this thesis will, next, disclose crucial information regarding the impact of using a translator or interpreter during the data collection of the present research.

Language barriers in the interviews with the refugee women were pre-considered when designing the research project and well-grounded in scientific literature relating to the matter. Still, there were some concerns regarding the translator bias and the regional and cultural variations of the refugee women interviewed, and the insurance of accuracy and meaningfulness of the data reported. In fact, the existing body of literature has identified that translators in qualitative research play a decisive part in terms of

maintaining the integrity of the meanings from original data (Ho, Holloway & Stenhouse, 2019; van Nes et al., 2010; Wong & Poon, 2010; Chen & Boore, 2009; Squires, 2009; Lopez et. al., 2008). Since the interpretation of meaning is core to qualitative research, it is natural for concerns to emerge related to the fact that translation is also an interpretative act, and therefore, the meaning may get lost in the translation process.

According to Larson (1991, cit in. Lopez et al., 2008, pp. 1729), a translator must: (a) reproduce as accurately as possible the source text, (b) use the natural form of the target language, and (c) express all aspects of the meaning in a manner that is understandable. In the study conducted by Lopez et al. (2008), participants' interviews were directly transcribed into the target language instead of first being transcribed into the source language and then being translated into the target language. Nonetheless, the same authors fail to include a critical analysis of their own study in relation to the translation process of the data collected and the data analysis (Lopez, 2008). It is crucial to foresee and prevent the additional challenges created by differences in language that could hinder the transfer of meanings or could cause the loss of the meanings and compromise the trustworthiness of a qualitative study (van Nes et al., 2010).

In this regard, Squires (2009) synthesize the methodological recommendations from the literature into a list of criteria to evaluate how researchers methodologically managed translators and interpreters in their qualitative studies. To better engage in the reflexivity process and to fulfill the aim of being a reflexive researcher, the four areas formulated by Squires (2009) will be tested next, one by one, to evaluate the impact that the translators had on the data collection and analysis of in study 1.

The first key area is related to the “conceptual equivalence”, which refers that the translator must provide technically, and conceptually accurate translated communication of a concept spoken by the study's participant. To accomplish conceptual equivalence, a researcher must have (Squires, 2009):

i. Provided a rationale for why the analysis occurred in the chosen language, especially if it was not the same language as the participants – In that matter, the objectives of study 1 justify the need for the use of a translator in the conduction of some of the interviews with the asylum seekers and the refugee women. When designing the present research and looking at the numbers of asylum seekers and refugees worldwide, it was noticeable that most people come from Africa and the Middle Eastern regions. If

the sample of study 1 had been limited to speakers of the Portuguese language, the data collection would have lost its richness and variety.

ii. *Developed a translation lexicon for multi-language studies to ensure conceptual equivalence* – In the present research, terms such as “rape”, “sexual assault”, “forced marriage”, “abuse” to name a few, were translated into Portuguese, French, and Arabic in the same way, that is, using words in those languages that had the same meaning, to establish a lexicon suitable for the current research.

iii. *Had the translation validated by a qualified bilingual individual not directly involved with data collection or the initial translation* - The interview script for the interviews with the refugee women for studies 1 and 2, was first written in Portuguese and then translated to English, French, and Arabic, and all of the translations were verified, in terms of sentence formulation and the concepts used, by natural speakers of those same languages.

The second key area refers to the “translator Credentials”, which will, inevitably, affect the quality of translations, which are foremost crucial during the qualitative coding and data analysis processes.

i. *Briefly described the translator’s qualifications or previous experience with translation* - Both translators had previously participated in scientific research that involved similarly vulnerable participants and therefore were considered well prepared to be part of studies 1 and 2. Nonetheless, prior to their participation in the semi-structured interviews, two meetings were held between the researcher and the two translators separately, to explain the intended meaning and its context in the source language used in the interview guide. This was done in a side-by-side procedure, in which the researcher and the translator discussed possible wordings.

ii. *Described the researcher’s level of language competence* – The translator of the Arabic language was a natural speaker of the language since she was born in Palestine. The translator of the French language was born in France and completed primary school in that country, before moving to Portugal. She also had French classes at the faculty.

iii. *Described the researchers or translators identity in contrast to that of the participants* – Both translators were female, which was one of the criteria for their selection because the sample of refugees were all females and, due to the sensitivity and vulnerability related to their status of refugees, it was considered more appropriate to have only women participating in the conduction of the interviews.

The third key-area is related to the “translator role”, which will affect data collection, results, cost of research, and degree of bias in the results. The researcher must have:

i. *Described the translator’s role in the study* – Both translators participated in studies 1 and 2 as intermediates of the dialogue between the interviewer and the interviewee: they translated the question in the language of the interviewee and then translated the answer into Portuguese, in the case of French translator; and into English, in the case of the Arabic translator.

ii. *Described at what point(s) during the research process they used translation services* – 1) The translation services were used prior to the conduction of the interviews, to check if the interview script was properly translated; 2) during the interviews of studies 1 and 2, the translators asked the questions and to report the answers; 3) in the transcription phase of the interviews and in the validation of the transcriptions’ content. The validation of the interviewer’s content was used in relation to the conducted in Arabic. This happened because the answers of the interviewees were translated into English first, which is neither the natural language of the translator nor the researcher, and therefore, after the transcription of the interviews, the researcher sent those transcriptions to the translator, who listened to the interviews and double-check the information translated to see if it matched with what was said by the interviewees during the conduction of the interviews.

iii. *Identified who conducted the analysis and in what language it took place* – The analysis of the data collected was conducted by the researcher of studies 1 and 2, and that analysis was made both in Portuguese, for the cases of the interviews transcribed in Portuguese, and in English, for the interviews that were translated into English.

iv. *Provided a rationale for using multiple translators when the study took place in only one language* – These criteria do not apply to the present research since study 1 and study 2 were conducted in different languages, namely, Portuguese, English, French, and Arabic.

The fourth key area establishes the specific recommendations for different types of qualitative approaches to avoid translation disruptions of the fluid research process. Likewise, the researcher must have:

i. *Selected the appropriate research method for the cross-language qualitative study* - Due to the fact that the research in question, with regard to studies 1 and 2, required the participation of two translators, and given the vulnerability of the participants, as already explained in section three of the current chapter, the in-depth semi-structured interview was considered to be the most appropriate method to conduct this investigation.

ii. *Pilot tested the translated interview guide prior to conducting the study* – The interview scripts in French and in Arabic were tested with two native speakers of the French and Arabic languages, to see if the questions were properly translated and were understandable, clear, and logical.

iii. *Indicated the country of origin of all participants in the study, even if they came from linguistically similar regions* – for this, see section 3 related to the procedures adopted for the constitution of the sample.

iv. *Stated in the limitations section, or another appropriate location, that translation or use of translators may have affected the results* – On a personal level, language barriers were quite difficult to digest because it was quite frustrating for the researcher (being the interviewer and principal researcher of the investigation) to not be able to ask questions or understand the answers given by the subjects. Thus, the researcher felt that she was not in complete control of the interviews and had to learn how to delegate and share the conduction of the interviews with someone else – which was somehow hard to accept. Simultaneously, the researcher felt that, while she completely trusted the people who she chose to be the translators, she could never be totally sure that they were translating the questions and the answers exactly as they were presented. That need of learning to delegate, share, and trust presented itself as a real challenge initially. Of course, the researcher would rather have conducted the interviews alone, and as negative aspects, it must be pointed out that these interviews were shorter than the ones that the researcher conducted herself, although not clear, in retrospect, if this was due to the language barrier or to any other factors.

Furthermore, the researcher's ability to concentrate during the interview was diminished because there were many moments of "silence" for the researcher where she was just listening to the conversation between the translator and the interviewee without

being able to understand anything they were saying. Finally, it became more difficult to transmit and establish empathy and rapport, due to the time gap between the subject's responses and its translation to the researcher. In fact, the researcher must emphasize this last negative aspect as a warning to fellow researchers that choose to conduct research with participants with who they don't share the same language. It becomes very hard to convey understanding or compassion with the interviewee's narratives when one does not fully understand what the other is saying. The researcher tried, however, to adopt a posture as natural as possible, and not to transmit to the interviewee, in any way, the frustrations and insecurities that she was feeling.

The present researcher believes that further scientific studies are needed that explore and evaluate how the data collection and data analysis can be impacted upon by the ways in which the researchers address the emotional and practical challenges of cross-language qualitative research.

2.2. The emotional impact of research on the researcher

Methodological reflections have been observed extensively in writings on quality, validity, and reliability in qualitative research. Qualitative research often involves a consideration of the impact of the feelings, views, attitudes, and values held by people involved in the research process on the data collection and the data analysis. Such consideration has traditionally been developed from a methodological perspective on a more pragmatic level, that is, how they affect the researcher who undertakes research on sensitive and emotional themes or subjects such as how victims of crime, marginalized groups, and criminals (Pio & Singh, 2016). One of the first authors to raise awareness of the challenges that researchers can face was Lee (1995). In a more recent article, Lee and Lee (2012) affirmed that nowadays, it has become more difficult in terms of emotional challenges faced by researchers when doing fieldwork being dismissed or minimized.

In fact, currently, more and more researchers, both empirically and in reflective processes, have been promoting a dialogue about the urge to examine the short and long-term effects of research on themselves and to consider the risks to their own safety and well-being (e.g., Pio & Singh, 2016; Emerald, & Carpenter, 2015; Ashby, 2011; Fenge, 2010; Doloriert & Sambrook, 2009; Lee & Lee, 2012; Lee-Treweek & Linkogle, 2000). While reflecting on the impact that conducting the current research had on the researcher, the researcher was able to identify two main aspects: the emotional impact created by the sensitive topics being explored, and the challenges faced when trying to respect and honor

the marginalized, and so often silenced refugee women, while, simultaneously, trying to balance the power disparities inherent to the relationship formed between the researcher and the researched (Doloriert & Sambrook, 2009).

Regarding emotional impact, the stories that refugee women shared with the researcher were often catastrophic and heartbreaking, with life paths scarred by episodes of relentless abandonment, repeated violence, and constant violation of their human rights, provoking emotions that strongly affected not only the participants during the interviews, but the researcher as well, during and after the interviews. According to Lee-Treweek & Linkogle (2000) conducting research with marginalized groups and/or on sensitive issues, may place researchers in emotionally disturbing conditions. Other studies have also reported that researchers may suffer different levels of psychological and physical responses created by emotionally demanding research (McGarrol, 2017; Jackson et al., 2013).

Conducting the interviews with the refugee women led the researcher to develop feelings of sorrow and distress for their personal experiences, which created a sense of discomfort and nausea that stayed with the researcher even after the interviews were finished. At the same time, the strength, determination, capacity to overcome hardships, family separation, personal losses, and overall to survive and to stand up against all the discrimination and violence encountered during their life paths, created in the research motivation and willingness to continue on this scientific journey in the hopes of contributing, in theory to refugee women studies and, in practice, to better and well-ground perspectives for better interventions with them.

The researcher often felt sad regarding the refugee interviewees' narratives of violence, and moved, in relation to their narratives of agency. These feelings led the researcher to need to hold back from crying during the interviews. The researcher also felt a sense of identification for being a female. Cowles (1988) reported episodes of insomnia and nightmares when she conducted interviews with survivors of attempted murder. Emerald and Carpenter (2015) reported that when conducting research on mothers of children with attention-deficit/hyperactivity disorder, they experienced extreme migraines from the physical and emotional toll of the data collection process. The feeling of empathy that the researcher conveyed and felt demanded a constant process of refocusing because the researcher wanted to prevent the researcher's emotional closeness with the women being interviewed from having an impact on my rights, as a researcher, to interpret and represent data (Ashby, 2011).

The researcher understood that a safe emotional distance from the problems and experiences of the participants was a must, that it was necessary to maintain an objective glance on the research itself, that is, to keep in mind the ethical dilemmas of power and ownership, concerning those whose voices are being represented (Fenge, 2010), and to avoid that the conduction of the interviews would “reinforce the very systems of oppression it seeks to address” (Ashby, 2011, pp. 11). But the researcher also concluded that it is very important to create an emotional connection with the researched to let participants feel more comfortable and willing to share their personal stories. This meant allowing for subjectivity bonding to be built which allowed the refugee women who participated in this research to feel safe. This way, the researcher was also fully engaged in the stories that were being told.

Although frequently the spotlight is put more on the physical safety of the researchers than on their mental, psychological and emotional well-being (Bahn, 2012), and according to Emerald and Carpenter (2015) the researcher himself has the ethical responsibility of preparing for the emotional demands of conducting sensitive research. Fenge et al., (2019) also argued that preparation by the researcher is fundamental when dealing with challenging data, and the authors concluded that many of the researchers included in their study samples had very little preparation in dealing with the challenging matters and circumstances they were confronted with. Regarding this aspect, the researcher felt the preparedness came along with the conduction of the interviews, because the negative impacts that had been realized by the researcher after the first few interviews, were neutralized in subsequent interviews. This neutralization process was a product of the multiple opportunities that the researcher was presented with to reflect on the emotional challenges that the researcher was facing, within supportive and safe spaces. For to Fenge et al. (2019), the possibility of having a supportive and safe space is fundamental in preventing harmful consequences for the researcher.

Another factor that helped the researcher a lot was the use of a diary in which after each interview she would write her reflexive notes regarding the interview, which described the setting and aspects that were noted during the interview itself while transcribing the audiotape and while analyzing the transcript. Reflexive notes also included the researcher’s subjective responses to the setting and the relationship with the interviewees. For Schwandt (1997, pp. 135) “*fieldworkers are often encouraged to record and explore these evolving dispositions in personal notes in their field journals*” (pp. 135).

Likewise, for the researcher to actively develop the process of reflexivity, it is necessary to adopt methods for attaining a reflexive stance such as “*keeping reflexive diaries, writing ourselves into field notes, recording analytic and methodological decisions in memos, and being reflexive about every decision we make*” (Barry et al., 1990, pp.31). Fenge et al. (2019) argued that positionality is another fundamental aspect when reflecting on the impact of conducting sensitive research and it is related to a recognition of the numerous roles and positions that the researcher and the researched bring to the research process. In their study, the authors noticed that the researchers would debate concerning aspects regarding their ability to reflect on their roles and identities. Therefore, it seems that reflexivity and critical thinking can be used as powerful tools to acquire a deeper insight into the impact of the researched or the researcher and vice-versa (Moon, 2007).

As for the challenges faced when trying to respect and honor marginalized people while researching topics such as gender-based violence, discrimination, abuse, loss, and grief, it is not only important to be constantly reflecting on the notions of power and privilege (Fenge, 2010), but also on the researchers’ relationship to the topic or subject of the research, that is “*the dynamic rhythms of multi-positionalities*” (Ray, 2015, pp. 2). Reflecting on the impact of the researched upon the researcher, it must be stressed that the researcher actually identified with the refugee women, not only due to also being a woman myself but as well because of the empathy and rapport the researcher established with them. The researcher also understood that the participants' narratives would have lost their meaning and interpretability without the emotional responses that were pursuant both in the interviewees and the researcher.

The researcher also felt quite powerless and conscious of her privileged position as a European, white, well-educated middle-class woman. In fact, the notions of power and privilege can emerge linked to the social injustice and inequality quite often felt by the researcher when researching minority groups (Milner, 2007). Critically reflecting upon the role of the researcher in relation to the refugee women, the researcher adopted a reflexive posture towards her power to bring self-awareness about her positionality in relation to these women. By constantly reminding herself of her own identity and role in the research project, the researcher was also able to develop feelings of admiration, respect, and gratitude towards the women interviewed.

As a final reflexive note, the researcher must stress that according to Hicks & Yarker (2013), the background, age, and life experiences of the researchers can play a

part in the ways that the researchers feel more or less impacted by the data collection. Simpson & Wilson-Smith (2017) even argued that student researchers can feel more insecure, less prepared, and less able to position themselves while conducting their studies. In the current research, that did not happen.

2.3. The role of gatekeepers in designating professionals to participate in qualitative research

The subject of gatekeeper roles has obtained critical consideration and academic discussion within social research in general. Gatekeepers are crucial intermediaries to access the research field, and the research participants sense frequently that the people within institutions have the power to allow or deny access to participants or conditions during research processes, due to their positioning inside of the institutions, their knowledge or to specific connections within a research population (Petintseva, Eski & Faria, 2020; Singh & Wassenaar, 2016). Furthermore, gatekeepers may also encompass people in charge of formal institutions and their staff, as in the case of the professionals interviewed for study 2 of the current research, and whose consents are mandatory to get access to key documents or individuals under their official guard (Atkinson et al., 2019).

According to Petintseva, Eski, and Faria (2020, pp.2) when conducting research with professionals at certain levels of power, *“whether it is by means of expertise, professional and/or social status”*, it is necessary to develop a *“methodological sensitivity”* and awareness of the challenges that may occur related to *“access, talking about sensitive topics, negotiating control over the course of the interview and publishing about delicate topics (...)”*. All institutions and organizations have a sovereign right to allow or reject access to their information, space, staff, and subjects for research purposes; however, past the access mediating functions, gatekeepers are well-known to affect social research in diverse ways (Atkinson et al., 2019). In fact, gatekeepers can fill obstructionist and facilitative roles also in terms of the choice of personnel to participate in the interviews and offer theoretical guidance on what kind of information these same people may or may not report to the researcher (Petintseva, Eski & Faria, 2020; Seahloli, 2015; Leach et al., 2012).

In the case of study 2, in some of the interviews conducted with the professionals, they reported it had been the director of the institution or someone in a higher position that appointed them to respond to the interview. That raised some concerns on the researcher regarding the willingness and the voluntary participation of these

professionals, although the participants signed the informed consent before the interviews, and they provided their oral authorization at the beginning of each interview either to participate in the research or to consent to the recording of the conversation. The concerns arose not so much due to the mentioned statement, but during the interviews, where it became noticeable that some of these professionals were neither comfortable nor very willing to participate in the research.

For Singh & Wassenaar (2016), ethical problems can arise if the gatekeeper is coercive in prompting the participants' involvement in the research. The dynamic forces of power within an institutional environment are very relevant and researchers must be alert for those types of dynamics when gatekeepers are used to access participants (Clark, 2011). Nevertheless, it is very difficult to apprehend other interests and preconceived, conventional biases that gatekeepers may have towards the research which could have an impact on the extent and circumstances under which gatekeepers may grant access to employees (Wanat, 2008). But in the case of study 2, it is not possible to be sure whether some professionals were "forced" within the institution to participate in the study, or other reasons may be responsible for their lack of engagement in the interviews.

As Petintseva, Eski, and Faria (2020) pointed out, particularly when questions are asked on sensitive matters, it is possible respondents adopt defensive behavior in the cases where the gatekeepers did not properly inform the participants about the research objectives or about the researcher himself. Clark (2011) also stressed that when dealing with sensitive matters, respondents are likely to give evasive or even misleading answers. As already mentioned, although this was not frequent and only happened in a few interviews, some people appointed by the institution to be interviewed did not have the necessary knowledge about the topic to answer to the interview questions, which impacted on the information collected.

As mentioned, it is not possible for the researcher to be certain about the reasons why those were the people being appointed by the gatekeepers to be interviewed, it is important to disclose these challenges faced in study 2 regarding the professionals' interviews and to reflect on the possible reasons behind such lack of collaboration. Indeed, the researcher is in the best position to judge the quality of information collected and may complement the responses obtained, by making private notes, and by paying closer attention to the gestures or body language of the participants (Berger, 2013).

According to Singh & Wassenaar (2016), the positionality of the interviewed can have a significant impact on the positionality of the researcher and may even compromise

the ability of the researcher to conduct research. In addition, the awareness of the researcher's subjectivity and emotional responses triggered by the researched's posture will probably affect the researcher's ability to listen to the participants and to stay engaged during studies on sensitive or complex matters (Berger, 2013; Dickson-Swift et al., 2009;). Inevitably, this ends up having an impact on the data collected such in the case of study 2, where the researcher did not feel in the position to ask the participant about their lack of engagement and willingness to answer to the questions because that could be perceived as a criticism to the subject's behavior during the interview, which could influence the answers to the questions that followed.

On the other hand, the researched often feeds off the motivation of the researcher, and if the researcher seems disinterested or distracted, the researched may lose the motivation to offer valuable or revealing answers too (Leach et al., 2012). The research results are generated from both the data collected and the possibilities or constraints entangled in its construction, gathering, scrutiny, and reporting. This creates some tension between the comprehensive theoretical interpretation of social macro-discourses and the analysis of concrete "language in use" in the field of discourse analysis (Bührmann et al., 2007; Keller, 2005; 2012; 2018). Consequently, the researcher should always demonstrate enthusiasm while collecting the data, communicate the importance of the research to the researched, and concentrate on the interviewees' needs throughout the interview (Fox, 2009).

When these goals are not met, interaction between the researcher and the researched will probably have negative impact on the data collection. To overcome these challenges, Petintseva, Eski, and Faria (2020, pp. 60) suggested that *"being fully aware of the skills, dilemmas, and tricks available to the researcher will help her or him to keep (more) in control of the process, this way ensuring higher chances of access to high-quality data."*

2.4. Collecting qualitative data in the period of social distancing: perceptions and experiences of a reflexive researcher

The COVID-19 pandemic situation which has been spreading around the world since December 2019 and is still active and causing extreme containment measures, has created unique opportunities and challenges for researchers conducting qualitative research as social distancing directives are constraining face-to-face studies of all categories (Lobe, Morgan & Hoffman, 2020). This was the case also for the present research, since, as previously stressed, between March of 2020 and October 2020, it was

not possible to conduct any face-to-face interviews that were already scheduled, neither with the sample of refugee women nor with the sample of professionals. Teti, Schatz, and Liebenberg (2020, pp.1) stated that *“although not always as visible as the case numbers during an epidemic, a large body of evidence supports the value of qualitative methods in epidemic and pandemic research.”*

And, even facing heavy public health procedures, such as lockdowns and social distancing measures, the need to continue research already initiated, or even to produce new research, even if unrelated to the pandemic, was supported by recent studies that were published during the pandemic. The same authors also stressed the importance of including in research conducted under this scenario, reflections on the impact of COVID-19, not only upon themselves but also on the participants living through these uncertain and fragile periods (Lobe, Morgan & Hoffman, 2020). To do so, the researcher was obligated to expand methodological options and to search for alternative ways to collect data, such as by phone or internet. Although conducting research using online methods is not new to scientific and academic research (Pang et al., 2018; Fielding et al., 2016; Kenny, 2005), special attention had to be given to ethical considerations when transitioning research efforts to online platforms (Lobe, Morgan & Hoffman, 2020). According to scientific ethical principles, data collection should only be performed when principles such as security, confidentiality, and preservation of the integrity and rights of the subjects involved in this collection are guaranteed (Barrow, Brannan & Khandhar, 2020).

In the case of the current research, additional challenges were imposed, since collecting data on women's experiences of discrimination and violence has always requested ethical and safety cautious considerations (Jansen, 2012; Andersson, et al., 2009; Johnson et al., 2008; Ellsberg & Heise, 2005; Liss, 1996). ‘Putting women first’ comprises singular preparation and training of researchers, consideration to confidentiality and referral devices, as well as designing protocols and measures to guarantee a fast response in case women or data collectors are under threat of direct harm (Handbook for coordinating Gender-based violence interventions in emergencies, 2019; WHO, 2016; Fox, 2009). Adding to this there is also an ethical obligation to ensure that no individuals or communities can be identified, harmed, or stigmatized because of the research, and that results are accurately interpreted, presented, and used to advance policy and intervention with survivors (Ward, 2013; Yohani & Hagen, 2010).

The critical reflection and evaluation of the ethical issues regarding conducting online interviews were common to any type of research such as participants should not be subjected to harm in any way whatsoever; the respect for the dignity of research participants should be prioritized; the protection of the privacy of research participants has to be ensured; adequate levels of confidentiality of the research data should be ensured; and the anonymity of individuals and organizations participating in the research has to be ensured (Ess & Hard af Segerstad, 2019).

Going through these principles, the biggest challenges recognized in the present research surrounding transitioning from conducting face-to-face interviews to online interviews, were in ensuring the privacy of participant's identity and the confidentiality and security of the data. This raised concerns especially in the cases of asylum seekers or refugee women living in private houses. To interview the research participants online, was necessary to access more personal information (e.g., phone numbers, email addresses, etc.). Video call interviews can also be perceived as some form of "invasion" of their private space, which would not happen in interviews conducted in reception and integration institutions.

Those concerns were also considered in Lobe, Morgan & Hoffman's study (2020) which provided a review of the latest videoconferencing services available to researchers and provided guidance on what services might best suit a project's needs. Following the guidance provided by the authors, the first concern regarding the privacy of participant's identity was safeguarded through a meticulous search of *"(...) the privacy, confidentiality, and data collection policies of all platforms and services."* (Lobe, Morgan & Hoffman, 2020, pp. 5).

Looking closely at the study of Archibald et al. (2019), regarding the feasibility and acceptability of using the Zoom platform to collect qualitative interview data within a health research context, a decision was made to use the Zoom platform to conduct the online interviews, for studies 1 and 2. Based on the opinion of the sixteen practice nurses who participated in online interviews using Zoom, the authors reported that apart from several technical difficulties encountered on the Zoom platform, most nurses *"described their interview experience as highly satisfactory and generally rated Zoom above alternative interviewing mediums such as face-to-face, telephone, and other videoconferencing services, platforms, and products."* (Archibald et al., 2019, pp.1). The Zoom platform has the option to provide the participants with a password to access the

meeting, as well as a waiting room preventing non-authorized people to access the same meeting (Lobe et al., 2020).

As suggested by Lobe et al. (2020) the recording of the interviews for research purposes was always made explicit in the verbal instructions given to the participants, and also in the informed consent. The participants were also reassured that, if at any point they wanted to withdraw from participating in the research, they could do so, and their records would be immediately deleted.

Prior to the conduction of the interviews, participants were also informed about the technicalities involved in the online data collection (e.g., how to use the Zoom platform and its tools) and asked if they felt comfortable and safe enough to be part of the current research. Instead of saving the records online, the Zoom platform also provides local storage of the recording in the computer files. Adding to this protection measure, to assure the confidentiality and security of the data, all possible personal identifiers were removed (i.e., that use first or last names, phone numbers, institutional details, and so on) after the interviews were conducted to prevent “*any linkage between the data collected*” (Lobe et al., 2020, pp.5) and the participants of the research.

This information was provided to all of the participants, as well as the fact that all of the data provided by them and saved in the researcher’s computer, would be password protected (e.g., personal information, interview transcripts, researchers’ personal notes) and would not be shared or saved in online platforms (such as google cloud) to prevent any form of hacking of the data collected that could lead to the identification of the research participants. They were also informed that the audio records of the interviews would be only kept until their transcription and, after that, would be deleted.

The importance of the participants to be alone during the interviews was also stressed, especially in the case of the refugee women, because there could be real security risks if the women shared their addresses with potential aggressors. But ultimately that decision was left in their hands so that the participants did not feel coerced or forced by the researcher, to avoid revictimization or additional trauma (Surmiak, 2018).

In that aspect, face-to-face interviews can be more efficient in preventing not only the presence of unwanted people during the conduction of interviews, but also the influence that unwanted people can have in the participants’ responses because the researcher has more control of the settings where the interviews take place. For example, in the case of interviews conducted in institutional settings, the researcher may request a private room only for the researcher and the researched; in the case of people outside the

institutions, the researcher can choose a neutral location that allows maintaining the confidentiality of the shared data and the anonymity of the participants.

To overcome the potential presence and interference of unwanted people during the conduction of the interviews, this thesis stipulated that the interviews would only be conducted by video call (instead of phone calls), because the video allows for the researcher to read the signals and body language of the interviewees, and it makes it easier for the researcher to recognize distress or discomfort of the participants. It also makes it easier for the researcher to perceive the presence of other people during the interview and change the course of the questions if necessary. And, in terms of establishing empathy and rapport with the participants, it is fundamental for the researcher to establish eye contact and demonstrate, using both verbal and non-verbal language, that she or he is fully engaged in the life stories and experiences of the interviewee (Bolderston, 2012).

The loss of internet connection and poor sound/video quality occurred in some interviews, which is frequent (Tuttas, 2015; Sullivan, 2012; Fox et al., 2007), and like other studies (Braun, Clarke, & Gray, 2017; Horrell, Stephens, & Breheny, 2015; Cater, 2011; Deakin & Wakefield, 2014; Hewson, 2008), the current research can also report that conducting online interviews brought advantages, and turned out to be very prolific: the researcher was able to reach out to participants in distant geographical locations in Portugal, which would not be possible if the interviews were conducted in person; it was possible to conduct more interviews per day as there was no time spent in switching between interview locations, and refugee women seemed more comfortable being interviewed from their homes, which contributed to the creation of the much needed safe space in this type of interviews, which ultimately contributed to the enrichment of the data collected.

3. Evaluating trustworthiness in the relationship between researcher and participants

As already mentioned, when studying peoples' experiences, opinions, expectations, values, and perceptions, researchers are not looking to find a universal truth. The qualitative researcher's interest is rather in the meaning given by actors to the actions in which they have been engaged (Porta & Keating, 2008). This meaning is the product of a process of interpretation that plays a key role in social life. The main objective is to understand the realities as they were understood by the subjects and to find the meanings

in which these connotations are associated with other phenomena that affect them (Braun & Clarke, 2013).

The current research focuses on the second category proposed by Williams & Morros (2009, pp.577) – the balance between reflexivity and subjectivity (concepts already defined in section 5) - to evaluate trustworthiness, and follows Attia & Edges' criteria of the interconnection of three elements - Trust, Collaboration and Corroboration - to reflect on the impact of the relationship between the researcher and the researched in “establishing measures of trustworthiness in naturalistic inquiry.” (2017, pp. 38). These criteria seem to be adequate for the evaluation of research using the Grounded Theory approach because these methods are largely used for qualitative research following the constructivist perspective (Charmaz, & Thornberg, 2020).

At the same time, these criteria are in line with the relevant aspects encompassed by the present research, such as academic and professional training, matters of personal interest (e.g., discrimination and gender-based violence against women, vulnerable minorities, disrespect for human rights) which influenced the formulation of the research's questions, the adoption of research design, the selection of methods of data collection, and the approach to representation and reporting. Next, examples will be provided, regarding Trust, Collaboration and Corroboration, on how to become a reflexive researcher regarding the relationship established between the researcher and the researched.

3.1. Trust

Credibility refers to the truth of the data or the participant's views and the interpretation and representation of them by the researcher. Credibility is boosted by the researcher recounting his/her experiences as a researcher and confirming the research findings with the researched. A qualitative study is labeled credible if the descriptions of researched's experiences are directly recognized by individuals who share similar experiences (Polit & Beck, 2012). To support credibility when reporting the findings of qualitative research, the researcher should demonstrate engagement, methods of observation, and audit trails. Constructing trust between the researcher and the researched is essential to establish credibility for any qualitative research about any matter. Without it, data collection can become very difficult or even empty of relevant content.

It is more likely that a solid base of reliance between the researcher and the researched will generate accurate and trustworthy data (Maxwell, 2013; Erdem &

Aytemur, 2008). Thus, to strengthen the validity of the research results and to facilitate subsequent theoretical generalizations in other environments, it is essential to strike the necessary balance between the researched's dialogues and the ways in which the researchers interpret the meaning of that dialogue. To achieve such balance, it is fundamental to fully engage in subjectivity and reflexivity (Attia & Edges, 2017).

Through a more careful reflection of the interactive and dynamic relationship between researcher and participant, their particular interests or perspectives, and the surrounding environments, it is possible to recognize the subjectivity involved in conducting qualitative research. Such recognition allows the acknowledgment of the importance of establishing trust between the researcher and the researched, which, ultimately, will translate into reliance on the research itself (Austin & Sutton, 2014). Trust is essential for any research, and it is constructed and endured through various forms, such as developing relationships and sharing a track record that demonstrates liability, common interests, and consideration for the best interests of others (Fryer-Edwards & Fullerton, 2006).

Kaufman et al. (2009), conducted a survey with 4659 participants, and 90% of those participants reported concerns regarding privacy. Nevertheless, nearly two thirds (60%) reported they would participate in a research project if asked, but there were a variety of opinions regarding the use of the data provided, with 48% of participants being willing to consent to all research approved by an advisory board, whereas 42% of the participants wanted to be asked for each individual research project. In fact, According to Terry (2011, pp. 839) *"privacy concerns influence trust, and, generally, research participants desire to know who has access to their information, for what purposes, and who will decide those issues in an ongoing way because consent to participate is often obtained upfront."*

In the current research, all the issues related to the informant consent, the privacy of the participant's identity, and the data's confidentiality were also meticulously explained and guaranteed (Suri & Clarke, 2009). But, according to Anderson and Edwards (2010), the informed consent process is perhaps unsatisfactory for constructing trust and should be considered the tiniest effort towards that objective. Therefore, the researcher tried to achieve the participants' trust, in the current research, by not only explaining the topic and objectives of the studies but also by explaining the personal motives for engaging in the research.

During the first recruitment contacts, the researcher talked a bit about her academic background and explained that the scientific path she took was highly influenced by her

personal belief that more scientific knowledge and expertise were needed in gender migration studies. The researcher also confirmed that the interviewees could trust in the ethics of the research because "Participants want to trust that individuals conducting research are doing so with the participants' best interests in mind." (Terry, 2009, pp. 839). During interviews, the researcher frequently repeated the discourse of the researched and asked feedback questions, not only to confirm the meaning that the researcher was attributing to the discourses was the same that the interviewees, but also to establish empathy and rapport because trust is better achieved when the researched feels "(...) involved, valued, and engaged." (Terry, 2009, pp. 839).

3.2. Collaboration

Transferability is related to the findings that can be replicated in other situations or individuals. If the results have meaning to individuals not entangled in the research and readers can link the outcomes with their own understandings and experiences, a qualitative study has met this criterion (Houghton et al., 2013). Researchers must provide well-grounded information regarding the research itself to the researched, to obtain data that enables the future readers of the research to evaluate the findings' ability to be transferable. However, the criterion of transferability is dependent on the data provided by the researched, which is intrinsically related to his/her collaboration in the research (Attia & Edge, 2017).

The term collaboration in academic research is usually thought to mean an equal partnership between the researcher and the researched, which implicates the creation of real communication and partnerships, which are pursuing mutually interesting and beneficial research (Bansal et al., 2019). Collaboration places the researcher and the researched in the same category of respect and implies ethical conduct that preserves honesty, integrity, justice, transparency, and confidentiality (Korstjens, & Moser, 2018). According to Bansal et al. (2019), there are five elements that allow the researched to engage in a more meaningful, deep collaboration in research projects. Going through each of those five elements next, the present research will explain how the collaboration from the participants in studies 1 and 2 was pursued:

i. *Open communication where participants need to be encouraged to take opportunities for the renewal of the older systems* – From the first contact with the researched until the actual moment of the interviews, the researcher constantly reaffirmed the importance of this research and the impact that it could have not only on its

participants but also on others who may have experienced similar experiences. The researcher explained the scientific and academic benefits of creating more knowledge about the process of becoming a refugee woman. The researcher also stressed the importance of gathering more information about the reception conditions and integration practices in place in the Portuguese asylum system, because it could promote positive changes to the Portuguese refugee regime. The participants' understanding of the importance of the research is fundamental for the participants' willingness to participate in the research and to share more personal details that can be crucial to the posterior data analysis (Korstjens & Moser, 2018).

ii. *Engaging all participants and others where they should provide feedback and engage in self-reflection* - The researcher always tried to transmit a posture of naturalness, friendliness, and trust, because participants are more predisposed to engage in sharing personal experiences and providing feedback to the questions being asked, with a researcher who is perceived as compassionate to their situation (Pfaff, & Markak, 2017). The researcher gave particular attention to the dialogues and words used to reinsure the focus on the participants' experiences because their perception of the researcher can determine their engagement in the research, and also can promote the researched's self-reflection about what they are reporting (Marks et al., 2018).

iii. *The feedback loop as a way of better understanding cause and effect* – Regarding this aspect, this task was completed since the interviews for studies 1 and 2 were conducted during the same time span. Therefore, the feedback cycle was constantly carried out, by comparing the answers given by the refugee women with the ones provided by the professionals, and by adding topics of analysis that emerged from the interviews. In relation to the latter, it was most useful to understand the phenomenon under analysis and the differences and similarities of the participants' perspectives on it. In fact, a feedback loop can enrich the data collected by providing a better understanding of the researched's perception and meaning attributed to certain situations or happenings (Schenke et al., 2017).

iv. *Collaboration also defines the clarity of roles and responsibilities* – The researcher always assumed control and command over the interviews, in both studies 1 and 2, which made the role of both researcher and participant quite clear. Indeed, it is crucial for the researcher to identify his maximum responsibility in a project, and to guarantee much-needed integrity to explore the interactions with the researched, without bias or personal considerations. Only in this way, it is possible to protect the up-and-

coming, transmutative, and extremely scrutinized complexity of research (Attia & Edge, 2017).

Nevertheless, it is important to highlight that, to successfully collect more profound data, it was necessary, during the interviews, that the researcher adopts a flexible role: when the interviewee drifted from the question under discussion, shared other personal experiences without relevance to the research, or interrupted the interview to introduce the researcher to their children or husband. Accordingly, if the participant perceives the researcher as fully engaged in the dialogue and storytelling, the information provided by the researched is more likely to be more powerful, deep, and detailed, even if the data is provided by the researched is not pertinent to the research (Råheim et al., 2016).

v. *To establish a professional environment and to respect the different cultures of different organizations* – Even though the majority of the interviews were conducted online, the researcher established a professional environment, and the interviews were conducted with rigor and respect for the researched. The researcher must recognize and integrate discursive clues from the researched in his/her questions, that allow the researched to be understood at a deeper level (e.g., personal experiences; points of view; prejudices; theoretical, political, and ideological attitudes; emotional responses, etc.) (Korstjens, & Moser, 2018). Similarly, the researcher always worked hard to capture the background and the worldviews of the researched. Likewise, the researcher try to adapt her speech in terms of language and the formulation of questions so the researcher's speech could be as comprehensible as possible for the researched.

3.3. Corroboration

Dependability encompasses the fidelity of the data over analogous circumstances (Polit & Beck, 2012). Through the research's development and descriptions, research would be considered dependable if the findings were replicated with comparable applicants in parallel circumstances (Koch, 2006). Confirmability includes the researcher's capacity to validate the data as being representative of the participants' responses and not of the researcher's biases or viewpoints (Tobin & Begley, 2004). The researcher can demonstrate dependability and confirmability by describing how conclusions and interpretations were established and by exemplifying how the findings were corroborated by the researched (Moon et al., 2016).

The researcher tried to corroborate the interpretations and meanings that she was attributing to the participants' discourses during the interviews, by frequently repeating

the answers given by the researched, and by transparently sharing the researcher's understanding of those answers. Through the active engagement of the refugee interviewees, and the granting of access to alternative sources of information provided by the professionals, the participants in the present research contributed to corroboration through triangulation (e.g., Creswell, 2014 & Patton, 2015) which increased the trustworthiness of the research findings.

According to Probst (2015, pp. 39) "*criteria for qualitative rigor tend to emphasize the relational aspects of knowledge construction, including transparency, reciprocity, and critical self-reflection.*" Nonetheless, some studies (Gringeri et al., 2013; Barusch et al., 2011) pointed to a surprising absence of reflexive practice and reflexive accounts in the published investigations of most of the researchers. By engaging in a reflexivity journey through the eyes of the methodology chosen for the present research as well as the relationships established between researcher and researched, the current thesis enlightens the importance of being self-aware and reflexive about the researcher's own role in the process of collecting, analyzing and interpreting the data, and preconceived assumptions, that he/she might bring to the research.

In sum, the second part of this thesis described the methodology underlying this research project. It exposed the methodological options adopted and framed them in existing theory and literature on the matter, such as qualitative methodology, with an especial focus on its use by victimology, intersectional, and feminist studies, that constitute this thesis multi-theoretical approach, as well as the choice of the methods of in-depth semi-structured interviews and biographic narratives. The research design was also exposed, along with the two studies that compose the current research. The use of the Grounded Theory was analyzed as an enabler for a wide field of analytical possibilities to be left open to the researcher. This does not mean, however, that in designing the current research, the researcher had not previously formulated a theoretical and hypothetical framework arising from the objectives of studies 1 and 2. But this was built, above all, with the aim of guiding the first empirical experiments, as the basis from which to start a work of a deductive nature, without the adoption of a static model.

In doing so, the current thesis intended to establish a constant dialogue between empirical work and theoretical work. The adoption of a reflexive research process allowed the current researcher to engage in a continuous process of scrutiny and critical

interpretation, not only in relation to research methods and data, but also to the researcher, the participants, and the context of the research, which is the substrate of the ethical dimensions of research practice. In fact, it is in these interactions that compliance with informed consent and respect for the autonomy, dignity, and privacy of the researched person must be guaranteed and the researcher's integrity must be ensured.

After the detailed description of the methodology adopted in the present research, it will now be important to observe the results obtained within the scope of each of the evaluation studies (1 and 2), using the materials and methods described in this part. The ultimate objective of the adopted methodology is related to the integration of different methods, informants, and, in this way, data, in order to contribute to theorizing a new perspective on the process of becoming a refugee woman.

PART III

Research findings

Brief considerations

The sample that constitutes studies 1 and 2 has already been exposed in this thesis, in chapter 5, part II. Nonetheless, it is important to remind the reader of the sample constitution before proceeding to the presentation of the findings of this research. Hence, a total of forty-nine semi-structured interviews were conducted in Portugal: twenty-four with refugee women from the Middle East (14) (Syria and Iraq) and from Africa (10) (Angola, Togo, Congo, Gambia, Somalia, Sudan, and Morocco) (sample of study 1 and 2); and twenty-five with the professionals involved in the Portuguese asylum system (sample of study 2). It is important to disclose that, in line with other studies (e.g., Freedman et al., 2020; Alsoswa & Livani, 2019; UN Women, 2018; Crawley & Skleparis, 2018; Cumoletti & Batalova, 2018; Mixed Migration Centre, 2018; Palmary, 2016; Gagnon et al., 2002), the present research will present, whenever considered relevant, the diversities encountered in the refugee women's narratives between the two continents. Likewise, other sub-division will take place when presenting the findings, such as between women considered irregular migrants and the ones that traveled with legal documentation, and between the women that arrived in Portugal under the EU's relocation and resettlement protocols and the women considered spontaneous asylum seekers.

The broader objective of the chapters included in part III is to prompt a re-thinking of refugee women's lived experiences of violence and agency in three stages and (geographical and symbolic) places of the process of becoming a refugee woman: in study 1, in the country of origin, during the displacement journey (which includes the escape journey and the permanence in 'transit' countries), and in study 2, in the asylum country. Since violence against refugee women was already thoroughly explored in chapter 3 of part I of the current thesis, it is important now to expose the adopted perspective on agency for the data analysis.

Until recently, refugee women's agency was commonly ignored as they were often depicted as dependent, passive and victimized (Kanal & Rottmann, 2021; Le Bellec, 2021; Jasso, 2021; Reilly, Sahraoui & McGarry, 2021; Tastsoglou, Petrinioti & Karagiannopoulou, 2021; Freedman et al., 2020; Freedman, 2019). But this perspective cannot be easily or automatically adopted because it can lead one to easily overlook the fact that the narratives of the refugee women interviewed for the current thesis, above all, showcase their capacity for agency. According to Bourdieu (1996, pp.195), the individuals experience of the world is structured along the lines of a gender-based

division, which, through repetition, normalization, and bodily inscriptions, comes to be accepted through subjective cognitive categories. As such, on the basis of our acceptance of such social structures, individuals “*experience (...) masculine domination as inscribed in the nature of things, invisible, unquestioned*”.

Bourdieu’s (1996) explanation of this elitist and masculinist thought structure that is based on the notion of rationality, and control over one’s actions, highlights the exclusion of the female subject and both its traditional, and by now outdated conceptualization as non-rational and emotional. This exclusionary nature led to agency being perceived as a key concern of emancipatory projects of feminism, anti-colonialist and anti-racist movements (Kanal & Rottmann, 2021). Indeed, in reference to refugee women, agency is usually seen as one-dimensional, that is, as an individual tool used by a single person to fight against the cultural, social, and religious traditions that limited her scope for action (Paret & Gleeson, 2016). Yet, the idea that the individual’s agency is conditional on her divergent behavior from the social norms imposed on her is one to be cautious of, as it evidences the Western approach to the position and agency of the subaltern (Mahmood, 2005; 2001). More recently, some studies have been using refugee women’s agency in reference to their decision-making and action-taking in their cultural contexts (Kanal & Rottmann, 2021). This perspective is foremost important if one intends to analyze agency in a more broadened spectrum, that encompasses not only the opposition to the oppression or the exploitation from the culture’s patriarchal structures but also in acting as expected in daily life.

In the context of refugee women studies, resistance has been used to suggest agendas of liberatory and emancipatory change (Katz, 2004). Resilience is commonly defined in psychological terms, which that is as “bouncing back”, which entails for the process of adapting well in the face of adversity, trauma, tragedy, threats, or significant sources of stress (Gray & Dagg, 2019). The current research will highlight refugee women’s agency by establishing a conceptualization of agency not as a rigid and static framework, but more as a very fluid construct, both in its ontological presentation and in how it has been narrated by our interviewees. Building on the mentioned two different, yet not necessarily opposing, approaches to conceptualizing agency, this thesis will view agency as the following: as an emancipatory confrontation against the oppressive structures (political, social, cultural; economic) that try to limit women’s scope for action (resistance), and simultaneously, women’s capacity to adapt and to act within those same structures (resilience).

Chapter 8

Study 1

Lives in their countries of origin and motives to escape

Although not new, in recent years, more attention has been given to the continuity of violence in the lives of refugee women in their countries of origin (e.g., EU, 2021; Le Bellec, 2021; Jasso, 2021; Reilly, Sahraoui & McGarry, 2021; Tastsoglou, Petrinioti & Karagiannopoulou, 2021; Freedman et al., 2020; Freedman, 2019; European Commission, 2017; Sapia, 2017; Freedman, 2016b; Hathaway & Foster, 2014; Hoffman, 2010; Hathaway, 2005). Refugee women's risk of suffering from human rights violations starts long before their displacement journey or their arrival and permanence in asylum countries. Indeed, the intersections of prejudice, discrimination, and violence based on sexual orientation, gender identity, race, ethnicity, religion, political engagement, economic status, and such are common experiences for women in their countries of origin.

Section 1 of the current chapter will explore the refugee women's narratives of violence regarding their countries of origin. For that, this thesis will use the same stressors used by Kanal and Rottmann (2021) in their study – placed-related, role-related, and family-related. Nonetheless, the meaning of these stressors will be adapted to the data collected for study 1.

Then, in section 2, drawing on the powerful narrative of victimization, the stories told by the refugee women interviewed will lead this thesis to offer a new concept – “violence-based escape” – to establish that “structural”, “symbolic”, and gender-based forms of violence are the most experienced in countries of origin, and the main factors influencing women's decision to flee.

Finally, in section 3, hoping to contribute to a new perspective of refugee women that eliminates the previous one that characterized them as helpless, passive, and subordinate victims, three coping strategies - culture and traditions, motherhood, and identity-building by belonging - will be presented. The three coping strategies will show that, in the country of origin, refugee women actively engage in initiatives to make changes (resistance) as well as to take the best advantage of their living environments (resilience).

1. Cultural, social, and gender contextual stressors

1.1. Place-related stressors

For Kanak and Rottman (2021), “place-related” stressors emphasize the impact on refugee women of losing social connections to neighbors and relatives, due to their escape from their countries of origin. Regarding study 1 findings it will include war-related vulnerabilities. The inclusion criteria adopted is based on the fact that the place (country) where these women lived enabled them to suffer the harmful consequences of war. Let’s take a further look into this stressor.

1.1.1. War-related vulnerabilities

All the interviewees from the Middle East had concerns for their safety, as well as the safety of their families, due to civil and international wars going on in their countries of origin:

“During the period that we live in Aleppo after the war started, we were constantly being bombed. It became impossible to leave the house, go to the supermarket, or the pharmacy. And there were also ongoing conflicts between the government’s armed forces and the rebels. It was fortunate that we didn’t get shot at some point. The trauma that situation created on me I could never shake off. I was so scared, so afraid! At that point, I thought we were going to die.” (Eisaa, Syria)

The findings of study 1 reflected the well-documented impacts of armed conflict as having a gender effect. According to the literature, armed conflicts often occur in countries with a culture that allocates diverse roles and values to men and women, which impacts their lives in different forms (Freedman, Crankshaw & Mutambara, 2020; Freeman, 2019; 2016; 2015; 2007; Alsaba & Kapilashrami, 2016; Yasmine & Moughalian, 2016; Parker, 2015; Shabaly & Marnicio, 2015; Cohn, 2013; Nasser, Mehchy & Abu, 2013; True, 2010; 2012; Green & Ward, 2009). The interviewees did not feel safe in their home countries anymore after the war started, and they were afraid of being killed, due to the endless bomb droppings, persistent shootings, and the constant armed patrol on the street:

“There was always shooting on the streets and cars from the regime watching our movements constantly. There were many bombings in Aleppo where we lived. I never saw a bomb drop near us, but we heard the sounds. So, even at the house, we couldn’t feel

safe anymore, because we could also be killed inside, either by a bomb or by soldier or a rebel.” (Jassim, Syria).

For Middle East women the going-on war between the official Syrian and Iraq army, and the Islamic State of Iraq and Syria (ISIS), as well as from rebel forces was the main enabler of the violence and feelings of insecurity, fear, and stress experienced by these women:

“And even the situation of fear and insecurity started to spread across the country, with various religious groups spreading terror, and we are not radical religious, we have nothing to do with it. And still, there we were, having our lives completely destroyed by that war. That, let me tell you, can mess you up.” (Shaimaa, Iraq).

The increased levels of violence created by any war, civil or international, such as constant armed conflicts that can cause civilian fatalities, indiscriminate bombing, and shootings, had an enormous impact on the lives of the Middle East women interviewed. In line with these women’s narratives, it appears that the gendered structures in societies are strengthened throughout the periods of war, triggering and reinforcing not only physical, psychological, and sexual violence, as demonstrated by other studies (Parker, 2015; Cohn, 2013; Nasser, Mehchy & Abu, 2013), but also “symbolic” and “structural” forms of violence. According to Alsaba and Kapilashrami (2016, pp. 7) “(...) *government security and military forces systematically used VAW as a tool of political repression and to intimidate communities and political activists*”, a strategy that can be perceived as a form of “structural” violence and that seems to contribute to the standardization of unparalleled levels of economic and social disruption. The fact that these women’s husbands lost their jobs, their only source of income, and that their kids were no longer able to go to school, disrupted their sense of routine and stability, and their knowledge of how to function in their private and public lives, such as Shamsa (Syria) described:

“We had to get our kids out of school because they started bombing schools. And my husband, when he left for work, we were very scared, because bombs were always falling. Sometimes he didn't even come home, he stayed at work, to protect himself. We started to get very scared (...) And eventually, my husband was no longer able to work, and we were practically prisoners, inside our own home.”

Some of these women also had close family members who experienced violence due to their political activism regarding the war. Maara's (Syria) husband, for example, was captured by the regime, because he *“was an against the government, and he started*

to post his opinions on the internet. Because of this, he was captured by the army and disappeared for a few days. During this period, he was severely tortured.”

Middle East women's narratives also revealed the major concerns they felt in relation to their children's wellbeing and safety, especially when they were left alone with them, as reported by Mariam (Syria): *“My husband joined the rebel forces, and he was often gone for some days. During that time, I felt very afraid that something happens to my children, and that I was not able to protect them.”* According to the literature, women are culturally nominated as the caregivers within their families. For that reason, they may suffer enormous pressure when their husbands are participating in the war or decide to escape first from their countries of origin, as it happened, for example, to Hilal (Syria), *“my husband escaped first to Germany, and I and my children were supposed to join him, after he established himself there”,* leaving them with the physiological burden of protecting and assuring the survival of their children (Freedman, Crankshaw & Mutambara, 2020; Freeman, 2019; Green & Ward, 2009).

This type of psychological violence aligned with the constant threat of physical violence and death threats is often combined with several forms of violence that directly and indirectly affect women exposed to war conflicts. Such forms can encompass *“(…) kidnapping, forced disappearance of women political activists, and female members of families of male activists, executions, rape and other sexual violence, torture, enslavement, forced recruitment by militias, forced detention, and denial of fair trials (...) forced displacement and migration, forced and early marriages in refugee communities in neighboring countries, and denial of basic services including healthcare.”* (Alsaba & Kapilashrami, 2016, pp. 7). Some of these forms of violence were already showcased, and others will be demonstrated in the stressors that will also be presented in this chapter.

In conclusion, the ongoing wars at their countries of origin were the main enabler of the violence and insecurity experienced by the Middle East interviewees, and was the main factor that made these women decide to escape:

“After the war started, we could not continue to live in Syria. And so, we had to leave. We were in constant fear, we did not know how to survive in our country anymore. Because at that point was not a question of living, it was a question of surviving.” (Ammar, Syria), or

“The only thing that affected our lives and made us leave Syria was the war. Everything was perfect until the war started. Life is so unfair – I felt at that time. I did not know what my life purpose was anymore. I did not understand what was going on. I

was so afraid, so lost, so disconnected from myself and from the reality that I was living.” (Hanan, Syria).

The government and the rebels' movements through violence are considered a form of forced displacement. Forced displacement can be very traumatizing, and most of the women reported feeling very lost, numb, and distant from their selves during that time, as Hanan's discourse showcased. Feelings such as those reported by the interviewees, aligned with the uncertainties about their future and of their families, had a huge weight on them psychologically, which can lead to the development of different forms of mental illnesses (Freedman, 2016). But to understand why violence against women is so amplified in war situations, it is crucial to analyze the “structural” and “symbolic” violence that shaped the political, social, and economic background prior to the war, and that simultaneously, shaped the lives of the women interviewed before, during, and after the war.

According to True (2012; 2010) women's vulnerability to violence is both conditioned and amplified by three distinctive elements: (1) the macro-economic environment and neoliberal policies adopted by the state and their implications for gender relations (“structural” violence); (2) gendered division of labor across public and private spheres and gender relations in the household, which we argue are inextricably linked to mediations by the state and the macro-environment (“symbolic” and “structural” violence); and (3) the gendered dimension of the conflict itself, by which struggles for power and resources have been made through particular forms of masculine aggression (gender-based violence, “symbolic” and “structural” violence).

While war conflicts intensify women's vulnerabilities to violence in a context where patterns of disadvantage are already commonly well-established before the conflicts even occurred (Freedman, Crankshaw & Mutambara, 2020; Freeman, 2019; Alsaba & Kapilashrami, 2016; Yasmine & Moughalian, 2016), it also shapes their agency through their responses, comebacks, and recovery. The fact that the women interviewed were able to be resilient in the face of the hardships encountered during that period, and to resist such violence by escaping from it, demonstrates these women's agency to completely reconfigure their lives, to ensure their survival and of their families.

1.2. Role-related stressors

“Role-related” stressors are *“circumstances or situation that causes stress by preventing people from fulfilling important family and social roles”* (Kanal & Rottmann,

2021, pp. 7). In this thesis, this stressor will be used in reference to the political engagement, and the role of anti-partisan activists that some women interviewed, or their relatives, had in their countries of origin, which led them to be politically persecuted by the regime in place. Based on the fact that women, because they are females, are disproportionally affected by some forms of violence, sexual assault will be also included as a “role-related” stressor. These two stressors will be further developed next.

1.2.1. Political activism and persecutions

According to the refugee women's narratives, political instability, persecutions, and partisan confrontations had a crucial impact on their lives in their home countries. Although the majority of the Middle East women did not directly declare to have been involved in political activism in their countries of origin, nevertheless their narratives showed that their personal positions were contrary to that of the installed regime. Some women suffered persecution and political violence, either because of their or a family member's opposition to the official regime, as demonstrated in the previous section, or due to the religious conflicts in place:

“But when the war started, we had to leave because, in my family, no one was in favor of war and conflict. And both the military groups of the regime and those of the opposition forces were always recruiting people to join the cause. But my father refused because he defended ideas of freedom, and that left us in a bad spot. Because in my country there is no freedom. There is no room for thinking differently than the regime.” (Rana, Syria).

In the case of African women, political instabilities and persecutions were some of the reasons or, in some cases, the main reason, that led them to flee. Other African women also stressed that their father's involvement in political parties' disputes led to their fathers' assassination or attempts of murder in other family members, including themselves, which ultimately created the urgency to escape from their countries of origin:

“(…) One day, when I was coming home with some friends from the political party, there were people in disguise, and they took us by car and locked us in a dark room. One day they said to us “Today say your last prayers, it is your last day of life.” And there was a man there who threw himself at the guard. They started to fight each other (...) and we all ran away. Since that day, I knew I couldn't go home anymore. After a while, I left my country.” (Ama, Togo).

Other women were afraid of suffering retaliation or even being murdered as a consequence of their husband's political involvement, and for that reason, they decided to escape their countries of origin, such as Promesse (Congo) who stated that her husband *"(...) was wanted by the regime's forces. The military was looking for people who were part of my husband's political party. My husband said to me "we have to go because we are not safe. Because if they come to pick me up, they will kill you too". Because they kidnapped, tortured, and killed family members of individuals who were part of the political party against the installed regime. That's when we left Congo."*

Some African women explained how the political instability in their countries of origin made them join a political opposition party to the regime in place, and the impacts that this decision had on their lives, in terms of violence, like Amélia (Angola), who *"suffered physical abuse, I ended up in the hospital and everything. Despite all the threats, I made the complaint, I don't know at the moment how it is, whether they closed my case or not."* For these women, their political involvement came as a form of revenge for the murder of their family members, and it was also due to the very anti-regime beliefs these women held. Their disapproval of the existing totalitarian regime in their home countries, with its freedom limitation and anti-democratic structures, left these women exposed to various forms of physical and psychological violence. And even in the case of some women who were persecuted even before they got involved in an opposition party, or even without any political involvement of their own, they also encountered violent experiences just because some members of their families were engaged in political action.

In general, the various forms of violence encountered by the interviewees, ranging from harassment, physical attacks, psychological terror, abduction, and threats and attempts on their own lives, are well-reported by the scientific literature on the matter (e.g., Cochrane, 2018; Sapia, 2017; Baczynska & Ledwith, 2016; Freedman, 2016a; 2015; UNHCR, 2015; Hathaway & Foster, 2014; UN Women, 2012; UNGA, 2012; Human Rights Watch, 2011; Chynoweth, 2008; McDonald, & Erez, 2007; Hathaway, 2005; Pittaway & Bartolomei, 2001; Atlani & Rousseau, 2000). But it is still fundamental to pay attention to the discourses of the women that went through these forms of violence to understand not only its consequences but also its roots in "structural" and "symbolic" violence.

When the regime of a country is the first responsible for placing the lives of its citizens in danger by directly targeting them as enemies, and when women are still culturally portrayed as being inferior and subordinated to male power, and prohibited

from exercising their rights and freedoms without guarantees of security, there is a “structural” and “symbolic” intention to target women on the part of the very fundamental governmental system that should protect them (Bardall, 2019; Cochrane, 2018; Canning, 2017; Gupta, 2013; Parsons, 2007; Farmer, 2005). Even when women are not directly involved in political conflicts, the interviewee’s narratives showed how they were considered targets due to their relatives’ involvement in these conflicts. In other words, women are being considered as an extension of the male figure (e.g., the father fighting the regime), considered to have little or no autonomy. It does not come as a surprise that the tremendous amount of pressure that these women felt aligned with the constant fear, threats, and murder attempts, placed a huge burden on them, physically and psychologically, which led them to decide to escape their countries of origin.

From the data collected, it is possible to conclude that political persecution can be driven from the direct involvement of women against the installed regime, or indirectly, in the case of the women that did not get politically involved but suffered the consequences of their relatives' political involvement. There seems to be a network of violence from which these women cannot escape, whether they decide or not, to take an active part in the conflicts. But it is equally important to understand political persecution as a form of “structural” and “symbolic violence”, as to perceive women's political involvement as a form of agency, which is also displayed in their capability to survive and to escape these forms of violence.

1.2.2. Sexual assault

In the refugee women’s narratives, accounts of sexual assault existed. Amal (Iraq), for instance, suffered an attempted rape in her own house, in the presence of her children:

“There were some gangs there and these men attacked me at home, with knives, and they put a knife against my neck, and they wanted to rape me. My children were at home, in the bedroom, sleeping. And I pushed this man, and I ran away, and the other men came after me.”

Sexual violence is one of the most common forms of gender violence suffered by refugee women in their countries of origin (Cochrane, 2018; Sapia, 2017; Baczynska & Ledwith; 2016; Freedman, 2016a; 2015; Hathaway & Foster, 2014). Sexual violence against refugee women often occurs in combination with physical, emotional, or socio-economic violence. Both men and women are vulnerable to diverse types of violence. However, women are more prone to be sexually endangered and violated, compared to

men, the reason being that sexual violence, like violence against women in general, is most often an expression of strict gender norms and imbalances of power between women and men (Canning, 2017; Keynaert, 2014; Kavanaugh, 2013).

For reasons related to the culture, customs, and morals practiced in the countries from where refugee population normally escapes from, refugee women and girls' sexuality is repressed by strict control on sexual activity through such customs as placing a premium on girls' virginity, basing family honor on the sexual control of daughters and wives, exacting severe punishment for adultery, preventing equal access to divorce, and segregating girls and women from boys and men (Paul, 2014; Ricardo & Barker, 2008; Abu-Lughod, 2002). Although there is a need to conduct further studies on this subject, existing studies show that women living in conflict areas or countries with climates of instability and political terror are more vulnerable to sexual violence.

For example, Gloria (Congo) provided a vivid narrative regarding an extreme episode of fear, distress, torture, and violence that culminated with her being raped by three men, after she escaped from being held by the military forces, a situation that intersects with the most reported forms of violence that occur during a conflict/war situation:

"I left my house, a car came, and a man called me by my father's name and asked me if I was my father's daughter, and I said yes. He pushed me to his car. Two more men were there. They put a pistol against me and said, "Don't say anything!" And they took me to a house, and I stayed there for a long time with many people, captured like me. They killed many young women around me. Every day, they killed someone. I was sleeping with a lot of people around me; I couldn't take a shower; I only ate cookies. One day I woke up and this man killed a young man who was lying next to me. Páaaa [the interviewee imitated the sound of the shot] and I screamed in my mother's language."

Gloria (Congo) continued to explain how she was able to escape that place where she was being held with the help of someone witnessing all the death and killings: *"A soldier was over there and heard me shout. And he was also from my mother's province. And he told me he was going to help me. One day, it was already night, I ran away with him."* And she proceeded to detail what happened to her next: *"That man took me to a house [referring to the man who helped her escape from the house where she had been captured and kept] and he left me there, while he went to take a shower, and to rest for a while. The three men he left me with, raped me. Then that man came and took me with him. I felt very confused, very sad, and scared. I did not understand why that happened,*

why did those men decide to rape me. I was already in a very dangerous situation; I had just escaped from a kidnapping. And then I got raped by three men. I felt like my life was worthless, I felt like I was nobody. It was like I did not exist anymore.”

A study by Hossain et al., (2014a) assessed that about 21% of women in 14 conflict countries reported suffering sexual violence; for 57.1% of women the beginning of the physical and/or sexual violence happened at the age of 15; nearly 1 in 10 women (9.9%) was forced to have sex by a non-partner since age 15, and 14.8% women reported their first sexual experience was forced. Other studies point to the fact that some refugee women and girls are forced to marry to acquire male protection or to participate in “survival” sex in exchange for documents or transportation (Asaf, 2017; UNHCR. 2014; UN Women; 2013). In line with the mentioned studies, from Gloria’s (Congo) story, and given the fact that she reported that, later on, that man who was “helping” her gave her false documentation so she could leave the country, it is possible to suspect that maybe her “rape” was arranged by that man as some form of deal, that she was not aware of.

Sexual assault is associated with short-term and long-term health consequences, including injuries, HIV and other sexually transmitted infections (STIs), unwanted pregnancies, traumatic fistulae, and so on (Sapia, 2017; Freedman, 2016b; Laban et al., 2005; Leth & Banner, 2005; Marshall et al., 2005; Lie, 2002; Beiser & Hou, 2001; Gorst-Unsworth & Goldenberg, 1998; Jaranson, 1998). Refugees women’s mental health can also be adversely affected, which can create depression, post-traumatic stress disorder, and anxiety (Lorek, et al., 2009; Lie, 2002; Krug et al., 2002). Likewise, the attempt of rape suffered by Amal (Iraq), a situation which would have been traumatizing to most women, was even harsher due to the war circumstances in her country and that experience was decisive on her decision to escape:

“I felt quite scared, insecure, and anxious. Not only because of the attempted violation itself but because it took place inside of my house. Not even in my own house was I safe. All the turmoil and terror caused by the war was no longer enough, now I was also afraid of being harmed physically, of being raped. And this fear I felt not only in relation to myself but also in relation to my children. After that, we decided that we need to leave the country for good.”

In a more dramatic scenery, sexual assault can result in the death of the raped women or, in some cultures, in their murdered after being raped by relatives, acquaintances, community members, or strangers (European Commission, 2017; Hathaway & Foster, 2014; Hathaway, 2005; Hynes & Lopes, 2000). Moreover, refugee

women and girls who have been victims of sexual violence are more prone to new experiences of sexual violence, which can aggravate the long-term effects of physical and mental health (Hossain et al., 2014b; Keynaert et al., 2012; Vinck & Pham, 2010; Steel et al., 2009; Neria et al., 2008; Pham et al., 2004; Pittaway & Bartolomei, 2001). Amal (Iraq) and Gloria (Congo) managed to survive attempted rape and sexual assault, respectively, and to use those experiences to build the strength, perseverance, and action much needed to successfully escape their countries of origin.

1.3. Family-related stressors

“Family-related” stressors *“refers to situations or circumstances which are damaging to important others’ wellbeing, and, as such, they constitute a significant source of stress for a person”* (Kanal & Rottmann, 2021, pp. 8). In relation to the data presented in this chapter, such stressors will account for to three forms of gender-based violence perpetuated by family members on the sample of refugee women interviewed or on their children: forced marriage, domestic violence, and female genital mutilation (FGM).

1.3.1. Forced marriage

Yaya (Gambia) specifically reported being forced to marry at the age of 17. This particular case is very complex and quite interesting because this woman was forced by her family to get married to a much older man who already had two wives, which made her part, involuntarily, of a polygamic relationship, as she explained: *“My father forced me to marry at 17 years old to a man who was 32 years older than me. (...) So, he forced me to marry this horrible man, who already had two wives. And they were horrible to me. I have never been so mistreated, humiliated and abused in my life.”*

A vast number of studies on gender-based violence against refugee women report that forced marriage is a very common reality in the country of origin of many refugee women (Cochrane, 2018; Sapia, 2017; Baczynska & Ledwith, 2016; Freedman, 2016a; 2015; UNHCR, 2015; McDonald, & Erez, 2007; Hathaway & Foster, 2014; Hathaway, 2005; Pittaway & Bartolomei, 2001; Atlani & Rousseau, 2000). By placing the social sphere (which is most closely associated with women and girls) outside the remit of human rights advocacy, women’s experiences are being put aside and exempt from governmental scrutiny (Kelly, 2005). This creates a tremendous limitation to the integration of women's rights in human rights because states protect male power and

dominance over women, and simultaneously, encourage it. Therefore, states are actively failing to protect their women and girls from violence in a discriminatory manner, as it becomes clearly in the case of forced marriage (Mackinnon, 2006). At the same time, states are violating their responsibilities towards such female members, since one of their primary functions is the exercise of “*due diligence*” in protecting women against violence by private individuals (Griffin, 2008).

Amélia (Angola) reported that her boyfriend wanted to plan for their six-month-old daughter to be “promised” to be engaged with an older man, which she did not agreed to: *“My boyfriend told me that he couldn't wait for our daughter to grow up to date. And that in his culture, they choose the girls' husband when they are just babies. And then he told me that he had already promised our baby girl in marriage to some old man. I told him to forget that idea. But he wouldn't let it go.”* She also reported being in constant fear of her boyfriend taking the daughter away to his home country, Mauritania, because she knew of similar stories where the child was taken from her mother: *“I was always afraid to let him alone with my baby. So, if I had to take a shower, or leave the room where he was with my daughter, I would ask my other children to keep an eye on him, so we would not take the baby away. As a mother, I have the responsibility to protect my children. Eventually, I decided to leave my country, to protect her.”*

This is in line with Kanak and Rottmann's (2021, pp. 7) argument that “family-related” stressors *“are damaging to important others' wellbeing and, as such, they constitute a significant source of stress for a person.”* From the interviewees' narratives it was possible to conclude that their personal wellbeing is intrinsically related to the wellbeing of their families, especially of their children. As shown by Amélia (Angola), through their children's security and protection, women evaluate their own value and capability to motherhood. And, to guarantee their children's welfare, women are willing to take matters on their hands and to escape their countries of origin in search of a safe place to raise them in peace.

1.3.2. Domestic violence

Yaya (Gambia) was also a victim of domestic violence, not only by her husband but also by the two other wives, which, she explained, can happen due to her country's traditional cultures: *“They were bad for me because according to our culture, the women that get marry first have the power over the women that get married after them. They were always lying to my husband about me, and he always ends up beating me.”*

This woman's children also suffered from the impact of intra-family violence, which caused even more difficulties, suffering and mental instability for Yaya (Gambia), who felt that she needed to protect them, and for that reason she *“was always alone with my children, and they were also beaten by these women. So, I had to be with them always, to protect them from that situation. It was too hard for me. My head was no longer well.”* There is now considerable evidence that witnessing domestic violence can have adverse consequences for children (Forke et al., 2019; Majali & Alsrehan, 2019; Pingley, 2017; Devaney, 2015). Meltzer's et al., study (2009) with 7865 children and their families unveil that 4% of children had witnessed severe domestic violence according to parent reports. According to the same study, witnessing severe domestic violence almost tripled the likelihood of children having conduct disorder, but was not independently associated with emotional disorders.

Some African women were also victims of intimate partner violence. For example, Amélia (Angola) stated that her Mauritian boyfriend *“tried to control my every move. He chased me, stayed at the gate of my building all day, to control my entrances and exits. And sometimes he was violent with me, he pushed me, called me names, and hit me.”* In the case of Madalena (Angola), although her experience of domestic violence happened when she was living in Brazil, this thesis considered important to mention her case here because intimate partner violence will not be discussed again in this thesis:

“I had a boyfriend in Brazil, but I didn't know he was dangerous when I met him. I wanted to leave the house; I could only go out with him. He started to control me. One day and I found out that he had two pistols in the house. I was very scared. When he came back, I told him that I had found the pistols. And he kept threatening me, if I went to the police or the neighbor for help, or if I told someone, he was going to kill me. I was very scared.”

These women's narratives are in accordance with WHO (2013) data that shows that the prevalence of gender-based violence against women differs from country to country, but the numbers are generally high: estimations suggest 35% of women worldwide had experienced either physical and/or sexual intimate partner violence or sexual violence by a non-partner, at some point, in their lives. However, some countries report rates as high as 70.9 % of women claiming to have suffered some form of physical and/or sexual violence during their lifetime (Women's Refugee Commission, 2016; UN Women, 2013). Violence studies from 86 countries worldwide reported that up to 68 percent of women have experienced physical and/or sexual violence in their lifetime, from an intimate

partner (WHO, 2006). Heise et al., (2002) concluded that one out of every five women will become a victim of domestic violence over the course of her lifetime. Of all the women who were victims of homicide globally in 2012, it is estimated that almost half were killed by intimate partners or family members (United Nations Office on Drugs and Crime, 2014).

Domestic violence was one of the main reasons that led the women who experienced it to escape from their countries of origin, even if, such as in the case of Yaya (Gambia), that meant having to leave their children behind: *“I left them with my aunt [referring to the children] and ran away from my country. But I am in constant fear that my husband finds out where my children are and takes them back to the house. I am very afraid and there is nothing that I can do, because if I go back there, I will be killed. I know. But I am in constant pain. I need my children with me.”* The abuse inflicted by an intimate partner was the source of a great deal of psychological distress for the women interviewed that suffered such violence. Yet, all of the women managed to survive (resilience) and to emerge from abusive relationships (resistance), by not concentrating on the negative outcomes of those experiences, and by focusing on their well-being, and the well-being of their children.

1.3.3. Female genital mutilation (FGM)

Regarding the practice of female genital mutilation (FGM), which has been recognized worldwide as a harmful form of gender-based violence and as a violation of the human rights of women and girls, the findings of study 1 were consistent with those findings reported in several studies that place the prevalence of FGM in Africa (END FGM - European Campaign, 2019; UNICEF, 2010; Berg, et al., 2010; WHO, 2006). Some African women talked about FGM, one of them as having been subjected to it at the age of 10. Yaya (Gambia), when asked if FGM was a common practice in her country and if herself had been a victim of this practice, after a few minutes of silence, simply answered: *“Yes, they do it in my country. [gasps of shame and sadness] Yes, I was a victim of this horrible practice, at the age of 10.”* It was quite obvious that this woman felt very uncomfortable talking about such sensitive matters, and she only opened up a little bit more about it because she was concerned the same would happen to her daughter who she was forced to leave in her country of origin: *“That's what worries me so much because I don't want my daughter to go through this. Because I'm not there now, to protect her,*

and maybe they'll do that to her. I do not know. She is now five years old. It is very worrying."

The fear that the practice of FGM was carried out in their daughters, was also one of the reasons that led other women to leave their countries. Alia (Sudan) and her husband were being pressured to do FGM on their three daughters by the husband's relatives, as part of their cultural traditions. Such "traditions" made her, and her husband decide to leave their countries, as she reported: *"I left my country because my husband's family wanted to follow the tradition for girls. You know? FGM (...) And during the celebration of eating, after Ramadan, in my husband's family, they circumcise the girls. And I left Sudan for Malaysia with my three daughters during that time, to escape this celebration."*

Amélia (Angola) was pressured by her boyfriend and her boyfriend's family to do the FGM procedure on her six months old daughter. Although Amélia was from Angola, where FGM is considered a crime, it is important to disclose that her boyfriend was from Mauritania where this practice is legal. She also affirmed that the pressure about performing FGM on her daughter led her to a mental breaking point, where she was living in a constant state of alarm, fear, and insecurity: *"I didn't leave him [referring to the boyfriend] alone with the child for even a second. I did not allow him take pictures or videos of the baby or make videocalls to show the baby. I lived in a constant state of alert, terrified of the idea that he would take the girl without my permission and circumcise her."*

These women were not wrong to be afraid of FGM being performed on their daughters because this practice has been linked to myriad negative medical outcomes, including post-partum hemorrhage, obstructed labor, recurrent urinary tract infections, infertility, painful intercourse, and sexual dysfunction (Lever et al., 2018). Although the harmful consequences in both short and long term of FGM are not totally known, in mental terms, studies to date report that depression, anxiety, and post-traumatic stress disorder (PTSD) are prevalent among women with FGM (Shell-Duncan & Hernlund, 2000). Furthermore, studies conducted with refugee women reported that the ones that had gone through this procedure had increased levels of the psychological consequences described above (Behrendt & Moritz, 2005; Kilizhan, 2011).

The women who mentioned FGM were also concerned about the lowering of the average age at which girls are subjected to it, as well as the lack of autonomy to combat or oppose such practice: *"Sometimes they do it when they are really small, sometimes they are still babies. But even when we are older, we have no saying on that matter. Even*

if we don't want to do it, they perform circumcision anyway. We have no power.” (Yaya, Gambia). This statement also validates that the condition of being born a girl (and the perpetuation of the dominance over the female body), as well as being a mother of girls in these countries or in families that perpetuate the practice of FGM, generates added vulnerabilities to already complicated social and cultural settings for females. And as the findings of study 1 have shown, these consequences are not only for women who have been subjected to these practices but also for mothers who, aware of the violence intrinsic to FGM (that is still being negligently justified as a “tradition”), took the much-hoped-for opportunity to flee from their home to protect their daughters.

2. Violence-based escape

Violence is most recognizable as an act of physical force that causes or is intended to cause harm. The damage inflicted by violence may be physical, psychological, or both. Gender-based violence refers to harmful acts directed at an individual based on their gender. It is rooted in gender inequality, the abuse of power, and harmful norms (Alexander-Scott et al., 2016; Freedman, 2016a; Kavanaugh, 2013; Adams et al., 2008; Vyas & Watts, 2009). The experience of having to conform to the gender roles attributed to women in their countries of origin can be oppressive, affecting, and controlling their daily activities (Tastsoglou et al., 2021).

The types of harm and violence more commonly suffered by refugee women in their countries of origin are war-related violence, political prosecutions, female genital mutilation (FGM); honor crimes; domestic violence; trafficking; forced and early marriage; early pregnancy, rape, and sexual violence. Consequently, women often escape their countries of origin to put an end to situations of serious violence and harms (Freedman, Crankshaw & Mutambara, 2020).

According to the 2019 report by HEUNI (Unseen Victims addresses gender-based violence), the main causes for forced migration are armed conflict, poverty, inequality, and lack of protection from governments. These factors increase violence against women, which makes them seek security abroad. Gerard & Pickering (2014), in turn, referenced Galtung's framework of violence (1969; 1990) to characterize the type of violence experienced by refugee women in their countries of origin. The framework predicts three types of violence: direct, structural and cultural. Direct violence corresponds to personal violence or the somatic realization of violence, which can result in physical or psychological violence. Structural violence refers to violence resulting from systemic and

structural inequalities that affect people's daily lives, such as poverty, racism or sexism. Cultural violence constitutes a legitimizing force for direct and structural violence. The authors used Galtung's (1969; 1990) conception of direct, structural and cultural violence to consider the impact of sexual violence, extortion and kidnapping in the lives of Somali and Maltese women in their home countries.

Pre-migration factors often lead to trauma, which can lead to physical and mental illness. Countries of origin experiencing conflicts also include poor health systems, extreme poverty, social instability, human rights violations and various types of abuse. All these factors influence the stability and physical and psychological well-being of refugee women (Freedman, 2016b)

Refugee women interviewed also pointed the experiences of violence encountered in their countries of origin as their primary motive to decide to escape. In sum, for Middle East women, war-related violence was the main reason to escape; on the contrary, for African women, diverse forms of family-related violence were the cause for them to decide to escape. In light of the scientific literature on the matter as well as the current findings, this thesis offers the concept of “violence-based escape” to acknowledge the “structural”, “symbolic”, and gender-based forms of violence experienced by refugee women in their countries of origin, which are the main factor involved in their decision to escape. Indeed, the decision to flee the countries of origin was not seen by the refugee women interviewed as a way of improving their social or economic status, but rather as a means of surviving.

On the contrary, the majority of the interviewees stated that they would have preferred to stay in their home countries; they just decided to flee in order to survive the different forms of violence that threatened their physical and mental well-being and, in some cases, exposed them to situations whose potential result would be their deaths. In this sense, “violence-based escape” also intends to bring awareness to the fact that forced migration of females often occurs in fragile states, in areas of conflict, and in countries where the disrespect for women's rights is still under the guise of the cloak of invisibility of the private sphere.

This concept demands attention to the fact that, because they are females, refugee women suffer multiple and specific forms of violence in their countries of origin that are often unnoticed or ignored; and that states should treat such violence with the rigor, efficiency and justice it entails. Indeed, States should protect women's free choice of self-determination and individual growth, both in the public and private spheres, while at the

same time striving to eliminate violence against them and effectively punishing the cases when it occurs.

3. Culture and traditions, motherhood, and identity-building by belonging as coping strategies

The purpose of this section is to extend the understanding of agency used in gender and migration studies and to bring attention its use by refugee women in their daily life in countries of origin. As previously mentioned, this thesis considers agency as an emancipatory confrontation against the oppressive structures (political, social, cultural; economic) that try to limit women's scope for action (resistance), and simultaneously, women's capacity to adapt and to act within those same structures (resilience). Kanal and Rottmann (2021) proposed the use of an interdisciplinary approach when researching the daily lives of refugee women as a way to challenge their portrays as passive and helpless victims.

Kanal and Rottmann (2021, pp. 2) used a sample of refugee women living in Turkey for their study, and they analyzed agency as *“acting within cultural constraints – without trying to directly oppose them – refugees create a variety of manifestations of agency.”* The author's coping strategies (faith-based, homemaking, and identity-building strategies) (2021, pp. 1) are used in this section as a starting point for the analysis, as they set the background that allow identifying novel coping strategies, namely: culture and traditions; motherhood; and identity-building by belonging.

3.1. Culture and traditions

Regarding the cultural context of refugee women, Kanal and Rottmann (2021, pp. 8) proposed *“religious coping”* as a strategy, which implies a more considered analysis of *“Islamic values, including patience, thankfulness, gratefulness, and satisfaction”*. In the data analysis carried out in this research, religion was not identified either as a significant theme (initial coding) or as a unit of conceptual meaning (focused coding). Rather, “culture and traditions” are considered one of the main strategies of resistance and resilience used by refugee women in their countries of origin. In fact, results show how cultural traditions had an immense influence on the women's behavior and beliefs in their countries of origin was, as the discourse of Hilal (Syria) summarized: *“In Muslim culture it is common for men to make decisions in the family, it has always been this way. It is*

the tradition. The women's role is to take care of the home and children. And in a way, to take care of our husband's too."

Like Hilal (Syria), all Middle East women justified their family dynamics, in which power is frequently in the hands of male relatives, as following the patterns determined by their cultural traditions. Women, in general, did not complain about such reality; instead, they presented the facts regarding the family dynamics in a very neutral and normalized way, and they seemed to understand why men are the ones holding the power in the family: *"Men have a responsibility to support the family, not only in economic terms, but also in the relationships and dynamics created within the family. They, together, sit down, talk, and make decisions. Because, according to our culture, they are the ones who know better than we do [referring to women], what should or should not be done, for the benefit of the family."* (Mariam; Syria).

As in the case above, this justification was reported by other women, mainly as a way of saying "it is what it is", and not so much as victimizing discourses that questioned the justice or gender equality of such traditions: *"My father and my brothers want the best for me, so when they choose for me, they are not forcing me to do anything. I can refuse, for example, to marry a certain person. But I know that if they chose that one person for me, it is because that person will be good for me."* (Darya, Syria).

Following Jahan (2011), agency can be considered as embodied capacity to take action. Indeed, the women from the sample lived *"strategically within norms, rather than transgressing them"* and *"exercised agency in the sense of making decision in awareness of social norms"* Jahan (2011, pp. 379). Indeed, the narratives of the Middle East women show that they were able to adapt to different roles assigned to them, first as daughters, then as wives, and also as mothers. They also stated that they lived peaceful, happy and satisfying lives within those roles, in their home countries, prior to the war. They had relationships of great affection and closeness with their family members, including the widest nucleus of the family (e.g., uncles and grandparents) who were very present in daily activities, as pointed out by Maara (Syria): *"I lived in a very large family, as my father had many children, and had many grandchildren, some of whom are already married, and already had children. My uncles were also very present. We loved each other a lot, and the older men took care of the women and girls of the family."*

The narratives of these women do not lead to them being characterized as victims of patriarchal traditions and to discourses against the background of uncritically assumed Western standpoints on supposedly liberal and illiberal values. Instead, the refugee

women interviewed consciously negotiated their agency in different, changing circumstances and in relation to considerations of family members or other enabling or inhibiting cultural structures, which can be seen as agency through resilience.

In the case of African women, their family dynamics vary to some extent: from good: *“My family and I always had a very close relationship. My mother is everything to me. And my brothers and sisters too. And then I have nephews, cousins, we are a very big and united family.”* Amélia (Angola); to bad: *“Yes, I have a big family. But I got into a fight with my parents because they were against my marriage to a Catholic man. And they revolted against me.”* Adilah (Morocco); to non-existent: *“My father died when I was little, And shortly after that my mother gave me to my aunt, And I had no contact with my mother for many years. And then my aunt and I also ended up getting upset with each other and nowadays I have no contact with her either.”* Shamsi (Somalia).

Although further research may be needed to offer better insight as to the potential harm of disrupted family relationships, from the findings presented in this section it is possible to conclude that these conflicting family ties did not prevent African women from being capable of acting within (and possibly change) their social groups and structures (Kanal & Rottmann, 2021). Shamsi’s discourse is a clear example of resilience, and the fact that Adilah got married in spite of their family disapproval also evidences resistance, that is, on how subordinated members of societies can fight their subjugation (Fiddian-Qasmiyeh, 2016).

Some of the African women’s family relationships were hugely impacted by the involvement of relatives, precisely their fathers, in political conflicts or oppositions to the ruling political party³². Such political involvement led to assassination attempts on the interviewed, and the murdering of their fathers and other family members, such as Ama recalls (Togo): *“My father was a politician and was killed due to problems with the government. Years later they also killed my brother. And they also tried to kill me, a few times. So, inevitably, my family was destroyed. Even with my mother, who is still alive, I don’t have a relationship with her because she was against my political involvement. But I had to continue my father’s fight, because otherwise, I would be in compliance with his murder and because I did not want to obey a regime that was trying to subordinate me.”*

The negative impact of their relatives’ involvement in political disputes did not diminish the generational transmission of political and social values on these women. On

³² This was further developed in section 1.2.1 of the current chapter.

the contrary, some of them also got involved in political groups opposed to the installed party and they kept on fighting against the regime, even after suffering assassination attempts. Instead of portraying themselves as vulnerable victims, they used their ability to deal with problems, adapt to change, and overcome obstacles (resistance). As opposed to occupying a victimized position within the existing systems of power relations in their countries of origin, they did not conform, demonstrating their potential for individuality in decision-making, movement, and confrontation (resistance).

Most of the women in our sample are married. Most of them got married between the age of 12 and the age of 18, and only three women reported getting married after reaching adulthood, at the ages of 20, 23, and 26 years. There was a minimum difference of age of 7 years and a maximum of 18 years from their husbands, and in the case of one woman her husband was 37 years older than her. The Middle East women justified the circumstances of their marriage (such as getting married underage to older men) as part of their cultural traditions: *“I was 17 years old when I got married. It was a traditional wedding because my husband was family, he was our cousin. He asked my father to marry me. I didn't like him or have any feelings for him, but I agreed to marry him because my family said he was a good match. It was an arranged marriage, in that sense, because our culture says that older ones in the family always know what's best for the girls.”* (Shaimma, Iraq).

For to Assaad, Krafft and Selwaness (2017) marriage is a central stage in the transition to adulthood in the Middle East and North Africa regions. Adult roles (e.g., independent living, socially sanctioned sexual relations and motherhood) are restricted to marriage for most women in the Middle East and North Africa, where girls, even from an early age, are expected to get marry to complete the transition to adulthood. Child Marriage is defined as any marriage carried out below the age of 18 years, before the girl is physically, physiologically, and emotionally ready to shoulder the responsibilities of marriage and childbearing (Mourtada, Schlecht & DeJong, 2017).

Poverty, loss of education opportunities, and heightened protection concerns, combined with cultural and religious constructions of masculinity and femininity are the common reasons for child marriage (also referred to as “early” or “forced” marriage) (Mourtada, Schlecht & DeJong, 2017). Being married at such young age to a much older man also prevents women from fully experiencing their childhood and adolescence, and abruptly forces their entrance into adulthood without the necessary physical,

psychological and emotional maturity, which can have a big impact on their short- and long-term well-being (Tenkorang, 2019; Kidman, 2017; Nasrullah et al., 2014).

Nonetheless, women from our sample did not complain about being married at such young ages and they did not consider their marriages different from the Western model for marriage. In fact, the Middle East women compared their engagements to “dating” in Occidental cultures, as they characterized it as a period where they got to know their grooms, which, in most cases, were people unknown to them or with whom they had little contact. Some even mentioned that they fell in love with them during that phase, similar to what can happen during “dating”: *“We got engaged and I started to love my husband. I thought he was really cute, actually [laughs]. And he was a lot of fun, and he spoke well. And after six months, we got married. But during that time, if we didn't fall in love or dislike each other, we could end the engagement. Here in Europe, you say dating, in my country engagement is also a kind of dating, you know?”* (Jassim, Syria).

They also reported that, if during that period they decided not to get married, they could undo the commitment no participant reported that feeling obliged by their families to marry against their will: *“Nobody forced me, you know?! It is like that in our culture. Normally it is the families that arrange for the couple to meet. But then we can decide if we want to marry that person or not.”* (Rana, Syria).

This situation can be considered as resilience. Women saw their engagements as a probationary period and not as an irrevocable decision made on their behalf. Being considered a probationary period, the women affirmed that, if they decided that they did not want to get married, they could end the engagement. This showcases their capability for decision and action taking within their cultural contexts (Paret & Gleeson, 2016). This seems to mirror what Kanal and Rottmann (2021, pp.1) called “*secondary control measures*”, another form of agency that involves a “*healthy form of action*” and adaptation, especially for vulnerable women. “*Trying to “stay where you are and accommodate”* are tools of strength and tactics and not forms of passivity or submission.

Examples of resistance against overpowering structures of oppression founded on cultural traditions (Martin, 2004) can also be seen in the cases of the Middle East women who chose their husbands without the interference of their relatives, *“My family accepted our engagement, but they were not the ones who chose the person I married, I made that decision alone and because I was in love.”* (Fatima, Iraq), or that got divorced, *“I was 23 and married him and went to live with him at his house. But he lived with his family, and that led to a lot of problems between us, and after a few years, we got divorced.”* (Amal,

Iraq). These women express their agency by diverging and escaping the norm of the societies they were part of. And according to their reports, their personal choices and lifestyles did not enhance their victimization in their countries of origin where such options, in general, are not considered valid.

Foucault (1977) conceptualized power as a relational and permeating our lives in a number of different discourses, objects or desires. According to the same author, subjectification refers to the procedures by which the subject is led to observe, analyze, interpret, and recognize, as a domain of possible knowledge. On this basis, it is possible to portray these instances of relational power as creating both the conditions for subordination of an individual and the opportunities for her agency and self-conscious identity (Mahmood, 2011; Mahmood, 2005; 2001). Quite interesting is the fact that, from all interviewees, the same women that decided to get married without their families input, were also the ones that got married at older ages and that were also legally divorced. Again, it is undeniable these women's roles as active agents redefining the meaning of their identities as liberation from oppressive social systems (Ponzoni et al., 2017).

According to the literature, frequently, arranged marriages are like business transactions wherein very young girls are "sold" to much older men, for a substantial dowry or forgiveness of family debt. For example, the practice of baad is a traditional method of settling disputes in Pakistan and Afghanistan where a young girl is traded as payment for financial dispute, and siqeh is a practice recognized by some Islamic countries which represents a temporary marriage or short-term contract marriages between young girls and older men (Elnakib et al., 2021; Saleheen et al., 2021; Assaad, Krafft & Selwaness, 2017; Assaad, Ghazouani & Krafft, 2017; Singerman, 2007). This was reported by one interviewee, Yaya (Gambia) who was forced by her father to marry a much older man to improve the financial situation of her family, since in her culture *"(...) when women get married, husbands have to give a family a dowry, and then continue to help the bride's family financially."* And like Yaya (Gambia) who was part of a polygamous marriage and ended up being physically and emotionally abused by her husband and his two wives, some other African women were victims of intimate partner violence.

The portray commonly associated with refugee women victims of domestic violence is one of passivity, shame, silence, and secrecy (Ussher et al., 2017). The narratives of these women contradict such characterization as they did not position themselves as helpless and passive victims and they were able to break the cycle of abuse

by escaping their countries of origin: *“My husband and his two wives were very violent. I fear for my live so I decided to run away and to move to another country where I could feel safe and have the opportunity of rebuilding my live”* (Yaya, Gambia).

The escape was used as a strategy to protect themselves against domestic violence, which evidences these women’s strength to take action, to contest, and to seek help (Rajah, 2007; Stark, 2007; Abraham, 2005). Their narratives did not showcase self-blame, embarrassment or humiliation; instead, they demonstrated active resistance and sexual embodiment (Ussher et al., 2017). Despite the hardships they faced, these women’s refugees are active survivors, because they used all their skills and wits to survive their ordeals and save themselves from abuse, torture, and death.

Finally, it is also pertinent to mention that some African women from the sample were dating refugee men from their countries of origin they had met in Portugal: *“My husband is also a refugee from Congo. He met me at the refugee Centre here in Portugal”* (Gloria, Congo); *“He is a refugee from Somalia. He heard that there was a new girl from Somalia at CAT [host institution] and he went over there to see if I needed anything. And we fell in love.”* (Shamshi, Somalia). Despite the traumatic experiences encountered by these women through their lifespan, the loving relationships they established in the asylum country can be perceived as resilience strategy as such relationships contribute to their positive adaptation to their new lives, and to their empowerment, while also maintaining their cultural identity (Sleijpen et al., 2017).

3.2. Motherhood

In relation to “home-making”, Kanal and Rottmann (2021, pp. 8) pointed to *“coping by rebuilding home and family through daily life routines”*, such as mothers’ engagement in activities with their children, which must be interpreted as *“a very effective coping strategy because they represent ways that women can do something to improve family life using very limited resources”*. Motherhood also proved to be a key element for this thesis analysis, since most of the women interviewed were mothers, and had between three to six children, including already a good number of children born in Portugal: *“Two of my children were born in Portugal, my four-year-old daughter, and a five-month-old baby.”* (Shamsa, Syria); or *“When my husband and I left Syria, we had two children, a one-year-old boy and another baby who was only two months old. Then in Turkey, we*

had another son. And in Portugal, shortly after we arrived, our fourth child was born.” (Eisaa, Syria).

The majority of the Middle East women had children just a few months after they got married, which, as previously explored, happen at a young age for most women. The sexual reproductive rights of women have been one of the most discussed issues by the feminist movements since its emergence in the 1900s. In fact, sexual and reproductive rights are fundamental human rights already recognized in international, regional, and national legal frameworks, standards, and agreements (e.g., art. 16 and CEDAW Committee, General Recommendation No. 21, Equality in Marriage and Family Relations). They include the right to autonomy and self-determination, which means the right of everyone to make free and informed decisions and have full control over their body, sexuality, health, relationships, and if, when and with whom to partner, marry and have children, without any form of discrimination, stigma, coercion or violence (High-Level Task Force for the ICPD, 2013; Agosín, 2002).

Even though not prohibited by international human rights law, arranged marriages and other traditional practices should not interfere with a woman's ability to legally enforce her right to choose. But to jump to a conclusion that these women's own agency were compromised by their young motherhood would be ignoring the fact that these women did not make any negative remarks about becoming mothers at such young age or regarding how many children that they.

In fact, from these women's narratives, it became clear that motherhood was a crucial part of their identities and a source of personal strength and pride. Their children were also crucial for their family's cohesion and closeness, as all of the members of the family spend time with kids and helped with their education. Nonetheless, the women were their children's main caregivers, which gave them a sense of power, purpose, and self-importance, as Hanan (Syria) discourse establishes: *“I and my family were always together. That is very important because the children need to spend time with the elderly men because they are wiser, and they can help us to teach them our culture and traditions. But the bigger role is played by us: we make sure that the baby is fed, clean, raised with good values, loved, and cared for! [laughs]. We're the ones who have the biggest influence in shaping their personalities and we're also the ones they end up loving the most [laughs]”*

Although an external look may see refugee women's focus on their children's needs *“(...) as a sign of her passivity and victimhood (...), understanding these women within*

their cultural context shows us that their children's needs are fundamentally connected to their own well-being." (Kanal & Rottmann, 2021, pp.8). Similarly, the interviewees demonstrated feelings of love and caring for their kids, and they considered them a crucial feature of their own identity, as shown by Maara's (Syria) (Syria) statement: *"My son is everything to me. I love him deeply! I can't imagine who I would be today if I hadn't been a mother. It's something that's part of me, it's part of my being."*

The African women who were mothers also displayed the same affection for their children, even though some of them faced difficulties because they lacked family support, which made them feel the only ones responsible for their children's wellbeing and security: *"It was me and my baby. We only had each other. So, I was the one who was supposed to keep her healthy and safe!"* (Promesse, Congo). They also stressed how important it was to keep their children with them: *"My children have always been with me, even after I got divorced. I would not have it any other way. They belong to me. They need me as much as I need them. We are a team [laughs]"* (Amélia; Angola).

The reported feeling of despair, sadness, and loss from African women who got separated from their children for reasons related to their escape also highlight how their motherhood is fundamentally connected to their own well-being. This is deeply proven by Gloria's (Congo) statement, which not only evidences the harm caused on her by being separate from her daughters but also her renewal of purpose when she had a baby in the country of asylum: *"I left my daughters there in my country, with my sister. I was broken-hearted. I felt numb for a while like I was here, I existed, but I didn't feel alive. But now, here with this baby in my arms, I can feel like a mother again. I feel like I got back that part of me that I lost: the caregiver, the leading example, the loving provider, and the love receiver. But I am still incomplete. Cause my daughters are not with me."*

According to Healey (2010, pp. 32) *"patriarchy may lead to women having less power than men due to the way in which resources are allocated. Yet these women still have the power within these structures, [because], as agents, [they] may always act differently."* Here agency is conceived as resisting societal structures that are thought to be intrinsic obstacles to the realization of women's ambitions *"in terms of the inherent instability of gender norms and the consequent possibilities for resistance, subversion and the emancipatory remodeling of identity"* (McNay, 2000, pp.2). Likewise, the women that escaped their countries of origin without their children (because escaping was the only option for survival), show that they were capable of exercising resistance. But it also proves that they were able to be resilient in the face of the pain felt by the separation of

their children, and to move forward in the hopes of *“building a better life for me, and then, to fight to get my children’s back.”* (Yaya, Gambia).

3.3. Identity-building by belonging

About *“identity-building strategies”*, Kanal and Rottmann (2021, pp.8) focused on *“coping by rebuilding belonging”* which the authors intrinsically linked to *“neighborliness”* as an enabler of *“proxy and collective agency”*. This thesis looks at *“identity-building strategies”*, from a different angle, that is, from *“identity-building by belonging”*. An identity standard is the set of meanings that defines the character of identity. Individuals act or behave in ways to verify their identities and perceived meanings are consistent with their identity standard (Powers, 2005). Yet *“(…) identities influence behavior only to the extent that the meanings of the behavior and the meanings in the identity standard are the same”* (Burke & Stets, 2009, pp. 82). To better understand the cultural traditions and beliefs involved in the identity-building process of the women interviewed, it is essential to make a brief explanation of the historical, social and religious context of their continents of origin (Winkel, 2019; Galloway, 2014; Mancini, 2012).

Looking at the early work developed by Mernissi (1992; 1997), an Islamic sociologist and feminist who explored the relationship between sexual ideology, gender identity, sociopolitical organization, and the status of women in Islam, it is possible to understand the roots of an attitude of male superiority and female subjection in Muslim cultures. According to the author (1992; 1997) the patriarchal viewpoint is a result of historical and cultural events, and of a misinterpretation of the Quran that is unrelated to Islamic values. Mernissi (1990; 1996) affirmed that Islam is not patriarchal, but that patriarchy has been heavily involved in the history of the Middle East and has subsequently seeped into the ways Muslims treat and educate women and girls. Lerner (1986) traced the creation of patriarchy in Islam through the continual repetition of male-dominated rituals and events in Islamic society over time.

The pioneer works of Mernissi (1992; 1997), Lerner (1986), Al-Hibri (1997) brought attention to what is now seen as gender inequality within Muslim cultures, which is not linked to Islam per se, but rather to the economic structures that favored the concealment of women within the home. In fact, the practice of dividing the roles of men and women into distinct areas has been common throughout history and in different parts of the world, where women are traditionally seen to be restricted to or linked to the home,

while men are seen as part of or involved in the outside world. The patriarchal discourse that continues on chaining women's social role to the private sphere is commonly seen as limiting women's space for action and for decision-making (Alexander-Scott, Bell & Holden, 2016).

The majority of Middle East women sampled did not have a job or a professional occupation in their countries of origin and they were totally financially dependent on their husbands, who despite performing mostly blue-collar occupations, their income seemed to be enough for all the women to consider to be upper-middle class. Like Hanan (Syria), who reported that her life *"financially, was very good and it was a very happy life."*, all of the women also stressed that they had a respectable and joyful life in their countries of origin, access to housing and even luxury items. The fact that these women did not had jobs, preventing them from generating sources of income and making them depend exclusively on their husbands' financial support, is commonly perceived as men exercising power and control over the lives of women (Walby, 2009).

But again, understanding these women's narratives within their cultural context is crucial to not jump into gender-based subordination or subjugation conclusions. First of all, we need to understand the women's role in the private sphere: the fact that these women did not have a professional occupation does not automatically mean that they did not perform any type of work within the home. This misconception is linked to the understanding of "work" as focused on those activities that one does to get paid. In this view, women's work inside of their homes is correspondingly devalued, for it is either unpaid or limited by the demands of the unpaid work in the home. This understanding also includes a moral force that establishes that one should contribute to society by working.

To adopt this position would be to ignore, in one hand, the evidence suggesting that women's family demands are similar to men's work demands (Quinn & Smith, 2018), and how tiring and intense housework can be: *"It's not easy to take care of the house, organize shopping lists, supervise the employees' work, keep the house clean and tidy. It's quite tiring, but I was very dedicated to it. Excuse my lack of modesty, but if the Queen of England went to my house, she would hire me right away as her housekeeper [laughs]."* (Shamsa, Syria).

And, in the other hand, it would mean to overshadow women's contribution to the social construction of daily life and in the maintenance and development of institutions, such as family, as the gender division of housework is significantly related to couple well-

being (Altintas & Sullivan, 2016): *“My husband did many types of work, he was a carpenter, an electrician, that sort of things. He was in charge of bringing money home. And I was in charge of taking care of our house. And I was very good at it. My husband was very proud of me, he told everyone that I kept our home impeccable, like a sacred place.”* (Hilal, Syria).

As proved by the above statements, the Middle East women were very proud of their performances as housewives, and they understood their housework as part of a division of tasks within their marriage. A keener awareness of the work involved in cultural, social, and personality constructions serves to dignify the housework and engender respect for the women who do it (De Simone et al., 2018). In this sense, to consider housework as subjugation or subordination would be a prejudice ignoring these women’s capacity for action within structures. It would also neglect that coping is related to established gender roles, as being housewives was seen as an active role of contribution within the family, and as part of their social identity.

To behave accordingly to the identity defined for them by the cultural norms established in their countries of origin was strategically used by these women as a way of achieving self-satisfaction and recognition. According to Burke (2007) if identity is not verified by other people, then negative emotions may be produced, such as frustration, anger, and depression; and if no identities are verified, then anxiety, panic, and identity crisis might occur (Burke, 2007). So, resilience is seen in these women’s choice to behave as it was expected from them, which made them feel happy for being active agents of the division of responsibilities within the household, instead of feeling marginalized, victimized, or as outsiders to their own cultural context.

In relation to African women, their history encompasses an extensive diversity of societies in more than fifty countries with different geographies, social customs, religions, and historical situations. Nonetheless some mutual threads for African women in the 21st century can be found, commonly derived or interconnected to family relationships (e.g., polygyny, divorce, domestic violence, female genital mutilation, political conflicts, death, widowhood) (Sheldon, 2018). But to jump into a gender-bias unique conclusion when studying African women would be to limit a much vast problem to only two causes: the universal subordination of women to men and the separation of public and private spheres into gendered spheres that gave men an advantage by participating in the former (Mazama, 2007). In fact, when looking at “identity-building by belonging”, it is imperative not to overlook the impact that the social status assigned to each citizen, based

on their race, ethnicity, class, religion, politics, color, and so on, has on their uniqueness and self-portray (Desmond & Emirbayer, 2009).

Therefore, it is fundamental to conceive the identities of African women as constituted under the influence of racial, social, historical, and power relations factors. Such factors can expand the understanding of race and gender based on personal narratives, whose subjectivity also reveals a universe of meanings, beliefs, and values that correspond to a deeper space in social relations (Souza, 2014). Definitely, the complexity involved in this intertwined network of previously mentioned factors seems to justify the “identity-building by belonging” in African women. The research findings are in line with Cunha’s (2006) argument that the impact of the colonial period on African women-led to two distinct results: for some women, such impact led to their loss of privileges, social status, and material, and symbolic powers; for others, they were able to transform and reinvent the roles assigned to them.

All of the African women interviewed worked for long hours and from early ages in low qualification jobs such as in factories, as cooks, seamstresses and the like, especially to help support their families, despite the low wages: *“I was a seamstress, because my mother was a seamstress. I did not make a lot of money, but it was the only financial support that I had, and I need to provide for my mother and my brothers, and later on for my daughters.”* (Promesse, Congo).

Child labor is a violation of fundamental human rights, it is defined by relevant international conventions, and has been shown to hinder children’s development, potentially leading to lifelong physical or psychological damage. Evidence points to a strong link between household poverty and child labor, and child labor perpetuates poverty across generations by keeping poor children out of school and limiting their prospects for upward social mobility (Fonseca et al., 2012). The research findings regarding African women corroborate this linkage between poverty and child labor, since all of the refugee women that worked as children also had financial difficulties: *“We were considered poor. (...) All my life there was a lack of money, food, clothes, home, these things. I don't remember going to a hospital for years. Diseases were healing themselves, without medication.”* (Shamshi, Somalia).

The fact that most of the African women interviewed were forced to work as children can be framed as a form of “structural” violence (Dominguez & Menjivar, 2014; Crisp et al., 2012; Farmer, 2005). The influence of social structures, socioeconomic class, race, sex and the power structures existing in many African societies seem to play a key-

defining role in the necessity of children to start working in such early ages or in forced child labor, to support themselves and their families.

Only a minority of African women had a comfortable financial situation, like Alia (Sudan) who was “*financially stable, had a life of luxury, and can even say that belonged to the upper class of society.*” Indeed, child labor is an important global issue associated with poverty, inadequate educational opportunities, gender inequality, and a range of health risks, and it is a reality that most affects the so-called developing countries in Africa (Fonseca et al., 2012; Sossou & Yotibe, 2009; Bernard & Gupta, 2008).

Instead of limiting the view of these women’s experiences of child labor to a victimization perspective, it is fundamental to acknowledge their determination to cope as a component of taking control of their own lives, as well as the contribution of their internal resources to their resilience (Gorman, Brough & Ramirez, 2003). Like other studies, these women’s narratives also shown that a belief in one’s own inner strength to deal with life’s challenges (Brough et al., 2003), an optimistic attitude, and having hope for a good future help refugee women to cope (Khawaja et al., 2008), such as Madalena’s discourse (Angola) demonstrates: “*I worked in my family's business from an early age. It was a way to contribute to their well-being and mine too. And helping the business to grow would, inevitably, help me improve my social status as well.*”

Personal qualities such as optimism, adaptability, perseverance, and an acceptance of their situation and their refocus on the present and on the future, strengthens these women’s resilience and enabled them to cope and survive (Luster et al., 2009; Shakespeare-Finch & Wickham, 2009). The constructions of resilience in these women are linked to the idea of “moving on” from adversity rather than “bouncing back” from it, which demonstrates their capacity for action within social structures.

It is also pertinent to discuss the case of the women from the sample worked and, contributed to their family's income, like Adilah (Morocco): “*me and my husband we both had jobs*”; and Amal (Iraq) who worked as “*hairdresser*”; and the women who worked in highly-qualified jobs, such as Amélia (Angola), who “*majored in public administration, worked in this area for 15 years, and then owned a daycare center*” and Hanan (Syria) who “*was working at a litigation firm.*” These findings also emphasize that refugee women’s agency is not essentially based on just one’s innate qualities and strengths to be resilient to social structures. Indeed, refugee women’s agency can also be understood as women’s resistance to cultural settings that limit their roles to the private spheres, such as performing jobs and having high-qualifications. Furthermore, the fact

that these women were also mothers further evidences their resilience (Altintas & Sullivan, 2016).

Most women from the sample dropped out from school between the ages of 12 and 18; two (Maara, Syria; Fatima, Iraq) attended university but did not finish their degrees; and three (Alia, Sudan; Amélia, Angola; Ama, Togo) completed a university degree. The main reasons pointed for dropping school or not finishing the university degree was poverty, in the case of African women, like Alice (Angola) who declared that she *“didn't study much, only until the age of 12. Then I was working at a drink factory. I had to work to help with household chores and to take care of my younger siblings and other family members.”*, as well as early marriages, in the case of Middle East women, such as Ammar (Syria): *“I didn't go to school much, just until I got married, at the age of 13. Then I didn't go anymore.”*

These findings are in line with data that indicates that African women, especially women from Sub-Saharan Africa³³, as well as women from the Middle East, present the lowest rates of school attendance worldwide (UNESCO, 2020; Lee & Lee, 2016; Valero & Van Reenen, 2016; Grant & Behrman, 2010; Kane, 2004). According to UNESCO (2020) over-age girls (measured as two or more years over the normal age to attend a certain degree of training) whose education has been disrupted by conflict or early marriage, or who started school late to begin with, are more likely to drop out of school. Regarding the lower secondary school, far fewer girls than boys complete this level in sub-Saharan Africa (36% for girls and 42% for boys) (UNESCO, 2020). There are multiple barriers to girls' access to and completion of education, such as poverty, violence, child marriage, lack of schools, inadequate infrastructure and unsafe environments, and limitations in teacher training and teaching and learning materials which reinforce gender biases (Jones et al., 2020; GEMR Team, 2020; GAGE consortium; 2019; Jones, Baird & Lunin, 2018). In the case of Muslim girls, the education they receive plays a major role in their lives because the primarily focus on the teachings of the Quran have become dominated by the hadith and shari'ah laws (or moral codes and laws associated with Islam), which have a patriarchal understanding of the Muslim faith (Al-Hibri, 1997; Mernissi, 1997; 1992; Lerner, 1986).

In reality, the reports about school attendance from Muslim Middle East and African women often mirrored the societal roles that women are expected to play in the

³³ Which is the case for the African women interviewed for the current thesis, with the exception of the women interviewed from Morocco.

Muslim culture, and that women's formal schooling can seem culturally unnecessary or redundant due to the homemaking education that women receive in the family environment (Ostrosky, 2015), such as reported by Jassim, (Syria): *"I was homeschooled. The eldest members of the family have all the knowledge we need to know, so they teach us, and us, as girls, learn what we need to be good daughters and later, good wives and mothers"*

Likewise, for girls, marriage often signifies a transition that adds a substantial domestic work burden, making it difficult for them to attend a school or to have a job (Assaad, Ghazouani, & Krafft, 2017; Hendy, 2015; Assaad, Hendy, & Yassine, 2014; Tremayne, 2006), as was the case for the Middle East women who stopped studying when they got married. In the case of African women, the need to help their families financially was the main reason that prevented them from further developing their levels of education, like Alice (Angola) who *"couldn't continue to study because I had to work to help my family."*

The majority of them did not express any feelings of sadness for not being able to continue to study after they got married or started to work. *"Trying to 'stay where you are' and accommodate"* (Kanal & Rottmann, 2021, pp.2) is a very reasonable adaptive strategy for the women from our sample who were deprived of the opportunity to further develop their education. This form of secondary control measures allowed these women's to make the best of an unfair situation and enabled them to move forward instead of staying still, as passive and helpless victims. Again, these women's narratives demonstrate how they used their vulnerabilities as platforms for their agency, by being capable of adapt and take action within the social structures set to limit their empowerment. Their resilience is shown in their capacity to transform the possible negative outcomes of poor levels of education, previously reported, into opportunities to succeed in the other roles that they incorporated in their personalities, such as the roles of workers, wives, and mothers.

The fact that these women also stated that they would like to continue their studies in Portugal signals resistance. Indeed, the desire to further develop their levels of education showcases their emancipatory confrontation against the inhibiting social structures that previously limited their opportunities for learning. The same can be noted in the cases of the women that attended university or even finished their university degrees, such as Alia's (Sudan) discourse demonstrates: *"In my family, nobody gets married before finishing university. This is unusual in Sudan, but it was like that in my*

family. They preferred women to study and then think about it about marriage. I grew up knowing how important it was to study, regardless of what my cultural traditions dictated on the matter.” (Alia, Sudan).

Lastly, it is also pertinent to highlight that most of the women with higher levels of professional education/training were the ones who freely choose their husbands, marrying after reaching adulthood, and were the only ones who reported having legally divorced their husbands. In one hand this proves, how important it is for girls to get education and how education contributes to women’s agency. On the other hand, it led us to agree with Kanal and Rottmann (2021, pp. 11) on the fact that *“although it is important to describe refugee women’s everyday agency, this doesn’t mean that we need to take an overly celebratory approach, and thereby minimize the effect of oppressive social structures.”*

The research findings presented in chapter 8 enabled the current thesis to reach two main conclusions that will provide answers for three of the nine sub-questions that guided the data collection and analysis.

Hence, for the questions – “What type of violence affects the lives of refugee women in their countries of origin?” and “Why do refugee women escape from their home countries?” – this thesis concludes that war-related violence and family-related violence are major sources of direct or indirect forms of “structural”, “symbolic”, and gender-based violence for refugee women in their home countries and the main reasons for them to flee.

In relation to the question – “Does women's vulnerability in their countries of origin limit their ability to act?” – the findings showcased refugee women’s capability to fight back and to survive their experiences of violence in their countries of origin. For that reason, this thesis argues that vulnerability and agency do not stand in contrast to each other and are not mutually exclusive in the lives of refugee women in their countries of origin.

The next chapter will expose the research findings in relation to the escape journey.

Chapter 9

Study 1

Border Harms and Everyday Violence: Lived experiences of refugee women's escape

Part I of this thesis showed that there is a growing field of academic studies related to migratory movements, the so-called “border harms of human displacement”, or just, “border harms” studies (e.g., Cosello & Mann 2020; Isakjee et al., 2020; Jonsson 2020; Briskman, 2020; de Vries & Guild, 2019; Yıldız & Sert, 2019; Schindel, 2019; Ilcan, 2018; Canning, 2017; Aas, 2019; 2013; 2011; Aarstad, 2015; Aas & Gundhus, 2015; Aas & Bosworth, 2013; Mountz, 2013; Bosworth, 2008). This field of study builds on knowledge about border-related violence and human rights violations suffered by asylum seekers during the displacement journey. Although the condition of refugees has been a subject of research for decades, the so-called European refugee crisis, which started at the beginning of 2015 created a new impetus for studying possibilities and challenges regarding the displacement journey, namely, during the escape from the countries of origin where violence, conflict and harms were threats to people's well-being and survival.

Section 1 will explore the violence experienced by the women sampled during their escape journey through one border control contextual stressor - irregular migration - which will encompass three sub-stressors: traveling methods; gender; and intermediaries.

Section 2 will introduce the concept of “intersectional resilience to slow violence” to evidence the broad spectrum of refugee women's capacity to solve problems, to cope with issues, and to navigate through the dangers encountered during their escape, despite, as well as because of their various vulnerabilities.

In section 3, the escape itself will be presented as a coping strategy to showcase the presence of resistance and resilience in the refugee women's narratives of survival.

1. Border control contextual stressors during the escape

1.1. Irregular migration

There is no universally accepted definition of irregular migration. The International Organization for Migration (IOM) defines it as a “*movement that takes place outside the*

regulatory norms of the sending, transit and receiving country” (2011). A migrant in an irregular situation may fall within one or more of the following circumstances: enter the country irregularly, such as with false documents or without crossing at an official border crossing point; reside in the country irregularly, for example, in violation of the terms of an entry visa/residence permit; employed in the country irregularly, for instance a person may have the right to reside but not to take up paid employment in the country (Vespe, Natale & Pappalardo, 2017). The term “irregular migrants” will be used in this thesis in reference to the women who escaped their countries of origin in an undocumented fashion, and in the next chapter, to the women who were counted as irregular migrants in ‘transit’ countries, due to the lack of residence permit (both permanent and temporary).

For this reason, this section will not include data on the cases of the nine women who traveled legally to ‘transit’ countries or to the asylum country and who faced no difficulties in the journey. Examples include Maara (Syria, who escaped regularly to Ghana due to previous ties with that country: *“when we fled Syria, it was the only place where we could travel legally and where we already knew people, we already had a life in Ghana.”* Nonetheless, sixteen women declared being “irregular migrants” during the displacement journey, and eventually suffered the legal consequences of such situation.

1.1.1. Traveling methods

The majority of the women escape their home country walking; a considerable number of women travelled by plane and three of them by boat.

Women that escaped on foot were mainly from the Middle East. Accounts of participants reveal the dangers and difficulties of the journey due: to war-related violence; the long hours walking to escape; and lack of food provisions, worries about their children’s well-being, and temporary family separation. The next two accounts are revealing examples of the harsh walking conditions, as well as fear of being shot: *“It was very difficult, it took us 24 hours to get to Turkey, we walked hours and hours and hours, until we reached the border. We had to go through the middle of farms and very bad roads and during the whole route they were always shooting, but we were lucky not to be shot because they were shooting in all directions, both from Syria and from Turkey, because they do not know who is trying to approach the borders.”* (Ammar, Syria); or:

“And the closer you get to the border, the shots increase. And we don't know who is shooting, where the shots are coming from, who they want to hit. They do this just to scare people most of the time, so they don't get close to the border. Usually they don't

shoot to hit, but sometimes it happens to hit someone and kill and everything.” (Rana, Syria).

Even the women who travelled legally stressed that their husbands had previously escaped the country as ‘irregular traveler’, and had encountered challenges: *“He walked for several days from our city to the border with Turkey (...)200 kilometers, can you imagine? Always on foot, without cars, or some transport. And with shots coming from everywhere”* (Darya, Syria). Some women went through life-threatening situations during their escape by boat, that made them feel very scared for themselves and their families, who were also on the boats with them, as Mariam (Syria) recounted: *“We were in the middle of the ocean and suddenly the boat stopped. The boat driver could not solve the problem. I clung to my children crying. I thought we were all going to die there.”*

Data shows that, in 2015, over 800,000 border crossers arrived via the Aegean Sea and Turkey into Greece. The crushing influxes of people looking for international protection and the mainstream propaganda by the media and policy makers, formed a “moral panic” and, consequently, sea arrivals of migrants to Greece was reduced in 2016 to one. States started to penalize SAR (search and rescue) NGOs operations, by seizing their vessels and accusing them of cooperation with smugglers.

They also reduced their own SAR operations, thus creating more casualties by allowing boats to sink, which, consequently, tripled the death rates at the sea. Deaths at sea are so frequent that nowadays boat trips are one, if not the most, dangerous border in the world to cross (Mayblin et al., 2020; Garelli et al., 2018; Stierl, 2020; 2018). For Davis et al. (2017, pp.1755) this form of “violence of inaction and denial”, which must also be categorized as “structural” violence, directly diminishes human lives value, and indirectly divide people into those who are deserving of help, and those who are considered expendable.

Even in the case of the women who escaped by plane, mainly from Africa, this apparently faster form of escape did not prevent them from feeling insecure and afraid. Those negative feelings were related to their motives to escape, as in the case of Yaya (Gambia) who was afraid of being found by her family members during the escape: *“I was not safe because I knew that my father and my husband were certainly looking for me, so I had to go to Guinea Bissau very quickly, my cousin had to make this process very fast. I was in danger of life if my father or husband found me.”* Ama (Togo) travelled by plane with false documentation and was arrested at the Portuguese airport: *“So, I stopped by the airport, did the formalities. But my passport was not mine. It wasn't my photo, it*

wasn't my name, and I did everything, the formalities, I took the flight. I arrived at Lisbon airport. When I arrived, they took me. They arrested me at the airport because my documents were illegal."

According to the literature (Cosello & Mann 2020; Isakjee et al., 2020; Jonsson 2020; Briskman, 2020; Yıldız & Sert, 2019; Ilcan, 2018; Canning, 2017) the displacement journey is frequently fragmented and marked by interposed breaks and starts. Indeed, border harmful practices can generate additional forms of violence and violate international human rights, and the principle of "non-refoulement". In that sense, the "hardening of the borders" (Ilcan, 2021, pp.8) discourages and tries to prevent displaced people from reaching asylum countries, a process in which women seem to face additional challenges and problems. The pressure and limited access to entering a country such as long periods of walking and running across dangerous lands, roads, and seas; being exposed to harsh environments; exhaustion; lack of provisions; mistreatment by border authorities (such as shooting at them by militaries controlling the borders), and detentions at the airport, constitute forms of brutalities and longitudinal violence experienced by the women interviewed.

1.1.2. Gender

Considering the gendered dimension of the escape: family, pregnancy, the well-being of the children, temporary separation, and strangers traveling with them, were additional elements of distress and concern experienced by our interviewees: *"I was three months pregnant with our first child. And I was very afraid of losing the baby while on the run. For the stress I went through and the hours we had to walk."* (Mariam, Syria);

"We were already close to the border with Turkey when we started to hear gunshots, and we started running, frightened, in all directions. I lost my children, but I managed to find them right away. But two of my daughters I couldn't find it right away, and it was very scary. And my daughters were 13 and 15 years old, respectively, and I refused to leave them behind. So, I kept looking for my daughters for two hours and finally we found my daughters and we managed to get together again and go in the van, to Turkey." Khadija (Syria); and

"If time went back, I would never do that again, never. Because it was really crazy, how did we get our kids through that danger? I was very scared during that tripp. The boat broke down and suddenly stopped. And the boat's driver couldn't get the boat up and running. I thought we were going to die there, at sea." (Jassim, Syria).

Interestingly, most women from our sample were not alone during the displacement journey but rather in the company of their husbands, children, relatives or strangers, as demonstrated in Ammar (Syria) discourse: *“We ran away from Syria, my whole family together, my parents, my sisters and brothers. I have five brothers and a sister.”*, and in Amélia (Angola) recount: *“I have always traveled with my three children and my baby. Wherever I go, they always go with me.”* Most of African women traveled with someone but were alone when living in ‘or in the asylum country. An example is Alice (Angola) who reported that she *“(…) made the trip with my aunt. She took me from Angola to Germany, but after arriving I was not with her anymore. I was alone.”* While African women escaped alone with their families or with strangers that helped them to escape, most of Middle East women, besides their family members, were also in the company of other people during the displacement journey.

While traveling alone may represent extra dangers, all forms of travel contain risks and sources danger and suffering (Stierl, 2020). Likewise, in the case of our sample, traveling with other people often-produced additional stress and pressure to move faster because all of the people shared the fear of being found and captured by the regime, as Eisaa (Syria) explained: *“It was not a very safe trip because we had to be close to the borders, in a field, and we had to sit there for four hours, and my children, as they were very small, one of them, the baby, started to cry. And everyone started begging me to stop the baby from crying so we wouldn't be discovered, and I was very nervous.”* The animosity and group pressure reported by the participants can be interpreted as a consequence of the fear of being captured or killed by the military or by the opposition forces to the regime in place. According to Schindel (2019) spatialized forms of violence in which border regimes can produce and reproduce “structural” violence will inevitably generate gender-based violence. In that way, the *“hardening of the borders”* (Ilcan, 2021, pp.8) is producing and reproducing violence and is enabling the perpetuation of victimization.

1.1.3. Intermediaries

Even though most of the women were able to escape their countries of origin with the help of intermediaries, only Middle East women referred to these people as “smugglers”. They claimed to have paid considerable amounts of money (which may vary) to smugglers for their help to safely escape by walking, as Eisaa (Syria) explained: *“We had to pay a large amount of money, close to 50 dollars, but that amount varies from*

smugglers to smugglers, but these smugglers are very important because they guide people out of Syria and into Turkey, because the path is quite dangerous. And the Syrian military are always trying to prevent people from leaving the country at any cost. As well as the militaries at the borders. But prices vary, 50 dollars is more or less 500 Syrian money.”

Smugglers themselves also feared being captured since, according to the women interviewed, they are always changing places with other smugglers, during the course of the journey: *“We were helped by different smugglers at different places of the journey. The smugglers change positions for safety reasons, I think. To not be so easily caught.”* (Khadija, Syria). Using smugglers who “help” groups of people (rather than people alone) seem to be the most common experience for irregular migrants: *“We were with a group of people in the same situation as us, trying to cross the borders of Turkey, illegally.”* (Eisaa, Syria). As reported, smugglers were the ones who create the traveling groups, that is, who decided which people were going to travel together.

Apparently, smugglers’ strategies involves creating groups that are not too small, so that each trip is as profitable as possible, and not too big, so that they are less likely to be captured, as Hilal (Syria) declared: *“Smugglers didn't take one family at a time, usually several families go together. They are not very large groups, so as not to be easily discovered, but they are not very small groups either. They want to make money, don't they?”*

Women did not disclose any form of violence or maltreatment from the smugglers or the “strangers” that help them, besides pressure to move faster or to hide better. Other studies (e.g., Aloyo & Cusumano, 2021; Belloni, 2016; Aarstad, 2015; Gallagher & David, 2014; Gammeltoft-Hansen & Sørensen, 2013) shown that refugees are vulnerable to abuse and exploitation from smugglers who are profit-seeking criminals who treat them as “goods” and not as humans, and who often place refugees’ lives at risk: they may suffocate in containers, perish in long and dangerous walks, or drown at sea. These was also the case for the women who escaped by boat, as they reported that smugglers were not trained enough to steer the boat, which made the trip even more dangerous: *“We had to pay the boat's driver a lot of money. And the worst thing is that when the boat broke down at sea, he did not know what to do, nor was he even prepared to face such problems. If hadn't been my husband's brother, we would have died there.”* (Hilal, Syria).

Results thus suggest that the “help” of smugglers is essentially due to the danger that the escape from the countries of origin entails, not only because of the geographical difficulty of the path itself, but also because of the danger of being captured or killed, either by the regime's military forces or by the border police forces. Nonetheless, when it comes to the use of other forms of transportation, such as boat, it seems that the unpreparedness of the smugglers can potentially make the displacement trip even more dangerous.

In the case of African women who disclosed receiving “help” from a stranger to escape their countries of origin, they never used the word “smuggler” to refer to that people, but most of them met these “helpers” in very strange, suspicious, and dangerous circumstances, like in the case of Ama (Togo): *“My friend later arranged for me to meet with a man who I had never seen before. He gave me a passport and sent me to the airport. We were both there, but we were far away from each other. And when I arrived in Portugal, he told me to wait for him at the airport, but then I got arrested and I never saw him again.”*

Although the recalls of these women were, in general, very confusing and vague, it is possible to suppose that the “strangers” that helped some of these women to escape had hidden intentions, such as using them for human or sex trafficking. Indeed, smugglers often take advantage of refugee women willing to take risks in search of a better life when they cannot access legal channels of migration (e.g., Aloyo & Cusumano, 2021; Belloni, 2016; Aarstad, 2015; Gallagher & David, 2014; Gammeltoft-Hansen & Sørensen, 2013). Just on April 24th of 2019, UNHCR agency called the attention for the disappearance of refugee women and girls and highlighted the need to address a number of gaps in the effective protection of asylum-seekers and refugees.

2. Intersectional resilience to slow violence

As demonstrated in other parts of this thesis, gender has been introduced into migration studies. In the last decade, there has been a substantial increase of female refugees and asylum seekers in the European Union. This led to an exponential growth of the international recognition of the existence of gender-related forms of persecution (Cabrita, 2019). Although women do not flee their countries of origin exclusively because of gender-related problems, as demonstrated by the results of the study 1 presented in this chapter, the connection between migration, violence and gender has been increasingly deepened.

Almeida (2019) interviewed a group of women in Portugal and Denmark regarding their lives-path in three ways: their role in the path and the definition of the path; the inconstancy of travel, such as the length of the travel, the places they went through, the alterations to the plan, the conditions of the trip and the exposure to violence. The travel stories of these women reflect the weaknesses that the attempt to securitize migration maintains, namely the vulnerability to violence.

Gerard & Pickering's study (2014) is on Somali refugee women who crossed North Africa, aiming to reach Malta. Results demonstrate the impact of migration securitization on these women's transit experiences. These women addressed the issue of traffic referring to its instability, dangers and violence experienced (including incarceration) which depended on factors such as access to financial resources or gender.

The concept of "slow violence" (e.g., Mayblin et al., 2020; Bugge, 2019; Coddington, 2019; Davies et al., 2017) has been used to describe the distress, state controls, regional migration agreements, and connected difficulties that wave over refugees. Based on the mentioned concept, on Cannings's "*intersectional continuums of violence*" (2017, pp.17) and on the data collected, this thesis now proposes "intersectional resilience to slow violence" as a new concept.

This concept refers to the ability of asylum-seeking women s to negotiate and to overcome the consequences and costs of the intersectional experiences of "structural" and "symbolic" forms of violence encountered during the displacement journey. It is also this thesis's belief that the experiences of the women interviewed mirror the experiences of many more women seeking asylum during the displacement journey, who are able to pull through the multiple forms of suffering, degradation, and pain inflicted upon them by various perpetrators and by impersonal dispersed forces, spread across time and space.

This concept intends to move beyond the label of "monolithic group" assigned to refugee women, which, as Canning (2017) explained, implies that all refugee women experience the same harm and are affected by violent experiences in the same way. This one-dimensional view of refugee women also reinforces their portrayal as helpless victims that do not have the strength or the coping mechanisms to overcome gender-based adversities.

In reality, despite facing intersectional experiences of "structural" and "symbolic" violence, like many other refugee women, the women interviewed demonstrate enormous resilience that enabled them to survive during their displacement journey. From this perspective, "intersectional resilience to slow violence" also intends to present a

refreshing portray of the refugee women, that remove these women's identities from the confinements of victim status, and acknowledges and highlights their capacity of taking action, for agency, and for self-empowerment.

3. Refugee women's escape as a coping strategy

As already explored, the reasons for the interviewees to leave their countries of origin were essentially two: for Middle East women, war-related violence was their main motive to flee their home countries and for African women, such escape was associated with the diverse forms of family-related violence encountered in their countries of origin. It is essential to recognize the importance of these antecedents of violence in these women's decision to leave their countries of origin to frame this decision as a strategy for personal adjustment to stressful events and, at the same time, as a strategy for change in the hopes to achieve physical, psychological and emotional well-being.

In this sense, the circumstances of flight are the very basis on which individual decisions can be based and depend on women's position at the intersections of oppression and opportunity with regard to their position in social networks and access to resources.

Looking at the reports of the twenty-four refugee women interviewed, it becomes clear that escaping from their countries of origin was not an easy process, nor, in some cases, their first choice. In reality, some women went through situations of internal displacement before fleeing their home countries. Internal displacement was also marked by precarious and protracted journeys in the hopes to reach safety, such as Shaimaa's (Iraq) speech showcases *"First, we went to northern Iraq and stayed there for the first few days in a church with other families. And after that, we left the church and went to a park, and in that park, they gave us an apartment (...) After that, there was still no peace and the war did not seem to be ending, so we registered, legally, for a visa to go to Turkey."* This internal displacement can be interpreted as resistance to fleeing and as a desire to stay in their countries; however, eventually, these women also ended up having to make the decision to leave their countries.

Some examples may serve to illustrate how the exertion of agency in leaving the country of origin may be best conceptualized, influenced by both fluid structures and arising opportunities. Alice, for instance, decided to flee Angola because due to financial difficulties, her family lived in a precarious house and therefore, with easy access for criminals who, commonly in her country, *"entered the homes of poor people at night to*

rape women.” As her personal movement was highly curtailed, due to the lack of financial means, so she took the opportunity presented to her by her aunt of going with her to Germany. Her aunt had been living in Germany for some years, so she relied on her to help her to make the trip safely and to integrate into German society.

Although she felt *“very sorry to leave her mother and siblings behind”*, she saw this opportunity as a way to escape violence and to build a better future for herself. When she arrived in Germany, she was quite surprised by the fact that she needed to register with the UNHCR to stay legally in the country. As she declared, *“that was very difficult because I had an entirely different plan in my mind. I was going to stay at my aunt's house, and she would help me. instead, I had to go to a refugee center and completely lost contact with her.”*

Even so, Alice was able to adapt to that unexpected reality, and she was able to go through all the UNHCR procedures in Germany and to pass to the next level of integration when she was moved from the refugee center to a shared house with other refugees. As such, hers is an example of utilizing the surrounding structures to her advantage and shaping her plans along the way.

Alia's stable financial background in Sudan allowed for a comfortable mode of escape (by plane) and enabled her to circumvent her country's rules preventing women from traveling alone without the permission of husbands or of another male relatives. Since her husband had already fled and because her reason for fleeing was intrinsically related to family violence, she *“bribed airport police officers so that I could travel without such authorization.”*

In this way, she made the conscious choice of subverting gendered limitations on females' scope for action in her home country. Her awareness of the ambivalence of police enforcement structures, who *“were easily corrupted with money”*, showcase her exerting of agency, opposing the structures that confined her to that date.

Ammar and her family (including her parents and five siblings) decided to escape together, although her father first considered to leave alone and *“apply to international protection and then to ask for us to be reunited with them. But as a woman I was afraid of staying alone in Syria, and my mother and sisters were also afraid. So, we thought it was better for us to all leave together.”*

Cases such as the one of Ammar, collected for this study support Kosmarskaya's (1999) findings on Russian female migrants that it is joint decision-making rather than simply men's prerogative that shapes migrations. As Gerard (2014 pp. 91) contended in

her research on Somali women that fled to Malta, *“decision making around exit is gendered and different for each woman and as such can be informed by strategic deliberations prior to exiting the country of origin.”*

However, this is very much dependent on the situation itself, as the example of Shaimaa’s escape can illustrate. She first decided to escape to Syria but, when the war started, returned to Iraq. Because the situation in her hometown was good, she decided to escape to the north of the country, finally leaving Iraq by applying for a traveling visa. Shaimaa’s escape shows how changing circumstances can also present individuals with new sets of choices requiring swift decision.

The notion of “forced” migration, although important to acknowledge the experiences of violence that prompted the interviewees to escape their countries of origin, must also be carefully considered so one does not ignore the agency involved in making such decision, a thread uncovered in the majority of the interviews conducted. The refugee women interviewed, owing to the war-related violence and family-related violence, attested to a mindset that was already more or less open to the possibility of escape. Yet, arising opportunities for actually taking the step to leave their countries of origin led to a change in their surrounding structures and new ways of exerting their agency in changing their circumstances.

As such, both a planned departure from the country of origin, involving deliberate steps taken in the process, and a rather spontaneous flee based on an opportunity that presented itself, are manifestations of women’s agency. At the same time, this research also acknowledges that the individual agency or responsibility for exiting their countries of origin is interlinked with a gendered access to mobility, dependent on women’s position within different identifying systems based on their social standing, economic resources or family background. Moreover, it seems inadequate to categorically conceptualize refugee women’s agency when fleeing their countries of origin as either within or against structures, as individual decision-making is influenced by factors that span both paradigms.

By paying a close attention to the steps taken by the refugee women interviewed to leave their countries of origin, it is possible to see their escape on an individual basis as something fluid and parallel to an adaptive process of development rather than a static decision on a course of action followed by its implementation. Therefore, the coping mechanism of “escaping” must be perceived as both an act of resistance and resilience,

deeply marked by a deliberate choice of leaving their countries of origin, rather than simply being ‘pushed’ out.

As could be examined in the examples given in the cases mentioned above, while violent circumstances unsurprisingly do shape the women’s choices of escaping their countries of origin, associating refugee’s movements “*with structural factors beyond the individual’s control*” (Hayden, 2006, pp. 474) is an obsolete perception that is further demystified when looking at the steps that the refugee women interviewed actively and conscientiously took to guarantee their survival and of their relatives.

The research findings presented in chapter 9 enabled the current thesis to reach two main conclusions that will provide answers for two of the nine sub-questions that guided the data collection and analysis.

In relation to the question – “What are the dangers faced by refugee women during the escape journey?” – this thesis grasp the conclusion that the escape journey from the countries of origin is a key enabler of experiences of “structural” and ”symbolic” forms of gender-based violence for refugee women perpetrated by harmful border control practices.

Regarding the question – “What is the impact of the escape journey on refugee women’s narratives of survival?” – the current research argues that the escape from the countries of origin is one crucial stage/place of the process of becoming a refugee woman that shows these women’s agency to move forward with the focus of surviving and improving their well-being and of their relatives.

The following chapter will provide information on the lives of refugee women in ‘transit’ countries.

Chapter 10

Study 1

Living in ‘transit’: A journey of hardships and empowerment for refugee women

An increasing number of refugee women are living or had lived in a state of indefinite ‘transit’ (Jasso, 2021). According to the scientific knowledge on this matter, these women were deeply affected by their position of uncertainty, insecurity, and vulnerability, during their escape from their countries of origin and while living in ‘transit’ countries (EU, 2021; Horn et al., 2021; Jasso, 2021; Sahraoui & Tyszler, 2021; Reilly, Sahraoui & McGarry, 2021; Tastsoglou, Petrinioti & Karagiannopoulou, 2021; Cochrane, 2018; Crisp et al., 2012; Krause-Vilmar, 2011; Pickering, 2011). Yet, the use of the term ‘transit’, which implies temporariness and onward movement, seems inadequate when describing the circumstances faced by refugee women during their permanence in ‘transit’ countries.

In reality, more and more, ‘living in transit’ is not a short-term pause on the way to somewhere else, but rather an unspecified, and potentially permanent state of instability. In this sense, the current thesis will use Papadopoulou-Kourkoula’s (2008, pp. 4) definition of ‘transit’ which entails “*the situation between emigration and settlement that is characterized by indefinite migrant stay, legal or illegal, and may or may not develop into further migration depending on a series of structural and individual factors*”; as well as Oelgemölle’s (2010, pp. 408) for whom ‘transit’ is “*(...) conceptually undecided about whether to formulate itself as a security/threat or a development/humanitarian discourse, or both*”, which seems to imply a political meaning absorbed in the “us and them” binary.

Furthermore, according to Ilcan (2020) border control is deeply marked by processual features that impact roundly migrant journeys and incite protracted waiting in border control zones. The author created the concept of “the borderization of waiting” in reference to “*the spatio-temporal dimensions of border control that underscore the deceleration of migration movements and stimulate certain kinds of agency.*” Ilcan (2020, pp.1) Still in regard to its processual features, Ilcan (2020, pp. 5) brought attention to the “discourses” and “*certain kinds of justifications*” that often make it “*acceptable and normal*” for displaced people to be controlled, restrained, confined for short or long

periods, or prevented from reaching the desired endpoint of their displacement journey and from achieving a recognized legal status.

In relation to its second feature, “protracted waiting”, for Ilcan (2020, pp. 5), *“there is an active, not just an inert or quiet, quality to waiting, whether it involves waiting in border control spaces, waiting to access safety and protection, or waiting for resettlement.”* In that way, the immobilization and containment of the “borderization of waiting” are just as important as the participation of displaced people and asylum seekers in disturbing border and migration controls and in producing change, by taking part in *“multidimensional debates, verdicts, arrangements, and engagements.”* (Ilcan, 2020, pp.6).

Following Ilcan’s (2020) arguments, “waiting” in this thesis will be analyzed as a social phenomenon that multiplies in irregular migration, as well as an analytical perspective on migration procedures and practices (Jacobsen et al., 2021; Hage, 2009). It will also include refugee women’s actions of resistance and resilience that allowed them to adapt, contest and create changes in relation to the border controls encountered in the national territory of the ‘transit’ countries.

As explained in part II regarding the methodology adopted for this research, in the current thesis the displacement journey encounters for two specific stages and (geographical and symbolic) places of the process of becoming a refugee: the lived experiences of refugee women during the escape journey as well as during their permanence in ‘transit’ countries. The former was already explored in chapter 9. The latter will be explored in the current chapter.

On this regard and inspired by Ilcan’s (2021) “borderization of waiting”, namely its processual features, in section 1 of the current chapter the findings present will be structured around three main institutional and social contextual stressors - overlap between detention centres and refugee camps; daily-living settings, and the UNHCR practices – encountered by the sample of refugee women while living in ‘transit’ countries. Daily-living settings will include three sub-stressors: governmental support; children’s well-being, and social exclusion; and the UNHCR practices encompasses two sub-stressors: the choice of the asylum country and legal proceedings.

Then, in section 2, the concept of “annihilation through borders expansion” is offered to emphasize that refugee women lived experiences in ‘transit’ countries are vivid examples of the several forms in which “structural” and “symbolic” forms of violence affect their lives and restrict them to a position of precarity, insecurity, and danger.

Starting from Ilcan's (2020) "borderization of waiting, explicitly its "protracted waiting" dimension, section 3 will establish that refugee women's request for international protection must be considered a crucial coping strategy as it is a striking evidence of these women's agency.

1. Institutional and social contextual stressors

Before further exploring the stressors mentioned above, it is important to provide some clarifications. 'Transit' will be used in the following sections in reference to the countries where the refugee women interviewed stayed for a period longer than three months. As in the case of Shamshi (Somalia) who travelled through Kenya, Ganda, South Sudan and Egypt, African women escaped to different countries (e.g., Brazil, Guinea Bissau, Germany, and such). On the contrary, Middle East women mostly escaped to Turkey - *"the war in Syria started and we decided to go back to Iraq. We were in Iraq for a while, but the situation there was not easy either. So, we decided to go to Turkey."* (Fatima, Iraq).

An exception was Hanan (Syria) who escaped to Egypt. Hilal (Syria) and Shamsa (Syria) only stayed in Turkey for a short period of time, and then quickly proceeded to Greece, as Hilal (Syria) explained: *"Our idea was always to go to Greece, we only went to Turkey to go on to Greece."*³⁴ Similarly, Amélia (Angola), who traveled legally, and Alice (Angola), who traveled undocumented, first arrived in Portugal and immediately left for Germany. Lastly, Madalena (Angola) escaped to Brazil and Maara (Syria) escaped with authorization to Ghana. These countries will be considered these women's 'transit' countries.

The women's escape destinations are in line with Janmyr's research findings (2018; 2017; 2016) that most asylum seekers and refugees actually do not flee to states in the global North. According to the same data, the states where they end up seeking asylum often are not signatories of the 1951 Convention. For example, despite hosting *"a large number of refugees in the world, with approximately 1.5 million Syrian refugees"* (pp. 393) , Lebanon refuses to be a country of asylum and rejects ratification of the 1951 Convention and its 1967 Protocol. However, Middle East participants in the current research escaped mainly to Turkey which is signatory to the 1951 Convention and its

³⁴ It is important to disclose that these two women were from the same family, their husbands were brothers, and they and their family members escaped together.

1967 Protocol. But, as the current thesis will further detailed next, Turkey is also one of the very few states in the world to sustain its geographic limitation clause.

According to the concept of “irregular migrants”, this section will analyze the cases of Amélia (Angola) and Maara (Syria) who traveled with legal authorization (but did not legalize their residence status in the countries to which they fled) together with the cases of the sixteen women who remained “irregular migrants” in the 'transit' countries until they formalized an international protection request with the UNHCR. Next, a deeper look into the three main institutional and social contextual stressors will be offered.

1.1. The overlap between detention centres and refugee camps

In ‘transit’ countries, most of the women from the sample lived with their families in rented houses, with good housing conditions: *“The house was small; it was an apartment. It was not very beautiful, nor was it very luxurious, but it was good, it had the necessary.”* (Ammar, Syria). Only Shamshi (Somalia) mentioned living in a shared apartment with poor conditions: *“I shared a house with some people who were in the same condition as me. We all become friends. The house was not very good, but I had a room to myself, which was nice.”*

Maara (Syria) had lived with her family and friends: *“We live in a Lebanese community, and we had many Lebanese friends living there”*. Madalena (Angola) first lived in Brazil with a friend but later, due to their friendship deterioration, she moved into her boyfriend’s apartment. Her boyfriend turned out to be violent and aggressive with her and kept her "trapped" inside the house: *“If I wanted to leave the house, I could only go out with him. He started to control me. So, I was always at home and one day and I found out that he had two pistols in the house. Two huge pistols. I was very scared. And he kept threatening me, if I went to the police, or the neighbor for help, or if I told someone, he was going to kill me.”*.

Five women from the sample had lived in refugee camps, namely in Greece and in Germany. Before we take a closer look into these women’s experiences, it is important to briefly described the European “hotspots” approach which, according to Ilcan (2021) are supported by agencies such as EASO, Europol, and Frontex and directly target detention centres for migrants and asylum seekers in Greece and Italy³⁵. These centres are bound by the ECHR and by the international human rights treaties that both Greece and Italy

³⁵ The 1951 Refugee Convention; The International Covenant on Civil and Political Rights, and The Convention against Torture.

have ratified. Nonetheless, they are frequently in breach of such treaties because of their terrible living conditions with severe overcrowding, unsanitary conditions, insufficient services, and maltreatment of the detainees, who frequently experience violence. Detention centres are often described as institutions for the short-term detention of unauthorized immigrants, refugees, people awaiting trials or sentences and are managed by a private security company contracted by the local government and by European institutions (e.g., EASO, Europol, Frontex).

On the contrary, refugee camps are temporary facilities, directed by international and domestic non-governmental agencies with humanitarian aims, built to provide immediate protection and assistance to people who have been forced to flee their homes due to war, persecution or violence. While camps are not established to provide permanent solutions, their purpose is to offer a safe haven for refugees and meet their most basic needs (such as food, water, shelter, medical treatment and other basic services) during emergencies (Hermans, Kooistra & Cannegieter, 2017).

Even though, in theory, detention centres are not the same as refugee camps, given the data collected and the scientific literature on this matter (Ilcan, 2021; Horn et al., 2021; Isakjee et al., 2020; Kavalidou, 2020; Carlier et al., 2020; Spathopoulou et al., 2020; Hermans & Cannegieter, 2017), it is argued that, currently, there is an overlapping of the two. According to the findings of this study, both encompass identical problems: severe structural conditions; violations of human rights by degrading and violent treatment; indiscriminate use of disproportionate security measures; and people's lives are placed "on hold" indeterminately. The women who had lived in Greece described the refugee camps as dangerous settings. In Jassim (Syria) own words: *"We stayed there for four months. It was really difficult, because we stayed in the refugee camp on the border, and when it rained, or when it was windy, or cold, it was very difficult. We were always getting sick and dirty. And I felt sad all the time. Really, I never reached such a lower point in my life, mentally speaking."*

Mental instability, anxiety, and stress were commonly reported by participants that had lived in refugee camps. With the exception of one woman that did volunteer work, the other two had no activities. The well-being of their children were also a crucial concern. Amélia (Angola), for example, explained that her children felt miserable during the period that they stayed at the refugee camp. In her words one can find the depressive state of these children (sleeping, crying), as well as a hint on the precariousness of social bonds: *"I think they were the saddest children in the camp [referring to her children]. All*

day they complained about something, they just slept, they cried. But little by little they got used to it, they met other boys, they made friends, but also friends arrive there one day, they leave the next. And then the sadness returned.” (Amélia, Angola)

Physical exclusion and symbolic segregation seem to be the norm in refugee camps. Furthermore, the state of transition or “*provisional suspension*” in which the lives of these women were placed during their stay in refugee camps can be described as “*precarity of place*” or “*(...) forms of vulnerability and impediments to security and stability that stem from both formal (legal, political) and informal (social, cultural) processes.*” (Banki, 2013, pp. 453).

However, not all experiences in refugee camps were the same. Refugee camps in Germany, where described by Amélia (Angola) and Alice (Angola) as great and sophisticated, with sanitary conditions, proper size of the commodities, gender separation by floors, and good food. As Alice (Angola) description demonstrates: “*The Center was very organized. Everything very clean. It was like that: the families had a building just for them. The men also had another building. And women also had another building. First, I stayed in a room where there were two bunk beds. Yes, in those two bunks there were four people. The room was big. Such a large suite.*”

Nevertheless, like the other women that first stayed at refugee camps and were later on moved into a hotel or a private house, Amélia (Angola) and Alice (Angola) also criticized the accommodations of those places. In fact, the more severe recounts of discomfort and dissatisfaction regarding housing were made by these two women. The next excerpt seems to indicate a preconceived idea in relation to the quality of life in Europe that would translate into the quality of its housing. Amélia (Angola) was quite surprised to find a poor house without mosaics (decorative elements): “*My children complained about the lack of comfort in the house. My son said: "I don't believe that we are in Europe in a house that doesn't even have a mosaic." It was a very modest house, really poor. I never imagined that I would have a house in Europe like that.*”.

Alice (Angola) complained about not only the conditions of the commodities but also about having to share the apartment with strangers from another nationality with different habits: “*I went to live in a disgusting house with four other Nigerian people. Nigerians have such a very aggressive personality. So, if they put you in a house with Nigerians, you're going to have problems. Yes, because I don't drink, I don't smoke and they stayed up late, drinking, smoking. So, that was the environment I was living in. I stayed more in my room, and I would go to the kitchen, to cook something.*”

1.2. Daily living setting

As Canning (2017) stressed, the daily impacts of policy and practice at ‘transit’ or asylum countries often results in the infliction of further gendered harms on survivors of violence and persecution. The same was uncovered by the findings of study 1: all of the eighteen women that had lived in ‘transit’ countries experienced dramatic, discriminatory, and traumatic stressors, exacerbated by factors of gender, poverty, lack of education, illiteracy, and exclusion. The stressors encountered by our sample are organized into three groups: Governmental support; children’s well-being and social exclusion.

1.2.1. Governmental support

The women who had lived in Turkey and in Egypt reported not receiving any form of support from the Government, which made their lives invisible: *"We had no support from the state in Turkey. It was as if we didn't exist for the government."* (Mariam, Syria).

Since many of the women interviewed are Syrians who has lived in Turkey, it is pertinent to take a closer look into that country’s migration policies. The EU-Turkey Statement, targeting displaced people from Syria, signed on March 18th of 2016, had the objective of reducing irregular and unsafe sea trips in the Aegean Sea in two ways: first, by increasing the efficiency of deportation from Greece to Turkey; and second, by relocating documented refugees from Turkey to European countries (Tantardini & Tolay, 2019). Undocumented and unauthorized asylum seekers that went from Turkey to Greece could be returned back to Turkey due to their irregular entrance in Greece (Cosello & Mann 2020). There was also another interesting aspect to this Statement: for each person returning to Turkey, another person would be sent from Turkey to a European country, a “one-for-one” resettlement process.

Such Statement violates the 1951 Convention, respectfully its article 3, because it breaches the right of non-refoulement (Carrera & Cortinovia, 2020; Üstübcici & İçduygu, 2019; Rygiel et al., 2016). Even though Turkey does not provide legal refugee status to non-European asylum seekers, it has been portrayed as a *“safe third country”* (Carrera & Cortinovia, 2020, pp. 109). The same state frequently offers residence permits for short periods to so-called non-European refugees and only a few are eligible to receive temporary protection status (Rygiel, Baban & Ilcan, 2016). These seems to justify the lack of governmental support provided to the women from the sample.

The majority of women encountered many financial difficulties, with exception of Maara, (Syria): *“We used our savings to rent a house, to pay for my son's school, and for other basic expenses.”*, Hanan (Syria): *“When I was living in Egypt, I had a good life, I did not experience any economic difficulties. I was working, I had the support of my family too”*; and Madalena (Angola): *“My boyfriend paid for my expenses.”*

For the remaining women it was hard to pay for ordinary expenses such as *“rent, the children's school, food”* (Fatima, Iraq). Consequently, the financial support of their families who stayed in the countries of origin was essential for them: *“But my mother sent me money so I could survive there.”* (Fatima, Iraq) or *“When we went to Turkey we were surviving with monetary help from our family.”* (Shaimaa, Iraq). Other women had access to financial support from UNHCR, including Shamshi (Somalia) who, in addition to precarious jobs, *“registered with the United Nations, so they helped me economically”*, as well as in the case of the five women who lived in transit in Greece and Germany, where they also registered at the UN.

They also complained about the amount of money provided to them. Women in Germany were supposed to return the money to the German state, once they found a job: *“The money they gave me per month wasn't much, it was enough for basics, but I couldn't save up. And one day they told me that when I got a job, I had to give them back the money they had invested in me. Looks like I was an investment [laughs]. But I don't remember anyone asking me if I agreed with that.”* Alice (Angola)

The majority of the women did not work in the 'transit' countries. For those who were married, their husbands continued to be the main providers to their families, as emphasized by Rana (Syria): *“As I went to Turkey with my parents and siblings, they were the ones who supported me financially. But even after I got married and started working, I continued to need my parents' financial help”*. While the husbands were able to get a job, job conditions offered were considered awful compared to the ones enjoyed by nationals.

Participants explained that difference based on their foreign status. Eisaa (Syria), for instance, refers that her *“husband had to work a lot of hours a week, and he was not entitled to any free day. The law on wage budgets is different for nationals, that is, for Turks, and for foreigners. Foreigners are paid much less”*; and Mariam (Syria) also confirmed this reality: *“My husband was working seven days a week, and he could not miss a single day, except for medical emergency reasons. And they pay less to foreigners than to the Turks. It is very unfair.* Shaimaa's (Iraq) husband was even fired from his

work due to religious prejudice: *“they always hired him, but the problem is that when they found out he was a Christian, they always fired him. They did not want to have a Christian to work with them.”*

The few participants who worked stated that they had to do it to *“pay for housing and food. To support my children, since their father was not around to help in anyway.”* (Amal, Iraq). Or when the husband’s salary *“was not enough for the expenses that our family had.”* (Rana, Syria). The participants mentioned working as dishwashers in restaurants (Amal, Iraq), seamstresses (Rana, Syria), housemaids (Hanan, Syria) or cooks: *“I decided to start making homemade Syrian food. And people loved it, and especially the Egyptians, they encouraged me a lot to do it, and they helped me a lot to spread my business on social networks.”*. As disclosed before, Jassim (Syria), in Greece, declared doing volunteer work at the refugee camp she was staying at. Although unpaid, it helped *“to keep me busy during the day.”*

Regarding health support, most women stressed that it was very hard to obtain therapeutic help for operations or treatments: *“My parents are both very sick, my father has a heart problem and needs an operation. And in Turkey they were always postponing the operation, they do not provide us with any medical support. If there is a medical emergency, they won't help us, so we have to look for a private practice or something and pay for ourselves. And my mother was diagnosed with cancer and needed a lot of medical appointments, medical follow-up, and treatments, but they did not accept her registration at public hospitals.”* (Ammar, Syria).

The lack of access to public health services meant, for these women, an extra expense in their lives, where financial comfort was not the norm: *“When we were in Turkey, if we needed medical care, we had to pay everything for ourselves, there was no public institution or organization that could help us.”* (Eisaa, Syria). The fact of being a foreigner with no savings or jobs seems to hinder even more the access to governmental support in many countries: *“if a person doesn't have support or money, it's impossible to live in Africa, because the government doesn't help you at all. If you don't have money, if you don't have a job, it's impossible, you can't do it.”* Maara (Syria).

Indeed, as the same women also mentioned, even in extreme cases of victimization, operations and health care were still not immediately available, unless people had savings of their own to pay for treatment: *“My husband had been tortured in those days when he was detained by the regime, and when we arrived in Ghana, he had an operation and had to take a few fingers out of his hands. Thank goodness we had some money to pay for my*

husband's treatment. If not, I don't know what it would have been like. Because the hospital was not going to treat my husband for free, because we were foreigners."

The five women who lived in refugee camps had only contact with workers from the UNHCR who provided them with medical assistance. Medical aid was offered as regular check-ups looking for contagious diseases, such as tuberculosis: *"But before taking us to the hotel, they did several medical tests to see if everything was fine with us, if we had any contagious disease or something."* (Hilal, Syria). Alice (Angola) referred the same and even to pointed how, passing as medical examination (or so she thinks), her biometrics measures (e.g., fingerprints) were registered: *"They made me some tests and medical exams. Yes, they took my data, they measured my height, how much weight I have, things like that. They took fingerprints, these things."*

The findings are consistent with other studies (e.g., Akar, & Erdoğan, 2019; Taşar, 2018; Simsek, & Akcapar, 2018; Sari, Koçak & Çalışkan, 2017; Sapmaz et al., 2017; Baban, Ilcan, & Rygiel, 2016; Yildiz, 2015) that demonstrated that the temporary legal status of the non-European foreigners in 'transit' countries results in limitations on their lives. Carrera and Cortinovis (2020, pp. 109) declared that there is a *"(...) wealth of evidence about the human rights violations and rule of law challenges"* in transit countries. The lack of support from the government that translates into difficulties accessing basic services, such as housing, health care, employment, and financial support, such as reported by our sample.

1.2.2. Children's well-being

As already explored in chapter 8, children's well-being plays a major role in the refugee women's own well-being. For that reason, they had a decisive role in the sample of refugee women's prospects of inclusion in 'transit' countries, which *"illuminates the shifting nature of relational spaces, and of how they are fluid and multiple in nature"* (Wright, 2014, pp. 738). This is because many migration decisions are taken in the context of considering their impact not only on refugee women themselves, but also on other family members, such as children, who might be affected.

Regarding children's experiences in 'transit' countries, the refugee women interviewed declared facing major difficulties with their kids' registration and attendance to schools, like Hanan (Syria): *"When it came time to go to school it was a headache to register them because I am Syrian, and my children are Syrians and Palestinians, because of their father, it was a mess with the school."* Discrimination, harassment, and

physical abuse in schools, were commonly mentioned by the participants: *“And even at school, they treat students differently, if you are a Turkish student, you are treated well, if you are from another country, you are treated badly or even ignored by teachers and other students.”* (Eisaa, Syria); or *“Our children faced immense difficulties at school because they treat foreign children differently from national children, it is not easy to integrate refugee children in school in Turkey. They are very discriminatory.”* (Khadija, Syria). Fatima (Iraq) even informed that the constant assaults against her children resulted in psychological disorders: *“My children were abused at school, they were beaten by other children, there was a lot of racism. And my children ended up developing psychological and emotional problems.”*

The main causes of segregation and discrimination against children seem to be their status as foreigners and the fact that they did not speak the national language of the ‘transit’ countries: *“And at school they don't take care of children who are not Turkish, and they separate Turkish children from Syrians into classes, because they don't understand the Turkish language. And if they end up learning for them, then they can join the Turkish children, if no, they can't.”* (Darya, Syria). Religious prejudice played a part in the discrimination practices in school: *“Later, when the children at school discovered that my children were Christians, they began to treat them badly. They suffered discrimination from students because of religion.”* (Shaimaa, Iraq). If this is so for “regular” children, then it is not a surprise that children with special needs (and their mothers) felt even more difficulties: *“One of my children has special educational needs, it is very serious, he cannot even speak. And the schools in Turkey did not accept him, they did not let me enroll him in school because he was disabled.”* (Ammar, Syria).

Motivated by their ambitions to provide better opportunities for their children and protect them from discrimination, women with a decent financial status enrolled their children in private schools because: *“If you are not a Ghanaian child, you will be discriminated against at school, for sure. And, therefore, my son was studying at Cambridge International School.”* (Maara, Syria). But even for these women, the fact that their children were not able to receive a proper education and the discrimination and violence experience at that institution had a significant bearing on their decision to apply for international protection with the UNHCR to leave ‘transit’ countries. Even so, it would be incorrect to suggest that family orientation and caring for their children’s interests would equal a low degree of agency per se. In doing so, one would be ignoring the notion of agency as a rebellion against structures and capacity for action (Mahmood, 2001).

The five women that had lived under the UNHCR protection had different experiences. For the women in Greece, their children were homeschooled. From a gender perspective, this also means that women travelling with children have to deal with the extra burden of keeping them busy and educated: *“They always stayed at home. And I taught my kids Arabic too. And I tried to keep them distracted, to play with them and things like that.”* (Hilal, Syria).

Amélia (Angola), who had lived in Germany, declared that her children were enrolled in school once they were moved from the camp into a house: *“After we left the refugee camp, when we went to a home, my children started to study, took the tests and went to school. Thank God they are very intelligent, they passed above average. The teacher only reported good things to me. Even the week we were deported I received letters of scholarships for training for them, because of the power that the teacher and the school saw in them, so they decided to invest.”*

This transcript also allows grasping the positive effects that good feedback from school about their children’s learning progress had on this women’s own well-being, and how she felt pleased about the fact that someone was investing in her kids. But, like the women that had also stayed in refugee camps, Amélia (Angola) also showed some concerns regarding the well-being of her children: *“So, in Germany, I felt really bad for my children. They felt miserable all the time. They cried all day long, they made no friends, and they were always asking me if we could go somewhere else.”*

For all the mother interviewed, their children's well-being played a significant role in their motivations and choices of leaving the ‘transit’ countries. However, it is important to clarify that, although “children’s well-being” is considered a stressor in this chapter, it is only used to show the structural obstacles faced by refugee women while living in ‘transit’ countries its harmful and negative consequences. This thesis stands by Kim’s (2014; pp. 554) argument that refugee women may also *“develop their empowered agency within the boundary of family.”*

1.2.3. Social exclusion

The social context in ‘transit’ countries was very similar for most of the women: they felt discriminated, outcasted and marginalized by the government and by national citizens. Although violence was not physically experienced, psychological and emotional abuse existed, as they reported feelings of discrimination, abandonment, exclusion, and invisibility. Due to their foreign nationality, most of the eighteen women felt

discriminated by the national citizens, regardless of being European or non-European states, as Shamsa (Syria) mentioned: *“there is more and more discrimination against foreigners and people who have fled the war, like us. They want Syrians to return to Syria.”*; and Hilal (Syria) also referred insults were common: *“The Greeks were not friendly at all, and if they saw us on the street, they would even insult us and say things like: “Go back to your shitty country!” They didn't want us there. They were very unsympathetic.”*

All of the women who had lived in refugee camps showed concerns regarding their social exclusion in ‘transit’ countries and stated that they did not believe that the asylum system was designed to fully integrate refugees, as Amélia (Angola) explained: *“For example, my children, in Germany, were at a school where in their classroom there were only refugee students. So, for me this is not social inclusion. If they are to be included in society, they should be mixed. It has a bit of everything, it is not this separation of nationals on the right, and internationals on the left. And in Germany it was like that, unfortunately.”*

Even after moving to a private house, they still did not have any contact with national citizens, and the friends that they had were also refugees or workers from the UNHCR. The few friendship relationships were with other refugees: *“During my stay in Germany, I didn't make any friends with the people there. I didn't even meet any Germans other than those working in the refugee camp. And when I went to a private house, I was even more isolated, because the few friends I had there were other refugees who were in the camp.”* (Amélia, Angola).

And for some women, like Khadija’s (Syria) statement demonstrates, the social exclusion that felt was considered more harmful than the lack of governmental support: *“The Turkish Government did not help us in any way, there was no social fund that we could ask for. But the main reason why we left Turkey was discrimination. There, people didn't accept us, they called us “refugees”, and we didn't want to be connoted as refugees, we wanted to feel integrated into society. It became an unsustainable situation.”*

For Aas (2019) the *“crimmigrant other”*³⁶ is the cultural product of the modern society composed by profound social anxieties about racialized immigrants, insecure borders, and declining controls. This controversial figure can also be considered a product of “structural” and “symbolic” violence embeamed in the moral panics triggered by

³⁶ Which is, in many ways, similar to the folks devils portrayed by Cohen (1972).

popular culture, politics, state bureaucracy, and the law about social, territorial, and moral order around criminality and illegality. In that way, displaced people become radicalized, gendered and classed, in an “us” versus “them” narrative that specifically separates the nationals from the unwanted foreigners, as it happened with the interviewees.

Only two women had a very positive social experience, feeling fully integrated and welcomed by the Egyptian people. Hanan (Syria), for example, did not feel any form of discrimination for being Syrian, as she explained: *“I loved Egypt and I think the people of Egypt were the friendliest, most generous and kindest people I have ever met. They were very welcoming and very empathetic with the situation that the Syrians were going through because of the war. We had already made many friends in Egypt.”*. In turn, Shamshi (Somalia) had mix-feelings: *“Some people are good there, some are not. Some people make you feel welcome, others do not. There is too much discrimination to be honest. They don't like outsiders. And the government of Egypt does not help with anything. The only help I had was from the United Nations.”*. The critique to the lack of governmental aid is also clear in the transcript offered.

1.3. UNHCR practices

Changes in irregular migrant stocks in a country can occur not only due to undocumented migrants entering or leaving the country (irregular migration “inflows” and “outflows”, respectively), but also due to changes in status for migrants already in the country, from undocumented to documented or vice-versa (Vespe, Natale, Pappalardo, 2017). From the eighteen women that lived in ‘transit’ countries without authorization, sixteen were able to change their status of “irregular migrants” to asylum seekers, and later, to refugees, through their registration at the UNHCR.

The findings, as it will be further demonstrated next, revealed that lack of input of the participants on the choice of their resettlement country and the lack of knowledge about that country, along with the several bureaucratic and medical procedures they were subjected to, created in them anxiety, distress, and insecurity. In this sense, it will be demonstrated that the application for international protection, a process that should be an integrative human rights’ one, can become an authoritarian, silencing, and exclusion process of its direct beneficiaries.

1.3.1. The “choice” of the asylum country

However, the resettlement process does not end with the designation of the country of asylum. There are procedures in place for that matter, and all of the eighteen women describe them in a more or less identical way:

1) Being interviewed several times before their asylum application was granted, including questions about motives for seeking asylum: *“And then I did several interviews, and my mom was with me, and she also did the interviews. They wanted to know about our lives, our past, why we left our country. I think they were fact-checking us. And we must have answered right because the UN gave us a blue card.”* (Hanan, Syria);

2) Waiting for the approval of their international protection request and receiving a temporary refugee visa while remaining (now legally) in the ‘transit’ country: *“A blue paper, a temporary refugee visa or whatever, so I can live legally in Turkey.”* (Fatima, Iraq); and

3) Being subjected to multiples medical examinations before being allowed to be resettled, including *“X-rays, urine, blood tests, vaccinations, a number of things.”* (Rana, Syria), and COVID-19 exams for those who arrived in Portugal during the pandemic: *“The day before we came to Portugal, in Turkey, we were tested for the corona and we brought the result with us”* (Mariam, Syria).

The sheer number of procedures that these women had to go through prior to their resettlement seems another consequence of the extension of border control practices to the UNHCR, justified by the EU’s efforts to ensure the security of its borders. Due to the data collected that point to the research findings just exposed, the current thesis cannot fail to wonder if the actual protection of people at risk, such as asylum seekers and refugees, which is the main concern of the UNHCR, has been replaced, in some countries, for the priority of protecting the so-called ‘Fortress Europe’ from individuals seen as a risk, like refugees are so frequently labeled.

The time between the women’s registration at the UNHCR and the moment they were informed that Portugal would be their asylum country was filled with bureaucratic steps and long waiting, from *“10 months”* (Hilal, Syria), to several years, in some cases: *“I register with the UN and after five years they informed me that I would be sent to Portugal.”* (Amal, Iraq). The time that mediated the instant they were informed about their resettlement in Portugal and the exact moment that they were sent to Portugal also varied significantly in the sample.

However, it was not a fast process: some women declared to have waited months: *“After two months of knowing that we were going to Portugal, the UN called us to take care of the last preparations for our trip and sent us here.”* (Shamsa, Syria); while other reported having to wait for a couple of years: *“They told me that I was coming to Portugal in November 2017, and I only came in November 2019. Two years waiting.”* (Shamshi, Somalia).

In sum, long periods of waiting between their application for international protection and its acceptance, and from that instant to their resettlement in Portugal were a common experience for most of the women interviewed: *“It took months before I could finally leave Egypt. In those months, it was even harder for me to live there. Each day I hoped that would be my last day in that country. I was excited to change my life, and to be welcomed in Portugal, where I hoped to no longer feel rejected or left out.”* (Shamshi, Somalia). This quote also shows that the precariousness of these women’s lives and their exposure to exclusion and discrimination were prolonged by the procedures and by the long waiting times they were subjected to before being sent to Portugal.

Some authors (e.g., McNevin & Missbach, 2018; Sanyal, 2018; Tazzioli & Garelli, 2018; Turnbull, 2016; Mountz, 2010; Hage, 2009) drawn attention to different forms in which the policy of “waiting” is implemented upon people on the move, such as the indefinite times that it takes for them to be released from the detention centres³⁷; to be provided with basic services and support; to be considered eligible for international protection; and consequently, to be resettled in an asylum country. Equally, the women from our sample went through long periods of “waiting” for their application for international protection to be accepted, for an asylum country to be pointed to them, and, finally, for their resettlement to occur. In that sense, their experiences can be understood as consequences of Ilcan’s (2020) *“borderization of waiting”*.

Such experiences also show that non-governmental support services are not enough to remove or lighten the “structural” and “slow” violence perpetrated by social structures and processes, and by states’ internal and international agreements regarding migration control. In fact, while attempting to restart their lives, these women constantly faced movements of stop and go. For every step that they took towards achieving international protection, a long period of waiting followed: waiting for their and their family’s

³⁷ Which can occur by their forced return to the country of origin or by their recognition as refugees.

application to be accepted, for discovering in which country they would be resettled, and for the resettlement itself to happen.

1.3.2. Legal proceedings

However, the resettlement process does not end with the designation of the country of asylum. There are procedures in place for that matter, and all of the eighteen women describe them in a more or less identical way:

4) Several interviews before their asylum application was granted, including questions regarding the motive for seeking asylum: *“And then I did several interviews, and my mom was with me, and she also did the interviews. They wanted to know about our lives, our past, why we left our country. I think they were fact-checking us. And we must have answered right because the UN gave us a blue card.”* (Hanan, Syria);

5) After that, the approval of their international protection request and the subsequent attribution of a temporary refugee visa while remaining (now legally) in the ‘transit’ country: *“A blue paper, a temporary refugee visa or whatever, so I can live legally in Turkey.”* (Fatima, Iraq); and

6) Multiple medical examinations before they were allowed to be resettled in the asylum country, including *“X-rays, urine, blood tests, vaccinations, a number of things.”* (Rana, Syria), and COVID-19 virus exams for those who arrived in Portugal during the pandemic: *“The day before we came to Portugal, in Turkey, we were tested for the corona and we brought the result with us”* (Mariam, Syria).

The exhausting number of procedures that these women had to go through prior to their resettlement seems another consequence of the extension of border control practices to the UNHCR, justified by the European Union’s greater efforts to ensure the security of its borders. The actual protection of people at risk, which should be the main concern of the UNHCR, seems to have been substituted by the priority of protecting the so-called ‘Fortress Europe’ from individuals seen as a risk.

The time between these women’s registration at the UNHCR until they were informed that Portugal would be their asylum country was filled with bureaucratic steps and long waiting, from *“10 months”* (Hilal, Syria), to several years, in some cases: *“I register with the UN and after five years they informed me that I would be sent to Portugal.”* (Amal, Iraq). Although the time that took from the instant they were informed about their resettlement in Portugal and the exact moment that they were sent to Portugal varied significantly for our sample, in all the cases it was possible to conclude that this

was not a fast process: some women declared to have waited for months: *“After two months of knowing that we were going to Portugal, the UN called us to take care of the last preparations for our trip and sent us here.”* (Shamsa, Syria); while other reported having to wait for a couple of years: *“They told me that I was coming to Portugal in November 2017, and I only came in November 2019. Two years waiting.”* (Shamshi, Somalia).

Long periods of waiting between their application for international protection and its acceptance, and from that instant to their resettlement in Portugal were a common experience for most of the women interviewed:

“It took months before I could finally leave Egypt. In those months, it was even harder for me to live there. Each day I hoped that would be my last day in that country. I was excited to change my life, and to be welcomed in Portugal, where I hoped to no longer feel rejected or left out.” (Shamshi, Somalia).

This quote also shows that the precariousness of these women’s lives and their exposure to exclusion and discrimination were prolonged by the procedures and long waiting times they were subjected to before being sent to Portugal.

Some authors (e.g., McNevin & Missbach, 2018; Sanyal, 2018; Turnbull, 2016; Mountz, 2013; Hage, 2009) drawn attention to different forms in which the policy of “waiting” is implemented upon people on the move, such as the indefinite times that it takes for them to be released from the detention centres³⁸; to be provided with basic services and support; to be considered eligible for international protection; and consequently, to be resettled in an asylum country. Equally, the women from our sample went through long periods of “waiting” for their application for international protection to be accepted, for an asylum country to be pointed to them, and, finally, for their resettlement to occur. In that sense, their harmful experiences regarding their registration at the UNCHR can be understood as consequences of Ilcan’s (2020) *“borderization of waiting”*. These harmful experiences also show that non-governmental support services are not enough to remove or lighten the “structural” and “slow” violence perpetrated by states, as well as their internal and international agreements regarding migration control. In fact, while attempting to restart their lives, these women constantly faced movements of stop and go. For every step that they took towards achieving international protection, a long period of waiting followed it: waiting for their application and their family’s

³⁸ Which can occur by their forced return to the country of origin or by their recognition as refugees.

application to be accepted, to discover in which country they would be resettled, and for the resettlement itself to happen.

2. Annihilation through border expansion

Ilcan's (2021, pp. 10) "*expansion of borders*" entails migration control through the mechanisms of rejection, expulsion, or incarceration at detention centres. Specifically, "*expansion of borders*" refers to the EU's extension of its borders "*by signing agreements and providing incentives to certain governments, such as those in Libya, Morocco, Tunisia, and Turkey, to regulate migration and detain or encamp displaced people heading to Europe*" (Ilcan, 2021, pp. 10). According to Bose (2020) and Stierl (2020), these agreements frequently include actors from outside of the EU (e.g., UNHCR, IOM, ICMPD, national agencies, and NGOs), and are implemented by "*informal processes, dialogues, and regional consultations*" (Karamanidou et al., 2020, pp. 13). Border regulation and migration control through rejection and expulsion, that is, "*pushbacks*" practices (Ilcan, 2021, pp. 12) encompasses the forced return of displaced people to their countries of origin or to another destination outside the EU, or to their rejection at the borders when they seek international protection (e.g., returning individuals to countries of war and pushing migrant boats back).

As said by Isakjee et al. (2020, pp. 163) people that tried going through Croatia to ask for asylum in Europe "*(...) were routinely violently 'pushed back' and illegally expelled into Bosnia and Serbia, without having their asylum claims processed.*". Mountz (2020, pp.70) described these practices as "*(...) revolving doors (that) intercepted and sent back (displaced people) repeatedly from Greece to Turkey and from the Mediterranean to detention in Libya and lost at sea.*" For Spathopoulou et al. (2020, pp.2) the division of people into two distinct groups, those eligible to apply for asylum, and those ineligible and "penalized" with deportation, is encouraged by the "*European Agenda for Migration*" that demands that the European Asylum Support Office (EASO) works "*on the ground with frontline member-states to swiftly identify, register and fingerprint incoming migrants.*" Given the above, the current EU trend towards migration is to "hold back" migratory movements of displaced people to European states, through the rejection and expulsion of these people, or by maintaining them in detention centres for indefinite periods (e.g., Ilcan, 2021; Isakjee et al., 2020; Spathopoulou et al., 2020; Carlier et al., 2020; Aas, 2019).

The findings of study 1 point to a tendency to extend the “European Agenda for migration” beyond “border zones” into the national territories of ‘transit’ countries. On those states, migration control mechanisms (such as rejection, illegalization, harm, and violence) continue to be used upon displaced people and asylum seekers. In the current research, “structural “ violence perpetuated by states (such as Turkey, Greece), was manifested by limiting the women’s social sphere, by enabling exploration and abuse in working conditions, by restricting children’s access and integration into schools, and by not providing the support that these women’s and their families were eligible for. “Symbolic” violence was practiced on these women through discrimination based on their nationality: the “us and them” dichotomy established by national citizens towards foreigners expresses itself in discourses of hate, abuse, and exclusion. For the women in the sample, two main stressors - the overlap between detention centres and refugee camps and everyday living context (governmental support; children’s well-being, and social exclusion) - perpetuated the cycle of violence in these women’s lives in the ‘transit’ countries (e.g., out of work, out of resources, victims of hate speech, rejected by the nationals).

In this sense, the current thesis offers the concept of “annihilation through borders expansion”, in reference to the perpetuation of migration control mechanisms beyond border zones that imposed severe limitations to the lives of displaced people, asylum seekers and refugees in ‘transit’ countries, with harmful consequences.

The main goal of “annihilation through borders expansion”, is the social exclusion of these people, by perpetuating the separation of “good” and “bad” foreigners, the latter being considered the “crimmigrant others” who deserve to be discriminated against, excluded, and ignore. Rather than legally reject, expel or detain the women and their relatives, states have used other mechanisms of migration control, such as denying them the protection and support they were entitled to, as human beings and as displaced people. Furthermore, by doing so, states are encouraging these people's segregation, social exclusion, and discrimination.

This form of “structural” annihilation imposed by the states (by denying them support and protection) forced these women to constantly negotiate their precarious status, living conditions, access to employment, education for their children, humanitarian assistance, and social services. Yücel used the concept of “symbolic annihilation” (2021) to inform against the absence of media coverage of news related to Syrian refugees during the COVID-19 pandemic. In the case of the women interviewed, “symbolic” annihilation

was also present in discriminatory discourses and acts of verbal violence used by the nationals of the ‘transit’ countries against them, and against other displaced people and asylum seekers, as they recalled. The argument presented in this chapter is that these women’s experiences are vivid examples of the several forms in which “structural” and “symbolic” forms of violence affect the lives of refugee women in ‘transit’ countries, and restrict them to a position of precarity, insecurity, and danger.

3. Women's application for international protection as a coping strategy

Iltan’s (2020, pp. 6) concept of “protracted waiting” recognizes and celebrates displacee people’s “agency-in-displacement”, which *“encompasses complex strategic actors who can make difficult decisions, tackle demanding situations, confront protracted uncertainty and conflict, and negotiate border controls, which in turn can modify their conditions of displacement, provoke movement, and produce transformation.”* Similarly, Brun (2015, pp.24) defines “agency-in-waiting” as the *“the capacity to act in the present based on the experience of displacement from the subject’s history and a critical reflection of the future possibilities framed as waiting and hope.”* Brun (2015) focused on the ways in which people simultaneously carry-on during displacement, feel trapped in the present, and actively relate to alternative notions of the future.

Some of the women interviewed stated that their intention was never to restart their lives in the countries of transit, such as in the cases of Hilal (Syria) and Shamsa (Syria) who escaped to Turkey *“so then we could go to Greece, and after, go to Germany.”* But for the majority of the interviewees, the decision to leave the ‘transit’ countries was related to the stressors encountered there. It is important, however, to point out two exceptions: Alice and Amélia (Angola) voluntarily and freely applied for international protection in Germany, with the UNHCR, where they intended to restart their lives: *“I wanted to restart my life in Germany. My aunt told me that the only way I could stay there was if I applied for international protection. If not, the German government would not accept that I stay there.”* (Alice, Angola).

The reasons given by the women to apply for international protection with UNHCR can be convened into five groups:

1) Limitations felt in their daily lives because of their undocumented status: *“While we lived in Turkey, we did not have any identification documents, we were neither Syrians nor Turks. Even if you live there for 20 years, you never have the right to ask for*

nationality. That imposed all kind of problems for us in terms of housing, work, access to medical care, and school for our children.” (Darya, Syria);

2) The multiple episodes of discrimination, segregation, and social exclusion encountered in ‘transit’ countries: *“The Turks do not like foreigners, especially Syrians. They have preconceived ideas about us that make them treat us badly or else pretend we don't exist. I felt very discriminated against, I didn't feel welcome there at all.”* (Jassim, Syria);

3) The protection of the wellbeing and safety of their children: *“My children were discriminated against in schools by teachers and also by other students. They were made fun of, segregated, and sometimes even physically abused. And they were not properly educated because teachers just ignore them. So, we decided to leave Turkey, mainly for our children's wellbeing.”* (Ammar, Syria); even if the participants themselves enjoyed the life they had in the countries, such as in the case of Eisaa (Syria): *“We enjoyed living in Turkey very much and we were fine, but there was one huge problem that became unbearable: the discrimination at school against our children. And, as a parent, even if you are fine, our main and first concern will always be our children. So, there was no other option but to leave.”*;

4) Their preconceived notions about potential difficulties in rebuilding their lives: *“I had the fixed idea of just using Turkey as a place of passage because I knew it would be impossible for me and my family to build a new life there, due to the lack of support from the government and the discrimination of the Turks against people like us. I wanted to go to another country where I could live peacefully with my children.”* (Fatima, Iraq); And the desire to move to a European country, where it was believed that living conditions were much better: *“My idea was never to stay in Egypt, I wanted to go to a European country, where I could build a better life, have more opportunities and so on.”* (Shamshi, Somalia); and,

5) The need to find a solution to overcome the closing of the Greek borders and the likely long waiting periods until their reopening: *“When we arrived, many displaced people were already there, waiting to go to Germany for more than 15 days. Others for more than a month. But the borders were closed, and it was not expected that they would open any time soon. So, as we got "stuck" in Greece, we had no other choice but to register with the UN office.”* (Shamsa, Syria).

Banki (2013, pp. 453) created the concept of “precarity of place” in relation to the challenges of physical residence for migrants and the tightrope-like nature of migrant life.

Within that concept, it is possible to include the worries felt by the women interviewed in ‘transit’ countries, related to their limited citizenship rights, poor living conditions, their children’s school absenteeism, and the lack of opportunities for legal employment and social inclusion. The stressors encountered by these women had an impact not only on their daily lives but also on themselves. And existing research shows that many more refugee women are forced, daily, to negotiate border practices through struggles for migrant justice in ‘transit’ countries (EU, 2021; Horn et al., 2021; Jasso, 2021; Sahraoui & Tyszler, 2021; Reilly, Sahraoui & McGarry, 2021; Tastsoglou, Petrinioti & Karagiannopoulou, 2021; Cochrane, 2018).

The findings also allow the current thesis to propose the concept of “precarity of being” that helps to explain the concerns regarding the unpredictable conditions of their future, their rights as human beings, their capability as mothers and wives, and their indeterminate state of living, generated by these stressors. In the same sense, this thesis proposes the concept of “reconfiguration of being” to highlight these women’s resilience and resistance in face of the migration control mechanisms. In fact, in response to such difficulties, the women interviewed did not embrace a passive attitude but rather continued to assert their agency by negotiating bordering practices, harsh landscapes, and ultimately by applying for international protection with the UNHCR.

The role that “uncertainty” played and the potential for agency that the women interviewed developed during the displacement journey was also analyzed by highlighting three stages of “waiting”: waiting for their application for international protection to be approved; after that, as refugees, waiting for an asylum country to be appointed; and waiting to be resettled in Portugal. According to these women’s reports, they actively and constantly negotiated border controls imposed on them, firstly by enduring in the bureaucratic procedures regarding their application for international protection; secondly, in their dialogs and decisions to exercise the rights granted to them as refugees; and finally, by actively pursuing the will to move to another country, where they intended to restart their lives.

Additionally, these women took an active role in searching for information regarding their resettlement country, about which most of them had no prior knowledge. This proves, once more, their “agency-in-waiting” (Brun, 2015, pp.24) and their capability to take matters into their own hands regarding the planning of their future, and it also confirms Collyer’s (2012, pp. 521) statement that “*migrants are constantly in*

search of information to help them understand, then get around or subvert, the methods put in place to control migration.”

Furthermore, these women were also able to move beyond “*precarity of place*” (Banki, 2013, pp. 453) and “*precarity of being*” and, through the “*reconfiguration of being*”, were able to chase noteworthy life projects. Examples include legalizing their status, raising their children, getting jobs or performing volunteer work, and making efforts, in spite of the social discrimination and exclusion they suffered, to become part of the local community or at least, to break the cloak of social invisibility placed over them. These women were able to embrace “*stillness*”, which according to Bissel and Fuller (2011) should be understood as moving beyond inactivity and emptiness, and not limited to the lens of mobility and immobility, speed and slowness, and to prove their “*agency-in-displacement*” (Ilcan, 2020, pp. 6).

As Ghorashi (2021, pp. 1) argued “*when the power of exclusion works through repetition and is manifested in the daily normalization of actions, agency needs to provide an alternative in the same fluid manner.*” In the case of the women interviewed, they negotiated relationships of invisibility and existence, raised their voices, kept an optimistic attitude, and demonstrated openness to change: “*Who am I to say no to the UN? I needed their help to start dreaming about a future again, to stop being afraid, to start over. But I was the one that ultimately decided to grab that opportunity. Even if I was not able to choose my asylum country, it was my decision to fight for my life and for the lives of my children.*” (Eisaa, Syria).

This statement is another example of how these women did not resign themselves to the role of passive victims. On the contrary, they tried to make the best of the complicated situations they faced and to be active agents in building a better future for themselves and their families. Given this, this thesis proposes that the application for international protection be considered as a coping strategy used by the interviewees to transform adverse conditions of “*waiting*” and uncertainty experienced in ‘*transit*’ countries into potentialities to create new spaces for them to reclaim visibility, rights and empowerment.

Hence, this thesis highlights women’s resistance to the stressors experienced by borders controls, the states and its citizens, and the UNHCR, to reclaim their rights and the legal protections they are entitled to, as human beings and as refugees. It also recognizes their resilience regarding the exhausting number of procedures imposed on them by the UNCR, and also in relation to the long periods of “*waiting*”: for their

application for international protection to be accepted; for an asylum country to be pointed to them; and, for their resettlement to occur.

By emphasizing refugee women's international protection request as a coping mechanism, the current thesis hopes to contribute to a shift in the current European trend that excludes refugee women directly from the discussions and policies on migration, or in more subtle ways, that portrays them, in the words of Ghorashi (2021) as incompetent and lacking emancipation (Ghorashi, 2021).

The research findings presented in chapter 10 allowed the current thesis to reach two main conclusions that will provide answers for two of the nine sub-questions that guided the data collection and analysis.

About the question – “What are the hardships encountered by refugee women in ‘transit’ countries?” – the current research concludes that the extension of migration and border control practices to the territory of ‘transit’ states, and to its citizens, was the major source of “structural” and “symbolic” forms of violence used against refugee women, and the main reason for them to apply for international protection with the UNHCR.

To the question – “What is the meaning of applying for international protection?” – this thesis argues that one must see in refugee women's application for international protection and their compliance with the UNHCR measures one of the most significant displays of their agency on the process of becoming a refugee woman.

The last chapter related to the research findings, chapter 11, will present the data analysis in relation to the lives of refugee women in the asylum country, that is, in Portugal.

Chapter 11

Study 2

The Portuguese asylum system: Reception conditions and Integration practices in place

Several authors consider that the unparalleled and continuous increase of asylum seekers and refugees entering Europe in the last decade is the core driving force behind the contemporary political and policy-making discourse at both European Union (EU) and member-states levels (Aliverti, 2020; Aas, 2019; Barker, 2018; Fassin, 2018; Garnier, 2014; Bosworth, 2011; Brady, 2008). The right to seek and enjoy asylum in other countries was first guaranteed by Article 14(1) of the UDHR and later reinforced by the ECHR and by the 1951 Convention and its 1967 Optional Protocol. These strengthen refugees' right, by guaranteeing that *“the contracting states will grant a refugee as favorable treatment as possible, and in any case, a treatment that is not unfavorable than what is granted, under the same circumstances, to foreigners in general (...)”* (the 1951 Convention, article 13). According to the 1951 Convention, if recognized as a refugee, an individual will enjoy a special legal regime, the “international refugee protection”, with significant rights and benefits, as well as support and protection procedures.

Section 1 of this chapter will undertake an analysis of the reception conditions and integration practices in place in the Portuguese asylum system, from a gender perspective. In the research design, this thesis planned to collect information on eleven key areas of intervention: airport detention centres; welcome measures; housing; health; translator; education and training; financial support; labor market integration; legal support; psychological support; and public services.

From these eleven dimensions of analyzes, through the use of the Grounded Theory, this thesis reach the conclusion that the reception conditions and integration practices in place in Portuguese asylum system should be consider, in fact, two main institutional contextual stressors for refugee women in the asylum country. Therefore, the reception conditions stressor will include eight sub-stressors: airport detention centres; welcome measures; financial support; housing conditions; health; education and training; legal support; and psychological support; and the integration practices stressor will comprise four sub-stressors: the professionals' behavior; labor market integration; discrimination in public services; and the lack of a gender-based agenda.

Even though some of the stressors encountered by the sample of refugee women can be suffered by their male counterparts as well, an argument will be presented on how some of the harmful practices experienced by the interviewees were enabled by their gender.

In the last decades, the European Parliament and its Council have been providing member-states with a number of directives that establish minimum canons for the implementation of practices in the reception and integration of refugees. In the case of Portugal, Law no. 27/2008, as amended by Law no. 26/2014, establishes the conditions and procedures for granting asylum or subsidiary protection and the statutes of asylum seekers, refugees and subsidiary protection, transposing to the internal legal order European Union community directives, as mentioned in chapter 1. For the analysis of the data collected regarding study 2, two of these directives, along with the Portuguese Law no. 27/2008, were of foremost importance: Directive 2013/33/EU, which lays down the minimum standards for the reception of asylum seekers; and Directive 2008/115/EC that establishes common EU standards on forced return and voluntary departure, as well as the Portuguese Law no. 27/2008.

In section 2, a new concept will be proposed: the one of “decentralized approach penalties”. Its usefulness lays in highlighting the inconsistent and quite often insufficient support provided by national stakeholders involved in the Portuguese asylum system to spontaneous asylum seekers and asylum seekers under the EU’s schemes, as well as the absence of a homogeneous set of practices.

Lastly, section 3 of the current chapter will analyze “life-rebuilding through adversity” as a coping strategy, to identify particular realms of agency in the refugee women’s daily lives and life goals in Portugal. As it will be demonstrated, these women are engaged in adjusting to surroundings the best as they can, by dealing with stressors and creating stratagems interrelated to them. Proving, once more, that they are neither passive victims nor helpless aid beneficiaries, but rather social actors fighting and challenging restrictions and contributing to change.

1. Institutional contextual stressors

Before analyzing the institutional contextual stressors experienced by the sample of refugee women included in study 2, it is important to provide information on their legal status upon their arrival in Portugal. From the twenty-four refugee women interviewed, sixteen of them arrived in Portugal under the EU’s schemes. That is to say that, upon

arrival, these women had already been accepted as refugees by the UNHCR and Portugal had been designated as their asylum country. The Portuguese asylum system was, therefore, in charge of their reception and integration for 18 months, or for 24 months, in the case of the women under the tutelage of PAR. The remaining eight women were spontaneous asylum seekers: six entered the country illegally and two were considered legal. All of them were initially supported by CPR after filed an asylum request with the SEF.

The interviewees that had already received ARP were subsequently placed under the tutelage of the ISS. It should be noted that Alice (Angola) and Amélia (Angola) first arrived in Portugal and immediately left for Germany; later, they were forced to return to Portugal due to the EU Dublin Regulation (2003, also known as Dublin III), which is an EU law setting out which country is responsible for looking at asylum applications which usually is usually the country where the asylum seeker first arrives in the EU. For this reason, in this research, they were also considered spontaneous asylum seekers.

The following sections focus on the two main institutional contextual stressors obtained from the findings of study 2.

1.1. Reception conditions

As previously mentioned, from the sample of twenty-four refugee women interviewed for study 2, sixteen of them arrived in Portugal under the EU's schemes and eight were spontaneous asylum seekers who applied for international protection at the Portuguese border zones (e.g., airport, detention centres; SEF facilities). These two different entry channels created dissimilar conditions and uneven support in the various areas of integration encompassed by the Portuguese asylum system, between these two groups of women, as the next two sub-stressors will showcase.

1.1.1. Detention centres

As previously mentioned, from the sample of twenty-four refugee women interviewed for study 2, sixteen of them arrived in Portugal under the EU's schemes and eight were spontaneous asylum seekers who applied for international protection at the Portuguese border zones (e.g., airport, detention centres; SEF facilities). These two different entry channels created dissimilar conditions and uneven support in the various areas of integration encompassed by the Portuguese asylum system.

In several countries, people that arrive illegally to a country are frequently arrested in detention centres inside of airports (Ilcan, 2021; 2018; Cosello & Mann, 2020; Isakjee et al., 2020; Jonsson, 2020; Briskman, 2020; de Vries & Guild, 2019; Yıldız & Sert, 2019; Schindel, 2019; Saad-Diniz, 2018; Rosenbloom, 2018; Aas & Bosworth, 2013; Bosworth, 2011; 2012; Bosworth, 2008; Bosworth & Guild, 2008; Aas, 2011; Stumpf, 2006). Similarly, as already explained, the European “hotspots” approach (supported by agencies such as EASO, Europol, and Frontex) is generally described as providing operational solutions for emergency situations, through a single place to swiftly process asylum applications, enforce return decisions and prosecute smuggling organizations (Ilcan, 2021). For Carlier et al. (2020, pp. 46) these centres often prolongate the detention of many people *“innocent of any crime, who are kept mostly idle, and whose futures are uncertain”* (Carlier et al. 2020, pp. 46). Although many of the people detained in these centers have not actually committed any crimes, their perception as “crimmigrant others” is enough for them to be “convicted” in many different countries.

Even though most of the people that enter illegally in a country are often deported, that does avoid experiences of suffering at the detention centres. These detention centres, are not only “spaces of transit” but become “spaces of containment”, where rejection, detainment, illegalization, deportation, border harm, and spatial violence are frequently used as migration control mechanisms (Ilcan, 2021; de Vries & Guild, 2019; Tazzioli, 2016). Even illegal travelers applying for asylum are commonly retained in detention centres until they receive a decision regarding their international protection application. This was the case for four women in the sample that arrived without permit and with illegal documents in Portugal: *“At the airport, two cops came to talk to me. I started to cry. Then, four more policemen came. They were talking a lot and I didn't understand any think that they were saying. I asked for asylum. They took me inside, and start to see if I brought things, but I had nothing. One policeman took the documents that I had with me. Then I was placed in a room, that only a few days later I realized it was a detention room. I stayed there for 60 days. Nobody explained anything to me during that time. I didn't know what was going on.”* (Promesse, Congo).

Like Promesse, the other women that were detained at the Portuguese airports also felt frightened and confused because no one spoke to them in a language they could understand. Some women tried to speak in French and in English with the police officers, who refused to address them in another language than Portuguese, as Maara (Syria) disclosed: *“We stayed in an empty room, at the airport, for thirteen hours. They didn't*

provide us with a translator and the only sentence they said in English was “You did something very wrong and now you are going to pay for that!”. I asked if they spoke English, and they said no, but they knew how to say that one phrase. And then they convinced us to sign some papers, without explaining what the papers were for or without informing us about our rights.”

Maara's (Syria) statement summarized other women's experiences of how their arrests were handled by the Portuguese police: lack information about the reasons for the arrest; not having their rights read to them; and language barriers for lack of a translator or the refusal of police officers to speak to them in French or English. These discriminatory behaviors, in what Oberman (2020) considered to be a product of the regime itself, can be perceived as various forms of "structural" violence. Apparently, the Portuguese police at airports behaved towards these spontaneous asylum seekers in similar ways as it would behave towards irregular migrants suspected of crimes. Indeed, our sample reported that feeling like they were being treated like criminals at the Portuguese airport: *“I felt like I was being treated like I had committed a crime. I know they don't immediately understand who is a criminal or not, the government has to take care of the country and protect it. But they cannot put innocent people at risk, which is what they are doing by mixing families and children with criminals.”* (Ama, Togo).

Promesse (Congo) was held in a Detention Centre on suspicions of human trafficking, although she immediately asked for asylum while she was being arrested. She was pregnant and she went into labor at the airport. She was then separated from her newborn daughter for six months, as she recalled, *“I was in the Detention Centre for 2 months. During that time, they put my newborn daughter in an institution. And even when they sent me to CPR, it took about six months for the Portuguese state to grant me the custody of my daughter”*. This situation was also confirmed by Susana (professional): *“One of the refugee women under our care was arrested at the airport. Because she had the baby there, at that time, and SEF suspected it could be child trafficking. Nothing has been proved. But the baby was taken from her for six months.”*

Authors have been voicing about the juxtaposition between migrants and criminals: *“Immigrants are no longer people in need of protection or a potential source of labor; they have been turned into rule-breakers and criminal offenders, or what can be termed ‘crimmigrant others’. Their presence is associated with illegality and crime.”* (Aas, 2019, pp.3) The discriminatory and violent forms in which ‘crimmigrant others’ are being handled by the police in different countries was also felt by the interviewees. Indeed, there

seems to be a lack of clear division between the classes of non-deviant and deviant, and within the latter, of the different categories of deviants. Probably so because “moral panics” (Cohen, 1972) was due to the idea that most of asylum claims are unfounded, dishonest, or bogus, made by economic migrants as a means of improving their standard of living, rather than by genuine refugees (Cooper et al., 2017; Souter, 2011). This assumption seems to feed the unclear division classes of non-deviant and deviant, as mentioned by Cohen (1985), and has led border representatives to be persuaded to direct the inconsistencies of care and control in encounters with the suffering of irregular migrants (Aas, 2019).

Refugees are frequently placed in detention centres, where although albeit in modern and professional contexts with different categorizations, conditions are often severe, and violations of their rights are frequently perpetuated by extreme experiences of degrading and humiliating treatment, as well as disproportionate security measures (Pichou, 2016; Bosworth & Turnbull, 2014; Bosworth, & Kellezi, 2011). The deficiency of physical and mental health care, the lack of privacy, as well as the unsafe and unsanitary conditions within detention centres are commonly mentioned by several studies (Sapia, 2017; Burnside, 2016; Freedman, 2016a; Triggs, 2015; Lorek et al., 2009; Robertson et al., 2006). The findings of study 2 showcase the same, as Gloria's (Congo) detailed description highlights:

“They took my bags and my clothes away. They gave me my stuff back only five months after I left the detention centre. The iron door on the way to the centre facilities scared me a lot. I felt I was going to a place to be killed or hurt. Inside was no better, it was a disaster: piles and piles of people, asylum seekers, and criminals sharing a very small space. I was frightened. I was not able to see the sunlight because there were only very small windows. It was very dirty. I got sick and nobody offered me medical aid.”

These so-called “residential treatment centers”, “rehabilitation residences”, “reintegration centers” or simply “hostels”, as Cohen (1979, pp. 345) pointed out, become places with their own institutional power. And, although their facilities may seem different from the facilities of prisons, their mode of operation seems very similar. In fact, “closed” functioning regimes, with security rules, restricted schedules, regulation of behaviors, and so on, turn them into “a very “open” prison” (Cohen, 1979, pp. 345). Nonetheless, according to Josefina (professional), accommodations of the Portuguese detention centres were recently improved, and the distribution of detainees changed: *“Since July 2020, the installation centres were remodeled and they now include family*

rooms, and the shared spaces were improved. I have not yet visited the new facilities, but I am sure that they are great.” What was interesting about this professional’s report was the fact she referred to the detention centres as installation centres. It is important here to emphasize the symbolic aspect of language and the use of different designations for the same physical spaces, which can lead to a softening of their real context, as the use of words such as “installation centers” may suggests. But this softening is hard to embrace if the right attention is paid to the narratives of the women who had been arrested, such as Maara (Syria) for whom the severe ways in which she was detained while pregnant at the airport had such an impact that she ended up having a miscarriage:

“I was three and a half months pregnant, and I lost my baby. I think it was because I was feeling very pressured by the rude and aggressive behavior of the police towards me and my family. The cops shout at us for several hours. I told them that I was pregnant, and they didn’t care. Suddenly, I started to feel like I was going to faint, I felt a big compression on my belly, and I lost my baby. The cops told me they were going to take me to the hospital. But when I asked if a family member could come with me, they said no. And I was scared, I did not want to go alone with those cops to the hospital. So, I told them no, and they just reply “Ok, it is your choice!”

The reported rude and aggressive behavior perpetuated by police officials was also experienced by Maara’s mother, husband and child. Nonetheless, the fact that this woman told the police that she was pregnant while continuously mistreated her, can be considered as a form of gender-based violence. Communicating information in a gender-sensitive language is an important element to ensuring gender-sensitive practices and procedures (Sapia, 2017; Freedman, 2016b). The abuse of power and harmful norms experienced by this woman not only represent a violation of her human rights, but also life-threatening to her health. Adding to that, the fact that she was not taken to the hospital because she insisted on the company of a family member, reinforces not only the presence of a moral force behind the penal power (Aas, 2019), but also denounces the discriminatory and “structural” violent behavior of police forces.

Maara (Syria) also experienced other discriminatory and violent situation related to the use of the hijab in the detention centre she was held in. According to Maara, her hijab felt from her head during the night, so, in the morning, when the cleaning lady came to the room where she was sleeping in, Maara asked *“the cleaning lady to close the door because I did not want to be seen by men without the hijab, and their room was in front of mine.”* Maara asked in English, and the cleaning lady replied to her in Portuguese, and

left the room. Maara did not understand what was happening until *“after 15 minutes a security guard came and started to shout at me. I asked him to speak English, and he continued to shout in Portuguese. The only thing I understood him saying was “Muslim” and “problem.”* Maara described the security guard behavior as *“aggressive and violent”*, and she did not understand why the detention centres staff was having that *“negative and abuse reaction to a simple request.”*

It was not possible to determine, from Maara’s narrative, what the cleaning lady and the security guard were thinking or why they behaved in that way. But the director of that detention centre asked Maara *“two hours later to go into her office. She scream at me in English: “This is my centre; I don’t accept disrespectful behavior towards my workers!”*. And according to Maara, the director proceeded to tell her that she *“had no right to ask the cleaning lady to close the door because of my hijab since I was not in my country.”* The director behavior and speech can be understood as a form of “structural” and “symbolic” violence. “Structural” violence builds and maintains inequalities within and between different social groups, especially in ethnic-cultural groups, and in so-called minority groups, where asylum seekers are usually included (Farmer, 2005). As Maara declared *“I was so afraid. I did not comprehend why the director was speaking to me like that, she was so disrespectful, she made all kind of treats to me, that I could be send back to my country if I didn’t behave, or as she told me “if I couldn’t control myself!””*.

This woman's feelings of vulnerability under the control of the police enforcement enabled suffering and failed to lessen preventable harms. The power imbalance was further reinforced by the director’s behavior (“structural” violence) and speech (“symbolic” violence”), since Maara was told to *“behave accordingly to your situation as a detainee. You are not in a position to make any requests, neither to the staff, nor to me. This is my centre, not your country!”* The director used hierarchy, that is, the fact of being the person with the highest status, to undermine, intimidate, and marginalize this woman (Bimbi, 2014). The director’s speech also seems to be embodied in some sort of prejudice regarding Maara’s home country and her culture because such a small request (to close a door) for a harmful reason (the use of hijab) generated a disproportionated, disrespectful, and violent reaction, which inflicted psychological suffering and harm on this woman: *“I asked her repletely what I did wrong. She just told me to shut up and to behave accordingly to the law. I cried an entire ocean in front of her and she didn’t even blink. Then she told me to go back to my room.”*

Furthermore, as Maara also recalled, *“a few hours later, the director called me back to explain to me the rules of the Detention Centre, which, as I understood, was to respect the staff and to behave in and for me not to behave like a Muslim, because I was now in Portugal.”* And after been asked to leave the directors’ office, she was called in, a third time: *“after ten minutes, she called me again. She was very angry at me, and she just repeated the same things again. When I left her office, I felt very unsafe and scared.”*

The use of labels functions as projective strategies that detach acts and people from meaningful contexts and that enable their stigmatization and victimization (Walby, 2009). The fact that the director told Maara to behave as a Portuguese and not as a Muslim, seemed to have some sort of a prejudiced overlapping of “Muslims” as “misbehaving”, “aggressive”, and “dangerous”. This prejudice led to a demonstration of power and force by the director to display “who can get away with what against whom”. Cohen (1985) argued that the ability for the system to hide its actions is facilitated by the clear blurring of boundaries between deviant and non-deviant. And for the director of the detention centre Maara’s behavior seemed to fit perfectly in the “deviant” category.

Secondly, an argument can be made that the reported experience also falls within the definition of gender-based violence. There are also several reports of refugee men suffering harmful and dangerous experiences at detention centres. But with less access to resources and avenues of social support than refugee men, refugee women face more danger of becoming victims, and of being controlled over, devalued and dehumanized (Cochrane, 2018; Sapia, 2017; Baczynska & Ledwith, 2016; Freedman, 2016a; 2015; UNHCR, 2015; UN Women, 2012; UNGA, 2012). According to the CEDAW is considered gender-based violence *“(…) any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life”*. In fact, in the words of the convention itself, gender-based violence is *“(…) violence that is directed against a woman because she is a woman or that affects women disproportionately”*. Problems related with the use of the hijab would never be presented to men, since men do not use the hijab.

In sum, the women that were detained suffered from psychological terror, denial of medical treatment, unsanitary and unsafe conditions, temporary separation of newborns, and miscarriage, forms of violence similar to the ones reported by other studies in other countries (Pichou, 2016; Bosworth & Turnbull, 2014; Bosworth, & Kellezi, 2011). These forms of violence are clear examples of harmful structural practices that enhance the

effect of previous trauma by creating a risk of ongoing posttraumatic stress disorder and other psychiatric symptoms (Cochrane, 2018; Sapia, 2017; Baczynska & Ledwith; 2016; Freedman, 2020; 2016b). Community institutions, such as detention centres, serve to detain offenders, and as prevention mechanisms, where procedures such as diagnosis and screening of individuals considered prone to crime are common.

This dangerously obscures the barrier between delinquent and non- delinquent. The “new” mode of the systems operation allows for individuals labeled deviant or antisocial to be prosecuted by the system in different ways. In this sense, community institutions do not replace the prison, rather add to it (“*network thinning*”) and new deviants are now picked up by its enlarged net (“*mesh enlargement*”) (Cohen, 1979, pp.351), such as it was the case for these women. Additionally, the experiences described showcase Canning’s (2017, pp. 27) “*intersectional continuums of violence*” suffered by refugee women, who are in a particular place of vulnerability “(*...*) *across spectrums of social actors, including government forces, militia, smugglers, traffickers, allies, friends, and partners and husbands.*” (Wood, 2006 cit in. Canning, 2017, pp. 28).

Apart from traveling undocumented, the women detained at Portuguese airports presented no other evidence of having committed crimes. In this sense, this thesis concludes that the unfair or prejudicial treatment that these women were subject to in such circumstances was based on “moral panics” or prejudices concerning their membership of a socially salient group, that is, non-European illegal travelers from dangerous and underdeveloped countries, which enables their labeling as “folk devils” (Cohen, 1972). In fact, Aas (2019, pp.19) declared that penal power used against “crimmigrant others” is a moral force, rather than an instrumental one, “(*...*) *the social production of the crimmigrant other serves to turn issues of global privilege into issues of morality and the maintenance of the moral order*”.

The harmful and severe ways in which these women were treated upon their arrival in Portugal by the police forces evidence not only “structural” and “symbolic” forms of violence but also “intersectional discrimination” (Scheima & Baurea, 2019), and gender-based violence. “Structural” violence may arise as a consequence of the structures and hierarchies within spaces such as detention centres, of the lack of training of the staff working in such places, and of the decreased standard of care for the detainees (Canning, 2017). “Symbolic” violence can be perceived in harmful acts that result from unequal gender discourses, beliefs and dialogues, that reaffirm the inferiority and subjection of women to men. “Intersectional discrimination” takes place when an individual or a group

of individuals are discriminated against based on grounds that are intertwined in such a way that they produce a unique and new type of discrimination (Scheima & Bauera, 2019). And gender-based violence is any form of violence that affects women because there are females (CEDAW, 1979).

“Structural” and “symbolic” forms of violence created and perpetuated by the Portuguese state itself, allow, consequently, the occurrence of intersectional discrimination, based on the moral force of judgments about “good” and “bad” migrants, the latter considered “outsiders” (Becker, 1963), and also gender-based violence by subjugating and exposing women to physical, psychological, and emotional damage. In relation to the findings regarding all of these multiple, interacting, and context-dependent forms of violence experienced by the women interviewed, this thesis proposes the new concept of “intersectional discrimination at borders”. This concept stands for the subjugation, oppression, and suffering encountered by refugee women and perpetuated by arbitrary, violent, and disproportionate states’ practices of migration and border control, such as detention.

Recently, European states have responded to the rising numbers of asylum-seekers and irregular migrants by imposing tighter border controls, in which detention plays a key role (Ilcan, 2021; 2018; Cosello & Mann, 2020; Isakjee et al., 2020; Jonsson, 2020; Briskman, 2020; de Vries & Guild, 2019; Yıldız & Sert, 2019; Schindel, 2019; Saad-Diniz, 2018; Rosenbloom, 2018). “Intersectional discrimination at borders” brings awareness to the variety of discriminatory and violent practices experienced by spontaneous asylum seekers upon their detainment or during their imprisonment at detention centres. These practices are based on “moral panics” or prejudices regarding race, gender, and social class that separate the “desired” and the “unwanted”, and that transforms the latter in “folk devils” (Cohen, 1972) or in the “crimmigrant others” (Aas, 2019). This concept also highlights the necessity to take account of the differences between them and other irregular migrants, to be effective in protecting rights, rules, and procedures regarding spontaneous asylum seekers.

1.1.2. Welcome measures

The sixteen women opting for Portugal under the EU’s schemes arrived at the country on a pre-established date. They were all welcomed at the Portuguese airport by professionals from different institutions involved in the Portuguese asylum system and, during the flight, all had been accompanied by professionals from the International

Organization for Migration (IOM). Upon their arrival, they were immediately placed under the tutelage of a host institution that had been previously designated to them, as Shamsa (Syria) declared: *“We flight to Portugal with other refugees like us, around 90 people, and some members of the IOM. There was some staff from SEF and from ACM waiting to welcome us at the airport. They took us to a room, and they introduce us to the professionals from the host institution. Then we left the airport with those professionals.”*

The reports of all sixteen refugee women were very similar to the ones provided by the twenty-eight professionals interviewed for study 2, like Matilde, who explained that *“in terms of reception, refugees are always welcomed by the SEF. They are always accompanied by Portuguese members of the IOM, and usually, the ACM is also at the airport waiting for them. Some members of the host institution are also present since they are the ones that will take care of them from that moment on.”*

In the case of the eight women considered spontaneous asylum seekers, half of them arrived in Portugal without authorization and with illegal documentation. Their first institutional contact was with the border police, and, for the women considered irregular migrants, they experienced substandard reception conditions, which exposed them to protection risks, including violence, such as Promesse (Congo) who was detained *“at the airport because I was traveling with illegal documents. They put me in a room. I arrived at 6 o'clock or something. There were other guys there too, in that room, at the airport. At 2:30 pm, they took us to the detention centre inside of the airport, and they locked us there. I stayed there for sixty days.”*³⁹ These women, as already demonstrated in chapter 11, also reported that the police refused to talk with them in a language that they could understand or to provide them with a translator. On the contrary, in the case of the sixteen women who arrived in Portugal under the EU's schemes, a translator was always available at the airport: *“A very nice lady was there to mediate our conversation with the people who received us. She was also from Syria, so she spoke Arabic.”* (Hanan, Syria).

The other women were sent by the border police to SEF, and later, to the CPR's reception center. Nonetheless, their first contact with the police enforcement was also troublesome, as in the case of Alice (Angola), who was forced to return to Portugal under the Dublin regulation: *“At the airport, I didn't understand anything. The cops just said: “If you have a family here, go to them.” And I replied that I didn't know anyone in*

³⁹ The harmful ways in which these women were treated at the detention centres were already explored in section 1.1.1.

Portugal. And they said: "Oh, you're going to SEF then." They gave me the SEF address and told me to go there, but they didn't help me to get there."

Eventually, all eight women were placed under the tutelage of CPR. Furthermore, they were accommodated in different facilities (e.g., detention centre; reception centers; temporary reception center (CAT); hostels) before receiving the temporary residence permit (ARP) that allowed them to be sent to other institutions or to private housing. Being relocated often has a negative impact on the international protection applicants' future integration because each relocation requires them to repeat administrative tasks, to get used to the new environment, and restart establishing relationships (Bose, 2020; Bekyol & Bendel, 2016; Sansonetti, 2016; UNHCR, 2013), as it was the case for the women interviewed for study 2: *"When I finally managed to leave the reception center and rent a room in Lisbon, I was informed by the CPR that I was going to be taken in by another institution, in the north. And I had to start the whole integration process again. The work, the house, the friends I had already made in Lisbon, all of that was "erased". It was very painful."* (Ama, Togo).

Unlike the women under the EU' schemes, the eight women who were considered spontaneous asylum seekers had to wait for quite some time until the ARP was attributed to them, and only after that were they able to start to benefit from the reception conditions in place in Portugal. This waiting period delayed their full access to rights and aids, which had a negative impact on their integration process, as mentioned by Gloria (Congo): *"While I was waiting to find out if I would be able to stay in Portugal, I was not allowed to find work, to look for a house, to organize my life. It was like my life was suspended during these months of waiting."* According to several studies (Brell, Dustmann & Preston, 2020; Akar & Erdoğan, 2019; Korteweg, 2017; Dahinden, 2016; Konle-Seidl & Bolits, 2016; Bevelander, & Pendakur, 2014) the longer an asylum seeker fails to have full access to rights and benefits, the harder it is to catch up with the integration process once a status is granted.

From the findings, it becomes clear that, in Portugal, there are different options in the welcoming of asylum seekers and refugees according to their legal status upon arrival, which can be seen as discriminatory practices. Law no. 27/2008, as amended by Law no. 26/2014, establishes in its article 2 (ae) that an applicant for international protection is an alien or a stateless person who has submitted an application for international protection that has not yet been the subject of a final decision, which is the case for both the spontaneous asylum seekers and the asylum seekers under the EU's schemes. Law no.

27/2008 also defines in its article 1(d) as “reception conditions”, *“the set of measures adopted in favor of applicants for international protection in accordance with this law”*. Furthermore, it also guarantees in its article 1(e) in relation to “material reception conditions” that these comprise *“accommodation, food, clothing and transport costs, provided in kind or in the form of allowances or vouchers or allowances for daily expenses.”* In this way, it is possible to conclude that because spontaneous asylum seekers and asylum seekers under the EU’s schemes, who prior to the acceptance of their international protection request are both considered “applicants”, are benefiting from different reception conditions, the Portuguese state is failing to comply with its own law, and also with the Reception Conditions Directive (2013).

1.1.3. Financial support

Depending on the channel of entry in Portugal, as spontaneous asylum seekers or under the EU’s schemes, and at different stages of the integration process, the applicants will benefit from different financial and in-kind support. In the case of the EU’s schemes, the financial support is provided by the European Commission through the “Asylum, Migration, and Integration Fund” (AMIF). The AMIF is allocated to each country by three channels: National programmes; Lump sums, and Union Actions. In Portugal, as Josefina confirmed, the money used to be received by *“the SEF, but currently is the ACM that makes these protocols with the European Commission.”* The money is then distributed to the national host institutions, and, as the same professional explained *“part of the money is for the asylum seeker and the other part is for the host institution”*.

The Resolution of the Council of Ministers of Portugal, No. 103/2020, established that financial support must be ensured *“to host entities through unitary payments or in other foreseen forms, in the reception and integration of applicants and beneficiaries of international protection resettled, relocated, taken back or readmitted, through transfer to the ACM, in accordance with the law and under the terms to be defined by protocol, of the beneficiary of European Union support.”*. However, some of the professionals interviewed, like António, reported delays in the transference of the money to the host institutions, which *“subsequently creates difficulties for Portugal to enforce its commitments within the scope of the established protocols”*; and from host institutions to other institutions involved in the integration process and consequently *“other institutions that only provide additional support to the integration process of these people become, therefore, the ones responsible to ensure the monthly payment that these people*

are entitled to” (Carolina). Such delays, as reported, have an impact on the integration process itself, because the institution responsible for the accommodation of the asylum seekers is left with scarce resources that limit their action.

The professionals also questioned the amount of money being provided to host institutions and to the asylum seekers themselves, especially in the case of the asylum seekers under the EU’ schemes, like Irene for whom it makes no sense that first the SEF, now the ACM *“keep most of the money that is provided by the European Commission. So, when we hear them complain that there is a lot of asylum applications, it is also a lot of money that it is getting in their pockets.”*. The CPR provides financial support to spontaneous asylum seekers while they are waiting for a decision regarding their international protection request: 150 € for the household head, 107.5€ per additional adult, 75€ per child. Once spontaneous asylum seekers receive “the ARP, they start to be financially supported by the Institute of Social Security (ISS).” (Joana), and after that, when they are granted refugee or subsidiary protection status, they become entitled to the same benefits as nationals, which are provided by the ISS. According to the findings of study 2, before 2020, the monthly allowance provided by the ISS was 120€ per person, and after *“it took a huge cut. Now it is sixty-two euros a month per person.”* (Manuela). For asylum seekers under the EU’s schemes, the transition to receive the same benefits as nationals, occurs at the end of the 18–24-month integration programmes, and not when they receive refugee or subsidiary protection status.

All of the refugee women interviewed criticized the monthly allowance provided to them and declared that it was not enough to cover all of their expenses, even when they were accommodated in an institutional facility. This was especially the case for refugee women with children, such as Shaimma (Iraq), who has *“four children and they need a lot of expensive things such as clothes, food, school equipment, and such.”* Some women also resorted to the financial support of other non-governmental organizations, such as ISCM, to survive: *“We started using their help for food. They gave us free meals.”* (Adilah, Morocco). This information was also mentioned by Pedro, who disclosed that *“although the law provides for access to health care, without a national health system (SNS) number, doctors are unable to prescribe medicines to asylum seekers. So ISCM provides that medicines to them.”* If an international protection application is refused, and the asylum seeker decides to appeal against that decision, ISCM also becomes in charge of providing the financial support to these people.

According to article 18(9) of the Reception Conditions Directive (2013), asylum applicants have the right to have their basic needs covered in material reception conditions. For asylum seekers, the right to social assistance benefits paid through public funds is set out in article 29 of the Qualification Directive (2011). This provision implements article 23 of the 1951 Convention. The non-compliance with these two directives, as showcased above, can be perceived as a form of “structural” violence perpetrated by the Portuguese state, since the quantity of money provided to the refugee women interviewed and their families, was not enough to guarantee their basic needs.

The refugee women also felt pressure from institutional professionals to save money, such as Mariam (Syria) who revealed that *“I was so fed up with the professionals’ speech. They were constantly telling us that we had to put money aside. But it is impossible to do so because the money they give us was not enough for us to pay the expenses we have each month, let alone to save up.”* Like Mariam (Syria), who also declared that this pressure left her feeling discomfort and anger. The professionals interviewed confirmed that it was a common practice among them: *“to encourage asylum seekers to save money, so that when the Portuguese state stops providing them with financial support, they have some working capital to support themselves, if they still do not have a stabilized life, in terms of work.”* (Graça). Nonetheless, they considered this a positive practice as it aims to teach these people to make proper use of their money and it would also prevent these people from becoming dependent on state subsidies.

According to Merton's theory of anomie (1967) the disjunction between culturally ascribed goals (i.e., economic success) and the availability of legitimate means to attain such goals (i.e., social structural limits) in turn, puts pressure on the cultural norms that decide which means should be used to achieve the culturally prescribed goal. Merton (1967) referred to this weakening of cultural norms as anomie, a concept based on Durkheim's (1897) reference to the weakening of the normative order in society, that is, on how institutionalized social norms may lose their ability to regulate individuals' behavior. Based on both Merton's (1994) and Durkheim's (1897) theories, this thesis proposes the concept of “institutionalized regulatory practices” to characterize how professionals aim to regulate the behavior of asylum seekers and refugees and to pressure them to achieve certain goals without providing legitimate means to attain such goals.

This pressure, instead of having the positive effect of self-management improvement and autonomy, added harm and psychological instability to the refugee women interviewed. For this reason, “institutionalized regulatory practices” can be

defined as a form of “structural” and “symbolic” violence, because the normative system that pressures these women to achieve certain results (save money) is the same one that limits their scope of action (by not providing an allowance suitable for covering their basic needs and for saving), as demonstrated in Alexandra’s discourse: *“I don’t say “yes” to everything they ask for. I invite these people to reflect and to become more independent. They need to understand that they cannot rely on us for every little thing that they need.”*

1.1.4. Housing

Housing aids to sustain the right to human dignity is guaranteed in article 1 of the CFR (2000). It is a central dimension of integration and a precondition for the enjoyment of other rights. Location, conditions, and size of housing, as well as frequent transfers, affect the possibilities of attending and performing well at course languages, school, accessing employment, and gaining social welfare support (Demarchi & Lenehan, 2019; Fotaki, 2019). The findings from study 2 reveal that some institutions allocated asylum seekers under the EU’s schemes in a private or shared apartment upon their arrival in Portugal. Few women reported first being accommodated in reception centers. This difference in the accommodation of asylum seekers with the same legal status results in the same cluster of people being assigned different starting points.

Within the same type of accommodation, the discrepancies reported made the integration process of these women, once more, dissimilar in terms of health, hygiene, privacy, and comfort. Indeed, and contrary to the professionals’ opinions for whom the apartments where asylum seekers are installed have the basic standards and equipment *“that people need to feel cozy and to do domestic life normally”* (Ema), some of the refugee interviewees presented severe criticisms to the accommodations provided to them, like Eisaa (Syria) for whom the apartment where she and her family were allocated was described as having *“terrible conditions.”* As consequence, *“we refused to stay there even if it was only for a night. It was not a healthy environment for the children.”* For other women the apartments were *“good, in comparison to the ones given to other refugees,”* (Rana, Syria). Fewer women felt lucky with the housing provided, like Shamsa (Syria) who was accommodated in a *“very good and very big house. It had everything, furniture, food, and all the basic things we needed. I liked it a lot.”* The women that were accommodated in shared- apartments severely criticized the facilities, the overcrowding, and the lack of privacy, like Fatima (Iraq) for whom *“the situation in the apartment is terrible: there are six families living in this small apartment. There are also two men*

living with us. And it is very difficult, because of privacy and our cultural traditions. I am very angry and desperate.”

From the information provided by the women that were first allocated at reception centers, it was possible to conclude that the conditions of those centers vary a lot: in some, *“everything was a mess! It was very dirty. People were not hygienic.”* (Shamshi, Somalia); and in others *“the conditions there were very good. The shared spaces were always clean.”* (Shaimma, Iraq). The same was not verified for the spontaneous asylum seekers: all of the women interviewed stayed at the same reception center at some point of their international protection request process. They all stressed that the environment there was very unhealthy and unsanitary, with serious problems related to the cleaning and the share-use of space: *“It was disorganized. There were many people there. The kitchen was a mess, it was completely dirty.”* (Alice, Angola); or *“we were a lot of people sleeping in the same room. There were bugs that bite us all the time. The mattresses had no bedspreads. It was necessary to put our clothes on top of the mattresses to sleep.”* (Ama, Togo). Some women were moved to hostels that were rented by the host institution as an alternative accommodation because, as explained by Margarida, *“We had an influx of people like never before, so we reached our full capacity. We had to resort to hostels to accommodate some of the applicants.”* The hostels’ conditions *“were just as terrible as at the reception center. Even worse because there was no one from the institution there to help us. I felt that I had been dumped there!”* (Glória, Congo).

Subsequently, although the spontaneous asylum seekers did not suffer from the prejudice of differential institutional treatment, they were negatively impacted by the poor, degrading, and insoluble conditions of the accommodations they were placed in. Furthermore, for all of the interviewees that had to share accommodations with other asylum seekers (e.g., in reception centers, hostels, and shared apartments), the coexistence between so many and different people generated conflicts: *“Verbal abuse and fights happened all the time. I was living among people with different traditions and ways of being. It is normal for that to happen.”* (Madalena, Angola). A problem also recognized by the professionals interviewed, such as Diana, for whom it is natural that conflicts may occur because *“these people are together all the time, so there are some cultural shocks between them.”*

These findings are aligned with other studies (Demarchi & Lenehan, 2019; Fotaki, 2019; Freedman, 2016; Ticktin, 2016; Pichou, 2016; Sanggaran et al., 2016; Triggs 2015; Bacon et al., 2013) that reported that reception conditions fail to provide quality

standards, with people experiencing overcrowding, lack of privacy, risks of sexual and gender-based violence, lack attention to vulnerabilities, poor hygiene conditions, and isolation. Under article 17 of the Reception Conditions Directive (2013), material reception conditions must provide an adequate standard of living, which guarantees applicants' subsistence and protects their physical and mental health. Considering the inconsistencies in relation to the housing provided to all of the twenty-four refugee women interviewed, as well as the poor conditions in most of the accommodations, it is possible to conclude that Portugal fails to fully comply with the mentioned article. It is the Portuguese state's obligation to guarantee that people under identical legal status are offered the same type of accommodations with the same standards. Failing to do so can be perceived as a form of "structural" violence which, as demonstrated, had a heavy and negative impact on the refugee women interviewed by generating feelings of anguish, despair, and anger.

Adding to these, some refugee women also declared a total absence of assistance from the professionals in charge of their integration process in helping them find a private house when they received their ARP, like Maara (Syria) who received help from *"nobody to find a private house. And it was a struggle because whenever we contacted landlords, they said that they did not want to rent to refugees."*; or Alia (Sudan) *"the ISS gave me two months of a very small deposit, and they told me to look for a home, but it was very difficult. Everything was very expensive, and the owners asked for lots of papers that I didn't have, IRS, permanent working contract, a guarantor, those things."* Similar to the findings of study 2, the lack of institutional support in finding a house, and the harmful consequences generated from that, such as difficulties in finding houses available and affordable, was also showcased by other studies (Merikoski, 2021; Kreichauf, 2018; Boccagni, 2017; Darling, 2016; Brun & Fábos, 2015).

When asylum seekers receive the refugee or the subsidiary protection status, they have, in most European countries, a deadline to leave the reception centers or the institutional facilities where they were accommodated (Kreichauf, 2018). This institutional support's failure left the refugee women exposed, once more, to "structural" and "symbolic" forms of violence: the difficulties to rent an apartment were due to lack of financial means and legal documentation; and prejudice of landlords regarding refugees, a common prejudice faced by many refugees (Bendixsen & Wyller, 2019; Bulley, 2017; Ataç, Rygiel & Stierl, 2016; Bolzoni, Gargiulo & Manocchi, 2015).

Some spontaneous asylum seekers declared that they did not receive proper information regarding their transference to another institution in another city, nor their opinions regarding such transference were taken into consideration. Furthermore, this internal relocation had different and significant negative impacts on these women: for Promesse (Congo), this meant being sent to a city three hours away from the one where her newborn child was living: *“first they took my baby from me, then, for no apparent reason, they send me to another city. I was not able to see my daughter for four months. That destroyed me.”*; Alice (Angola) was very upset because she *“already had a home, a job, and Portuguese friends in Lisbon. Why did they make me come to Porto? Here I don’t have friends, I live in an institution with other refugees, and I don’t have a job.”*; and Gloria (Congo) was *“initially happy because we thought that we would be moving into a private home. I didn’t know that we were going to go back to an institution. It gave me a headache. I was already living another life. I didn’t want to go back to an institution”*.

At some point, all of the refugee women that were relocated to another city had already started to lay the basic foundation for their integration in Portugal in the city where they were first living in. According to article 18(6), of the Reception Conditions Directive (2013), asylum countries must guarantee that transfers of applicants from one housing facility to another take place only when necessary. In addition to that, the governments must provide information to applicants regarding their transference and of their new address. Similar to the findings reported, studies (Merikoski, 2021; Bendixsen & Wyller, 2019; Kreichauf, 2018; Boccagni, 2017; Bulley, 2017) have shown that transfers between reception facilities have taken place frequently, on average four times, for each refugee, during their application process.

The absence of clear information regarding these women’s transference to another city and facility can be perceived as a form of “structural” and “symbolic” violence. And although these women’s tried to fight back by demonstrating their sadness and despair, no measures were taken to stop their relocation. Although these women were able to give their opinion and express themselves, this opinion and expression was not taken into account in the final decision. Thus, there appears to be an infantilization and paternalism on the part of professionals towards these people who are seen as not knowing what is best for them, or as incapable of understanding the procedures, and therefore, their opinions are not valid.

Some professionals stressed the importance both for asylum seekers under the EU's schemes and spontaneous asylum seekers to be first accommodated into a reception center upon their arrival at the asylum country, regardless of traveling alone or in the company of their families. Like João, for whom *"It is essential that the refugees stay at least two or three months in a reception center, for us to provide them with the greatest possible support"*, other professionals also stated that due to the complexity and challenge of the integration process, and for it to be as smooth and as less traumatic as possible, staying in a reception center, where the refugee has the professionals to assist and support them at all times, is essential. Indeed, although studies (Meer, Dimaio & Hill, 2021; Lacroix & Desille, 2018; Mayer, 2018; Myrberg, 2017; Hynes, 2011) have concluded that individual housing is a crucial step towards integration and self-sufficiency, this thesis argues that if the reception center's conditions have good infrastructures and well-trained staff, this can be an important and a supportive first step.

1.1.5. "Health"

Article 13 of EU's *Reception Conditions Directive (2013)*, establishes that all state-parties, *"with a view to ensuring the effective exercise of the right to social and medical assistance, must ensure that any person (...) be granted adequate assistance, and, in case of sickness, the care necessitated by his condition."* Nonetheless, from what was possible to understand from the findings of study 2, medical support provided upon the arrival in Portugal to asylum seekers under the EU's schemes varies a lot, depending on the institution responsible for their tutelage. For some of the women interviewed, medical examinations were carried out immediately. Amal (Iraq), for instance, was seen by *"a group of doctors in the reception center who examined us, and it was really good."*; for others they were seen by a physician several months after, like in Eisaa's (Syria) case: *"the first time they [referring to the professionals from the host institution] took us to the doctor, it was six months after we were here."* On the contrary, the professionals interviewed, such as Alexandra, declared that medical examinations are a priority and are always provided *"the day after the arrival [when] a team of doctors comes to check on people who are in more fragile health situations or even reinforce the vaccination if necessary"*.

In the case of spontaneous asylum seekers in the sample, no medical check-up was performed on them upon their arrival, and they waited for months to be seen by a doctor, like Alice (Angola), who *"had a back pain. But I didn't know what it was. After all, it is*

the crohn disease. The disease also got very serious because it took months for an appointment to be made for me to go see a doctor.” They also reported that they went alone to the hospital to take care of their registration, as Maara (Syria) who decided to *“take care of my hospital registration because the people from the institution were helpless on this regard.”* On the other hand, according to the professionals’ narratives, such as Sofia, one of their duties is to provide medical examinations and to register spontaneous asylum seekers at the local hospitals: *“With a request for international protection and the person has immediate access to health. Therefore, on arrival, everyone is subject to a medical evaluation. We are the ones who register these people at the health center in their area of residence.”* For most of the women under the EU’s schemes their registration at the local hospital was made by the professionals *“so that they can have a family doctor pointed to them immediately.”* (Alda), with few exceptions, such as Rana (Syria) who *“thought it was strange that we had to go to the hospital alone and take care of our registration by ourselves.”*

The refugee women that did their medical registration at the local hospitals by themselves faced many difficulties, especially due to cultural prejudices and language barriers, which can be interpreted as a form of “symbolic” violence, since, as Pedro recalled *“when refugees have to go alone to register at the hospital, or even make a regular appointment, they often report that they wait a long time to be seen and that other Portuguese patients that arrived after them were seen first. I think that is due to prejudices they have against refugees. And because they have problems communicating with each other.”* There were also some cases of women that had their request to a consultation with a doctor denied: *“all the residents here in the apartment had the flu, so we ask to be seen by a doctor and they never took us to the doctor. They only brought us medicines.”* (Fatima, Iraq); some that did not receive the proper treatment for chronic diseases: *“I have eye problems, but I was told that the institution responsible for my case did not cover the expenses for the ophthalmological consultation.”* (Ama, Togo); and others had to use their money allowance to purchase medication: *“I was sick, and I had to pay for the medication with the money I receive each month.”* (Amélia, Angola). Contrary to this allegation, the professionals stated that *“if these people need medication, it is also the institution that pays for these expenses”* (Ema, Portugal).

On the bright side, pregnant women or women that had babies in Portugal received fast, lasting and specialized health support, like Mariam (Syria) who mentioned that when she revealed to the professionals from her hosting institution that she was pregnant *“they*

took me to the doctor right away. And I've been having regular appointments since then."

But all the mentioned problems related to accessing health services were, in the professionals' opinions, due to the complex bureaucracy of the Portuguese National Health Service: *"If in theory these people are entitled to medical care, in a practical level they must have a national health number. And to have that number, a person must have one social security number. And people who just arrived in Portugal and are still waiting for the refugee status to be provided to them, do not have access to this kind of documentation."* (Maria).

The overly bureaucratic system that hinders asylum seekers' access to healthcare in Portugal can be perceived as a form of "structural" violence which not only makes it impossible to comply with the article 13 of EU's *Reception Conditions Directive (2013)*, but that also further reinforces the asylum seekers' vulnerabilities and lack of protection. These findings are consistent with other studies (Lebano, Hamed & Bradby 2020; Chiarenza, Dauvrin & Chiesa, 2019; Winters, 2018; McGarry, 2018) that provided evidences of inequalities between asylum applicants and national citizens in accessing healthcare services, due to legislative, financial and administrative barriers, deficiency of interpretation and of cultural mediation services, lack of knowledge of entitlements and available services, and lack of organization and coordination between services. Some studies (Matlin et al., 2018; Bradby et al., 2015) also reported unmet healthcare requests, especially in mental treatments, language and communication barriers, as well as discrimination in emergency services and in primary healthcare services.

1.1.6. Education and Training

The UDHR sets forth the right to elementary and secondary education for everyone, as well as the right to access vocational and tertiary education. The early and effective access to inclusive and formal education and training is one of the most important and powerful tools for integration. Learning the language of asylum countries is essential to a successful social inclusion process countries, to enjoy their rights and to address their specific needs (Stanley et al., 2011; Ager & Strang, 2008; Aumüller & Bretl, 2008; Yu et al., 2007). Nonetheless, the majority of the refugee women interviewed only received short-basic courses of Portuguese that did not allow them to properly learn the language: *"the course we had in the reception center just taught us the basics of the Portuguese language. And I stopped receiving any form of classes after I left the reception center."* (Amal, Iraq); others were provided with classes from a volunteer that would go to their

houses to teach them: *“a teacher came to our home to teach us. She was a volunteer; she came twice a week.”* (Eisaa, Syria); and a significant number of women did not receive Portuguese classes at all: *“Nobody offered me or my family Portuguese language courses.”* (Alia, Sudan).

Although the Reception Conditions Directive (2003) has no specific provision on language courses, most EU member-states offer language classes to asylum seekers and refugees. Commonly, there are unofficial classes organized in the reception or accommodation centers, with the help of civil society and volunteers or directly offered by the institutions' professionals (Lang, 2021; Lochmann, Rapoport & Speciale, 2019; Åslund, & Engdahl, 2018; Worbs & Baraulina, 2017). In the case of Portugal, the Portuguese asylum system established that asylum seekers must have access to Portuguese classes practically upon arrival. Spontaneous asylum seekers first have access to classes taught by volunteers at the reception centers. Once they receive the ARP, they are entitled, like in the case of the asylum seekers under the EU's schemes, to the Portuguese classes offered to all immigrants by the Institute of Employment and Training (IEFP) through the program “Portuguese for all” (*Português Para Todos*, PPT). The PTT courses require a minimum of 20 participants to open a class because it is co-financed by the European Social Fund and this number of participants is part of the fund rules.

Due to the decentralized approach implemented in the Portuguese asylum system, only a few numbers of asylum seekers and refugees are accommodated in the same city. Consequently, the requirement of twenty students per class implies that most asylum seekers and refugees will not benefit from this program, as was the case for the majority of the refugee women interviewed. According to the professionals' opinion *“this is a program that works perfectly in theory, but in reality, it is almost impossible to open these classes for asylum seekers and refugees because apart from big cities, you will not find a group of twenty people living in the same residential area.”* (Carolina, Portugal). Indeed, none of the refugee women interviewed attended this type of class. As an alternative to PPT, most of the professionals interviewed resorted to volunteers that were willing to teach Portuguese for free, which is a common practice in Portugal, as explained by Lúcia *“it is common for this to happen. I know this because I have already spoken to other institutions that do the same.”*

Although these volunteers were an important first step to learn the language, most of the refugee women declared that this form of teaching did not have a significant impact, as it was very basic and it was impossible to separate people with different levels of

language knowledge, in group classes. Even if it is common practice in other countries to resort to volunteers to give language courses, this can easily become a problematic integration practice because states, such as in the case of Portugal, cannot rely on the solidarity of the civil society to guarantee that the integration practices determined by Reception Conditions Directive (2003) are fulfilled. Based on these findings, this thesis suggests the concept of “solidarities-based integration” in relation to the transference of responsibilities from the state to its citizens, where asylum seekers and refugees become dependent on the availability and willingness of the latter to help them when it is the former that has that responsibility.

One of the most interesting findings was the existence of an online program for teaching Portuguese to asylum seekers under the EU’s schemes, created by a Portuguese university. This program was mentioned by Joaquim, who also reported that *“due to the fact that it only contained a Portuguese and an English version, asylum seekers could not use it properly.”* Even after an Arabic version of the program was created, the program ceased to be disseminated among the professionals. Joaquim also mentioned that *“not having access to a computer was also a barrier for asylum seekers to register for that program.”* AbuJarour and Krasnova (2018) investigated how e-learning can be used to support refugees in the integration process and contributes to their social inclusion into asylum countries. Their research showed an undeniable potential for e-learning as a means of social inclusion because it provided the users with more flexibility and freedom during the learning process over traditional learning offers. The authors also emphasized that e-learning materials should be designed in an instinctive and simple matter so they can be used by a large group of refugees. In addition, adequate marketing is crucial to inform refugees about existing e-learning offers (AbuJarour & Krasnova, 2018).

For the refugee women who presented higher levels of education, their main criticism was related to the delays in the recognition of their educational and professional qualifications, like Ama (Togo) who has a degree in *“journalism, but I don’t have my university diploma with me. So, I asked the institution if there was any way for them to help me on this matter, and so far, nobody has told me anything in that sense.”* Recognition is highly relevant for the integration of refugees into a new society and its labor market (Bucken-Knapp, Fakihi & Spehar, 2019). How credentials, qualifications, competences, knowledge, and skills are valued in different contexts, is an important aspect of such integration processes. Due to insufficient or a complete lack of supporting documentation, the goal of the evaluation is to seek to establish whether applicants are

likely to hold the qualifications they claim (Andersson, 2020; 2017; 2010). Rather than basing the evaluation on educational documents, the evaluator has to consider all the available pieces of information-supplied by the applicant, by reliable information resources, previous evaluation files, to reconstruct the academic level represented by the available information (Andersson, 2020; 2017; Bucken-Knapp, Fakihi & Spehar, 2019; Andersson, Fejes & Sandberg, 2015). But none of these practices seem to have been implemented in the Portuguese asylum system.

According to the professionals interviewed, “the National Agency for Qualification and Vocational Education” and the General Directorate of Education are responsible for the recognitions of educational and professional qualifications, and this is “a *very time consuming, complex, and complicated process*” (Fernanda), often associated with the lack of established recognition procedures and policy for undocumented qualifications, of documentary evidence of academic credentials and qualifications from the applicant, and of information on legal obligations.

Nonetheless, the Lisbon Recognition Convention (LRC) (1997) encourages a flexible approach to the recognition of qualifications held by refugees, displaced persons and persons in a refugee-like situation. Furthermore, in 2017, Lisbon Recognition Convention Committee adopted “*the Recommendation on the Recognition of Qualifications held by Refugees, Displaced Persons and Persons in a Refugee-like Situation*”. In turn, ratifying states are expected to implement measures outlined in the recommendation within their respective contexts. The recent recommendation describes the goal and results of the assessment procedure and factors to be taken into consideration. Recognition of formal qualifications from a country of origin implies an assessment of formal proofs based on prior assessments made in (typically) educational institutions or by professional organizations. On the contrary, recognition of actual competence implies an assessment of what an individual can prove that she/he knows and is able to do here and now, or (Andersson, 2020). The latter is more aligned with the Lisbon Recognition Convention (LRC) (1997) recommendation of a flexible approach to the recognition of qualifications held by refugees.

In terms of professional training, the offer is further reduced and limited only to some specific cases, as explained by Matilde “*it only happens in the cases of asylum seekers who have been here for some time and are unable to find a job. So, we think about this alternative to occupy their time and to increase their level of training.*” Indeed, some refugee women were denied the opportunity to enroll in professional courses to improve

their level of education, despite the great insistence on their part. This was the case of Alice (Angola) who “*asked the institution to find me a professional course because I have no training. I wanted to take a course in hairdressing and dressmaking so then I could get a job. But so far, I have not received an answer.*” This constitutes another example of “structural” violence perpetrated by the Portuguese state’s limitation of education and training for asylum seekers and refugees. Although European member-states are not obliged to provide secondary education to asylum seekers and refugees, Koehler and Schneider’s study (2019) show that longer educational careers expand the chances for higher education, better-skilled jobs, lower unemployment rates, and above-average incomes in those populations. Equally, professional training can be an effective instrument to enable a low-threshold and effective access to steady and reasonably profitable jobs in the labor market (Koehler & Schneider, 2019).

As already demonstrated in previous chapters, refugee women’s well-being is intrinsically related to children’s well-being, in the case of the women who are mothers. For that reason, it is important to mention that in regard to children’s access to education, both the refugee women and the professionals interviewed did not report any problematic data on this matter: children were quickly registered at the local schools or kinder gardens, and during the COVID-19 pandemic “*the institution provided them with computers to attend online classes.*” (Fatima, Iraq). Because asylum seekers and refugee children are entitled to the same educational system provided to the Portuguese children, their school enrolment is a very simple procedure and does not require much support from the professionals from the institution. This can explain the discrepancies in the provision of education and training between the refugee women and their children.

1.1.7. Legal Support

Time plays a key role in asylum proceedings. Fundamental rights can be at risk when procedures are either too short or too long (Buxton, 2020; Carrera, & Cortinovia, 2020; Hvidtfeldt, Petersen & Norredam; 2020; Demarchi & Lenehan, 2019; Brekke, 2010; Gil-Bazo, 2008). Unreasonably fast decisions might not leave adequate time for preparation and to seek legal assistance, thus undermining one’s right of access to asylum, mirrored in articles 18 and 19 of the CFR (2000) and, in appeal proceedings, the right to an effective remedy, enshrined in article 47. On the contrary, long-lasting proceedings leave asylum seekers applicants in a state of insecurity and legal limbo that can compromise the right to good administration, which is a general principle of EU law

binding upon EU member-states (Hvidtfeldt, Petersen & Norredam; 2020; Hainmueller, Hangartner & Lawrence, 2016).

At the time the interviews were conducted, seven of the women under the EU's schemes had already received the refugee status and the five-year residence visa; three women received a subsidiary protection status and a three-year residence permit; four were still waiting for their international protection process to be completed. For the spontaneous asylum seekers, six women had received the ARP; three were waiting for a decision on their international protection request; and one woman had her asylum-seeking application refused and appealed the decision.

The majority of the refugee women complained about the amount of time that it took for their application for international protection to be accepted and for their status to be legalized, such as Promesse (Congo) for whom *"it took more than four months since I arrived in Portugal for the [name of the institution] to start to process my case."*; and also in relation to the number of times they had to renew their APR, due to delays in the final decision on their asylum application, like Darya (Syria) who declared that she was *"living without knowing what our future will be"* because *"It is the third time that I renew my ARP and I still don't know how much longer it will take for the Portuguese state to decide if they accept us or not."*

"Waiting" can have a negative impact on the guarantee of asylum seekers' and refugees' rights and access to services, which, subsequently, makes their integration process harder (Buxton, 2020; Hvidtfeldt, Petersen & Norredam; 2020). Findings of study 2 showcased that, in Portugal, the international protection procedures took longer than legally required. Upon their arrival in Portugal, spontaneous asylum-seekers file a request with the SEF; in turn, the SEF has seven days to decide whether the application is admissible if the applicant filed the request at the border, and 30 days for requests of such on national territory. All of the refugee women considered spontaneous asylum seekers filed their applications at the border. If the request is deemed admissible, the asylum seeker receives a temporary residence permit (ARP) valid for 6 months. That matches the time that is normally expected for the SEF to reach a final decision on international protection requests.

Although it is not the best practice, the SEF can renew the ARP if a decision has not been made in the period of its validity. According to the findings of study 2, the constant renewal of APR has become a common practice, as stressed by the professionals, like Rita: *"It takes a long time for asylum seekers to get a final answer regarding their*

international protection request. ARPs are constantly renewed, and this situation can last for years."; and by the refugee women, such as Ama (Togo): *"I've been in Portugal for three years now. Every six months I have to renew my ARPP."* In that way, the evaluation of international protection requests normally takes longer than the six months determined by law. Bureaucratic difficulties when renewing ARP documents were also reported by the refugee women interviewed: *"renewing the ARP is a headache: we have to make an appointment with the SEF, and it takes them a long time to schedule it."* (Glória, Congo); and by the professionals, according to whom *"the SEF does not take into account the expiry dates of the ARPs"* (Susana), and, for that reason, asylum seekers *"often find themselves in a legal limbo while waiting for the renewal of their ARPP"* (António), which *"is very problematic because when the ARP expires, they are no longer entitled to services such as health care, employment, and subsistence support"* (Maria).

Analogous to the spontaneous asylum seekers, it also took several months for the majority of refugee women under the EU's schemes interviewed to receive the refugee or subsidiary protection status. Asylum seekers under the EU schemes also need to file a request for international protection with the SEF. However, since they are resettled in Portugal due to prior approval of their asylum application by UNHCR, this should make the legalization of their status faster, as mentioned by the professionals: *"There is no reason for the SEF to take more than the thirty days they are entitled to, to grant them refugee status."* (Sofia).

The findings of study 2 also suggested that, apparently, there is no reasonable motive for some asylum seekers under the EU's schemes to be granted the refugee status (valid for five years) and others the subsidiary protection (valid for three years), since the grounds in which their request for international protection was similar. Indeed, the very criterion for distinguishing between these two forms of international protection is not entirely clear in Law no. 27/2008: article 3 (1) establishes that *"the right of asylum is guaranteed to foreigners and stateless persons who are persecuted or seriously threatened with persecution as a result of activities carried out in the State of their nationality or of their habitual residence in favor of democracy, social and national liberation, of peace among peoples, of freedom and of the rights of the human person."*; and article 7(1) states that subsidiary protection must be guaranteed to *"for humanitarian reasons to foreigners and stateless persons to whom the provisions of Article 3 do not apply and who are prevented or feel unable to return to the country of their nationality"*

or their habitual residence, either in view of the systematic violation of human rights that takes place there, or because they run the risk of suffering serious harm.”

Some of the professionals provided a possible explanation for this to happen, like Alexandra for whom “*Subsidiary protection makes more sense for people who fled countries for reasons related to ongoing wars in their home countries. If that war is over in the following three years of their international protection request, they may need to go back to rebuild their countries.*”; or, as suggested by Alda, refugee status applies to “*political or religious persecution, breaches to freedom of expression, or for discrimination based on sexual orientation. These people, regardless of whether the country is at peace again, can continue to be persecuted, and therefore, still need the protection of the Portuguese State.*” But these explanations do not justify why some refugee women who escaped their countries for the same reasons, received the refugee status and others the subsidiary protection.

Time becomes a crucial element in international protection requests: the period that it takes for a candidate to receive the temporary or the permanent residence visa, and the length of that permit that determines how long that candidate is allowed to stay in the asylum country. These can have various consequences on the integration process of refugees, such as access employment, social welfare, healthcare and such (Buxton, 2020; Carrera, & Cortinovis, 2020; Demarchi & Lenehan, 2019). Hence, the reported delays in the international protection evaluation process in Portugal can have multiple harmful consequences and therefore it must be considered a “structural” form of violence, which can be better explained with Buxton’s (2020) four arguments against temporary refugees protection.

“*The plan argument*” (Buxton, 2020, pp. 6) recognizes that refugees’ uncertainties regarding their capability to remain in their state of asylum on a permanent basis, as many refugees spend long periods with the temporary visa only, make them insecure regarding their future an unable them to make plans; “*the reciprocity argument*” (Buxton, 2020, pp. 9) states that citizens are improbable to create reciprocal relationships with refugees if they do not know when or whether they will leave; “*the domination argument*” (Buxton, 2020, pp. 10) declares that temporary protection places refugees in a particular position of vulnerability to the domination of their asylum countries’ integration policy and practices; and “*the compounding injustice argument*” (Buxton, 2020, pp. 13) grips that temporary refugee protection compounds the central harms of displacement by unnecessarily aggravating and delaying the harm that displacement origins.

Consequently, a “structural” form of violence perpetrated by the delays imposed by the Portuguese state in the international protection process of asylum seekers generates temporary and precarious refugee protection, which consequently, impacts their rights to work and to access education, training, and social benefits, and their mental health. These impacts were all identified in the refugee women’s narratives, as this chapter demonstrates. In that sense, this thesis is aligned with Buxton’s argument (2020, pp. 13) that “(...) *temporary refugee protection is itself an injustice that cannot be avoided other than by offering refugees permanent status.*”, as soon as possible, or at least, within the thirty days period established by law, in the Portuguese case.

It happened that the international protection request of Madalena (Angola) was refused. When the interview was conducted, she was waiting for the decision on the appeal and was still living in a reception center. According to the professionals, asylum seekers can “*forever live in Portugal by continuing on with the appeals to reverse the negative decision on their international protection request*” (António) because there is no limit to the appeal requests that an asylum seeker can make. In the case of the asylum seekers whose application is denied, and who do not ask for an appeal on that decision, “*he (sic) is notified that he must leave the country voluntarily within 20 days.*” (Josefina). Nonetheless, if a person does not leave the country voluntarily, “*the SEF does not chase the person, and he (sic) will only be forced to leave the country if he (sic) is detected, by law enforcement, when committing a crime*” (Josefina).

One can analyze the refusals of international protection requests from two distinct angles. One is the legal approach which is established by the Return Directive (2008) that specifies that member-states are obliged to issue return decisions to all rejected asylum applicants staying irregularly on their national territory. It also highlights the importance of implementing return policy with full respect for the fundamental rights and freedoms and the dignity of the individual returnees, including the principle of ‘non-refoulement’. In this regard, it establishes that voluntary return is preferred, although it also acknowledges the inevitable need for efficient means to enforce returns where necessary (Schoukens & Buttiens, 2017; Baldaccini, 2009). The second is the social approach, which recognizes that refusal without expulsion can be problematic because without legal status, the rejected asylum seekers are left exposed to several forms of harm such as barriers to accessing basic services (e.g., health, employment, education) and the development of mental disease (e.g., depression, anxiety, PTS). Therefore, such people may be pushed into the underworld of illegal employment and crime (Schoukens &

Buttiens, 2017; Lutz & Mananashvili, 2016; Rosenberger & Küffner, 2016; Kapuy, 2011; Baldaccini, 2009).

Article 2 (aa) of Law no 27/2008, regarding the “prohibition to repel (‘principle of non-refoulement or non-refoulement’), the principle of international asylum law, enshrined in article 33 of the Geneva Convention, establishes that “*asylum seekers must be protected against expulsion or repulsion, directly or indirectly, to a place where his life or freedom is threatened on account of his race, religion, nationality, membership of a certain social group or political opinions, this protection not applying to anyone who constitutes a threat to security national or has been the subject of a final conviction for a particularly serious crime or offence.*”. The fact the Portuguese state is not expelling asylum seekers whose international protection requests were refused from the national territory can be understood in light of the legal approach mentioned.

Nevertheless, regarding the social approach, because rejected requests for international protection can be appealed indefinitely, the asylum seekers are left exposed to another form of structural violence: the perpetuation of the harmful consequences of precarious legal status. The Resolution of the Council of Ministers of Portugal, No. 103/2020, established that the Portuguese state must guarantee “*responses to applicants for international protection in a situation of appeal against the decision of inadmissibility of the application for international protection, or the decision to transfer to another Member State of the European Union, within the scope of the available support network*”, as well as social support “*for international protection in a situation of appeal against the decision of inadmissibility of the application for international protection, or the decision to transfer to another Member State of the European Union.*”. Even so, in the case of asylum seekers that received an ARP, they become entitled to integrative practices such as housing, employment, education, and health. But in the case of rejected asylum seekers, they are not entitled to any state’s support or benefits, and they become totally dependent on the solidarity of non-profit organizations, such as SCML.

On a different matter, the refugee women interviewed frequently protested against the delays on their family reunification processes, like Khadija who did understand “*Why it’s taking so long for my daughter to receive the approval to come to Portugal. She is trying to come here for three years. The UNHCR gave her the ok to come. But she is still waiting for an answer from the Portuguese state.*” (Khadija, Syria). According to the literature (Kraus, Sauer & Wenzel, 2019; Cheung & Phillimore, 2017; Choummavong, Poole & Cooper, 2014; Honohan, 2009), the absence of family members and worries

about their well-being delay active involvement in language courses, school and training, in searching for employment, and leaves refugees more vulnerable to mental health problems and delinquency. Consenting rapid, well-organized and reasonable family reunification is not only valuable for the refugees, but also a meaningful investment for the asylum country in medium and long term (Löbel & Jacobsen, 2021; Dubow & Kuschminder, 2021; Kraus, Sauer & Wenzel, 2019; Bakker, Dagevos & Engbersen, 2014; Honohan, 2009).

Since 2015, legal and practical barriers have made family reunification increasingly difficult such as the long duration and complexity of family reunification procedures, accessing diplomatic missions in non-EU countries, and difficulties in producing the documents required and high costs (Löbel & Jacobsen, 2021; Kraus, Sauer & Wenzel, 2019). According to the professionals, these obstacles are also experienced in Portugal, since *“refugees have to provide documentation that proves their family links, and they also have to pay for the travel of their families.”* (Diana). The delays on family reunification can also be perceived as a form of “structural” violence perpetuated by the Portuguese state, one that seems to ignore not only that family reunification is recognized as one of the key mechanisms for better integration of refugees (Löbel & Jacobsen, 2021; Dubow & Kuschminder, 2021; Morris, Lenard & Haugen, 2021; Kraus, Sauer & Wenzel, 2019; Cheung & Phillimore, 2017; Bakker, Dagevos & Engbersen, 2014; Choummanivong, Poole & Cooper, 2014; Honohan, 2009); but also that indirectly, family reunification can also have a positive impact in the elimination of different forms of violence perpetuated by smugglers and by secondary movement⁴⁰ (Dubow & Kuschminder, 2021; Morris, Lenard & Haugen, 2021; Kraus, Sauer & Wenzel, 2019).

1.1.8. “Psychological Support”

Mental health problems, such as anxiety, post-traumatic stress and depression, present very high rates among refugee populations. This increased vulnerability is connected to experiences before, during, and after the displacement journey (Rohlof, Knipscheer & Kleber, 2014; Jensen et al., 2013). During their often long and complicated journey, many experience exploitations, discrimination, separation from their families and threats to health, well-being or life. After they have arrived in the resettlement

⁴⁰ Secondary movement is the movement of asylum seekers, who for different reasons move from the country in which they first arrived to seek protection or permanent resettlement elsewhere (Dubow & Kuschminder, 2021).

country, the situation of legal limbo, poor reception conditions, detention, rejection of the asylum claim, fear of return, the absence of the family, isolation and lack of integration may also affect applicants' mental health. If they have pre-existing mental health problems, it may lead to re-traumatization (Hynie, 2018; Gartley & Due, 2017; Mangrio & Forss, 2017; Slewa-Younan et al., 2017; Valibhoy, Kaplan & Szwarc, 2017; Robertshaw, Dhesi & Jones, 2017; Wright et al., 2016). Asylum seekers' mental health problems are, in many cases, neither fast nor efficiently identified. These problems worsen over time if they are not adequately addressed and if care is not provided. People in search of international protection have often been exposed to stressful events such as wars, persecution, violence or other forms of hardship in their countries of origin (Mangrio & Forss, 2017; Slewa-Younan et al., 2017; Valibhoy, Kaplan & Szwarc, 2017; Robertshaw, Dhesi & Jones, 2017).

The majority of the twenty-four refugee women interviewed felt it would have been positive for them to be accompanied by a psychologist or a mental health professional, due to the traumas they faced in the past, and to the anxiety and stress felt during their integration process in Portugal. As reported by other studies (Due, Green & Ziersch, 2020; Valibhoy, Kaplan & Szwarc, 2017; Robertshaw, Dhesi & Jones, 2017; Wright et al., 2016), asylum seekers and refugees are more likely to developed mental illness than the general population. Even so, for most of the refugee women interviewed, psychological support was never offered to them or to their families upon their arrival in Portugal or during the integration process. Maara (Syria) did not understand why *“in spite of everything that we had already been through, even in Portugal, in the detention centre, nobody offered us psychological support.”* Motehrs disclosed being concerned about their children's mental state, such as Fatima (Iraq) who was especially worried because *“My son developed very serious psychological problems when we were living in Turkey.”*; or Mariam (Syria) who *“begged at the school for them to get psychological support for my daughter because she was having a hard time adapting to our new reality”*.

Regarding mental health assistance, all of the professionals declared that this key-area of intervention is the one facing the most serious implementation problems. However, this is a reflection of the posture of the Portuguese state in relation to psychological support and not of the Portuguese asylum system itself, as Camila explained, *“psychological support fails in Portugal for all the Portuguese people, not just for refugees, because it continues to be seen as the child of a lesser God. The very “Order of Psychologists” has been critically pointing that throughout the years.”* Equally,

studies (Due, Green & Ziersch, 2020; Hynie, 2018; Gartley & Due, 2017; Wright et al., 2016; Rohlof, Knipscheer & Kleber, 2014; Jensen et al., 2013) established a link between the asylum countries' health system and help being provided to asylum seekers and refugees regarding mental diseases.

Therefore, it is not the specific mental care provided to asylum seekers and refugees that is scarce and inefficient, but the mental health support provided by states to their citizens in general. In other words, if there is already a structural problem regarding those services, it is likely that it will have an impact on people that cannot afford private medical care, such as in the case of asylum seekers and refugees (Due, Green & Ziersch, 2020). But even in the cases when psychological therapies are covered, a shortage of professionals specialized in trauma and traumatic stress may limit support services in practice (Hynie, 2018; Slewa-Younan et al., 2017; Valibhoy, Kaplan & Szwarc, 2017; Robertshaw, Dhesi & Jones, 2017).

Another aspect that can make sessions with psychologists impossible is the lack of interpreters (Gartley & Due, 2017). As reported by the few refugee women who received psychological support, the absence of an interpreter made it impossible for the psychological consultation to be effective and productive, such that they, eventually, forgo mental support, like Hanan (Syria) for whom the psychological support provided to her and her children was *"useless we were unable to communicate with the psychologist, because of language barriers. It was very frustrating, so we ended up going to two sessions only."*; or Jassim (Syria) who *"asked for psychological help a lot of times, and finally they got me a psychologist. But the psychologist didn't know how to ask me questions because she did not spoke English or Arabic. I was very upset and sad. I left and I never went back."*

The professionals also recognized that language barriers and the absence of interpreters during the psychological sessions make it very difficult for proper mental support to be provided to the patients: *"It is often very complicated because people do not speak the language, so the psychiatrist should have a translator present during the sessions, but that never happens."* (Sofia). According to the literature (Due, Green & Ziersch, 2020; Gartley & Due, 2017; Valibhoy, Kaplan & Szwarc, 2017; Wright et al., 2016; Rohlof, Knipscheer & Kleber, 2014), sessions with psychologists or other mental health specialists are possible only if effective communication can be guaranteed. If asylum applicants do not speak the professionals' language, they need interpreters who can guarantee the necessary communication standards and confidentiality requirements.

But in relation to the need of a translator in the institutions, professionals had a different opinion. For the professionals interviewed there is no need for the full-time presence of a translator in their institutions. They often resort to free tools such as Google translator, or the translator line provided by ACM, which they considered sufficient enough to help them to communicate with the asylum seekers and refugees under their tutelage. And, like Susana shared, *“whenever it is more difficult to communicate with them, we do what the typical Portuguese does, we mix language with gestures, and we have succeeded doing that [laughs].”*

On the contrary, the refugee women made various criticisms regarding the absence of a translator during their integration process. This had a negative impact on almost all of the refugee women interviewed, from basic aspects such as being able to communicate properly with the institutions’ professionals, such as Eisaa (Syria) who couldn’t *“express myself properly, so I got very agitated because I needed them to understand that me and my family were not staying in that disgusting house, they provided to us!”*; to more complex issues, such as being able to communicate with a psychologist: *“How could the psychologist help me if he didn’t understand anything I was saying? And I spoke to him in English. It is absurd not to have someone present at the therapy session to help us communicate with each other!”* (Ammar, Syria).

Interpreters and translators have a very significant role in shaping the integration of asylum seekers and refugees throughout each phase of the integration process in the country of asylum (Boylen et al., 2020; Berbel, 2020; MacFarlane, Huschke & Pottie, 2020; Ivars & Pinilla, 2018; Kindermann & Derreza-Greeven, 2017; Cheng, Drillich & Schattner, 2015). They may provide support in several ways, teaching them to adapt and socialize within their new community. In fact, interpreters and translators do more than just interpret or translate information, they build bridges between very different cultures and societies (Boylen et al., 2020; Berbel, 2020; MacFarlane, Huschke & Pottie, 2020). For both, their role is to ensure clear communication between the professionals involved in the integration process and the refugees, who are both speaking different languages. Their goal is not to purely just translate word by word, but rather to convert meaningful oral or written information. This implies that interpretation and translation must be done with some context of the message being conveyed, as well as the emotions and expressions it was delivered with (e.g., cultural terms, expressions, and idioms that provide meaning to the content) (Ivars & Pinilla, 2018; Kindermann & Derreza-Greeven, 2017).

In certain instances, concepts will have no linguistic equivalent, but the interpreter and translator's job is to find an equivalent way of conveying the message with accuracy and completeness, which can be most helpful in psychologic sessions. In addition, interpreters and translators can help the technicians with different approaches to specific subjects, to make them more understandable for the refugees (Cheng, Drillich & Schattner, 2015). For example, if a professional is using complex legal terms that have no linguistic equivalent in the refugee's language, the interpreter or translator can ask that professional to use less technical terms to express themselves and guarantee understandings of the message being properly transmitted. In this regard, the lack of translators or interpreters during the integration process and during the psychologic appointments is a manifestation of "structural" violence and added challenges and setbacks to an already complex and demanding integration process.

Indeed, studies (Robertshaw, Dhesi & Jones, 2017; Wright et al., 2016; Jensen et al., 2013) have shown that when international protection applicants are traumatized by the reasons for, or the experiences during their flight, such psychological harm is often worsened by the fact that the integrations systems do not take mental health problems into account sufficiently. This constitutes a significant obstacle for their integration, as recognized by the professionals interviewed, like António for who *"psychological support is very important because people arrive in Portugal with mental problems such as anxiety attacks, insomnia, PTS, and such. And this can have a negative impact in their integration if not treated properly."* Then, in asylum countries, the negative effects of lengthy asylum procedures, poor living conditions, frequent transfers, the lack of social integration, particularly social isolation, unemployment, family separation and other factors often translate into mental health diseases (Due, Green & Ziersch, 2020).

Based on the studies mentioned above and on the findings of study 2, the current thesis concludes that the lack of institutional provision of psychological support to asylum seekers and refugees, either proactively or when requested by them, as well as the language barriers faced when receiving such support are forms of "structural" violence enabled and perpetuated by the Portuguese state. Furthermore, Portugal is ignoring the fact that psychological intervention is proven to be most effective and beneficial when it is offered in the early stages of the integration process (Due, Green & Ziersch, 2020; Hynie, 2018; Gartley & Due, 2017).

As such, the Portuguese state is in breach of the article 17(2;3) of the Reception Conditions Directive (2013) that establishes that member-states must grant international

protection applicants the right to mental health, and article 19 stipulates that member-states must provide necessary healthcare. This includes, at least, emergency care and essential treatment of illnesses and of serious mental problems. The Portuguese state also fails to comply with article 19, under which applicants who have special reception needs have a right to receive appropriate mental health care, as well as article 23(4) that requires member-states to ensure that appropriate mental health care is developed, and qualified counselling is provided to children.

1.2. Integration practices

1.2.1. Professionals' behavior

Professionals from host institutions, as well as from reception and integration institutions, who work in the welcoming process of asylum seekers and refugees perform the central role of providing, primarily, the basic means for subsistence. They are also the first ones to deal with the traumatic dimensions carried out by such vulnerable people. Consequently, there is an imperative need for professionals to establish a secure and trustworthy relationship with these individuals (Pollard & Howard, 2021; De Micco, 2017; Tessitore & Margherita, 2017). The complex task assigned to the professionals working in the integration process of such individuals can present itself as a challenge, even for those professionals who are normally able to cope with their emotions and be empathetic. Even so, it is expectable that the professionals working in the integration process of refugees excel at performing their errands in a kind and confident way (Gozzoli, & De Leo, 2020; Wenzel & Droztek, 2019). Regarding the sample of professionals interviewed for study 2, almost all of them declared that they formed good relationships with the asylum seekers and refugees under their tutelage: *"In this institution, we create very good and close relationships with asylum seekers and refugees. For example, I monitored the pregnancies of several women who stayed here for their entire pregnancy. I went with them to the hospital, and I even cut the umbilical cord."* (Susana).

On the contrary, most of the refugee women did not feel welcomed by the various institutional professionals with whom they were in contact during their integration process. Feelings of abandonment, invisibility, and neglect were commonly reported: *"I feel like I was sent to this country, that this country said it wanted to receive me, but then they forgot about me."* (Madalena, Angola); or such as in the case of Ama (Togo) who

stated that *“there was a professional at the first institution I stayed in who was not very good. She did not treat us well; she didn't help us at all! She was mean to us.”*; and Rana (Syria) who had a preconceived idea about how their integration process would be conducted in Portugal and was quite disillusioned with the fact that *“the people from the host institution only came to see us about eight months after we arrived in Portugal and never came back.”* She also reported, as many other women interviewed for study 2, that she had no support from the professionals who were in charge of her integration to access *“medical help and psychological support.”* The refugee women also stated that *“to register in the hospital, we had to go alone and take care of it all. And the registration in the Portuguese course only happened after four months of our arrival.”* (Eisaa, Syria).

For Wenzel and Drozdek (2019), the fear of annihilation triggered by the displacement journey is substituted by the fear of insecurity during the integration process at the resettlement country. Even when the immediate risks that made asylum seekers and refugees flee from their countries of origin are eliminated by the protection provided at the resettlement countries, the impact of the traumatic and violent experiences persists (Pollard & Howard, 2021). In addition, feelings of emptiness and disorientation are usual among displaced people that prevent their integration in the asylum state from being a peaceful process. For this reason, one crucial duty of the professionals working with asylum seekers and refugees is to surpass their feelings of uncertainty, helplessness, and despair triggered by the international protection application, and to prevent risk factors linked to their integration process (Gozzoli, & De Leo, 2020; Kirmayer et al., 2011).

Nonetheless, some refugee women considered that the professionals responsible for their well-being and safety failed to properly perform these duties: *“One night my daughter had a very high fever. I contacted a professional from the institution and she called an ambulance to my apartment. But no one from the institution went with us to the hospital. And then I didn't know how to get back to the apartment. I felt very disoriented and wronged.”* (Hanan, Syria); or *“Once, I was walking on the street with the one professional from the host institution, and I passed out. She did not seem particularly preoccupied with me. Fainting began to be more frequent. It got to the point where I couldn't leave the house alone. I was always talking about this to that same professional, and she did nothing to help me. She just said she was going to try to make an appointment at the doctor, but she never did.”* (Jassim, Syria).

By generating feelings of abandonment and insecurity and by making these women feel mistreated and invisible, professionals may be failing in making the asylum seekers

and refugees feel welcome and protected. These “structural” forms of violence can produce several consequences such as frustration, trauma, and high frequencies of mental health problems, particularly post-traumatic stress disorders (PTSD) and depression (Stenmark et al., 2013). The establishment of toxic relationships between asylum seekers and refugees and the professionals working on their integration process can also have a negative impact in terms of language barriers, legal status, unemployment, housing, or lack of access to education and healthcare (Gagliardi, Brettschneider & König, 2021).

All of these negative and harmful consequences were reported by the refugee women interviewed. In the case of Jassim (Syria), the lack of solidarity of one professional towards her mental and physical well-being, as well as the lack of assistance and support provided to her and her family, made them escape to Germany after six months of being resettled in Portugal: *“I have a mental disease and a heart illness too, and the professionals from the host institution did not help me. They did not provide a suitable psychologist to accompany me, nor medical support for my health problem. And even in terms of the language, the professionals did not want to teach us Portuguese. We were always reminding them that we were refugees and that refugees in other countries had language courses. I never felt so discriminated against and mistreated in my entire life. So, we decided to leave the country.”*

The fact is that, upon arrival to the asylum country and during the integration process, asylum seekers and refugees are very dependent on the professionals' support for their basic needs to be guaranteed, and on the professionals' ethics for their social wishes to be fulfilled (Ferwerda, Flynn & Horiuchi, 2017). This relationship of codependency, which is challenging in itself and produces anxiety and uncertainty, when it turns into a negative, arbitrary, and violent relationship, places these individuals in a situation of greater vulnerability and insecurity.

Ama recalls: *“I left the hostel for two nights. When I returned, I was informed that I could no longer stay there and that my bed had been given to someone else. So, I went to talk to the professional responsible for my case. I was lucky that she agreed to see me, because most of the times they just ignore you. I was told that because I left, I was no longer entitled to receive the support from that institution. I asked to speak to someone else, they kept me waiting all day. Finally, another professional came, and I said: “So, ma'am, please, the night is coming, I have nowhere to sleep”. She replied, “You left the hostel, you didn't say anything to anyone! Get out or I'll call security.” (Ama, Togo).*

The fact that this refugee woman could not understand why she was being prevented from receiving the support provided by the host institution that was in charge of her integration process, along with the fact that the professional communicated that information in a harmful and threatening manner, generated feelings of distress, unfairness, and anger on this woman. Many other women from the sample reported experiencing the same feelings due to the lack of support provided by the professionals, especially in the case of the women that were accommodated in facilities such as hostels, rather than in reception centers: *“We were left there all by ourselves, without anyone from the institution to take care of us, to see if we need something! We were at our mercy! There was no security in that hostel, and the accommodations were very dirty and unsanitary.”* (Gloria, Congo).

From the data collected for study 2, it is possible to conclude risk of revictimization exists for these women. As mentioned, this is in line with Canning’s (2017, pp.27) concept of “intersectional continuums of violence” regarding the multiple forms of violence suffered by refugee women during their life-span.

Narratives obtained refer to authoritarian and aggressive behavior adopted by some professionals, which generated feelings of fear in the refugee women. Fear could be sensed even in the course of interviews, as in the case of when of them was abruptly interrupted when a professional from the host institution came unannounced to the apartment where Fatima (Iraq) was accommodated and speaking to the researcher. Her words were: *“I’m sorry, but I have to leave because a professional from the institution just walk into the apartment and I’m afraid they will hear me speak bad things about the institution that they will punish me. Sorry.”*

Fear is a very powerful human emotion. Although fear can be a valuable tool in circumstances where the threat of direct harm exists, it is the most incapacitating and hazardous of emotions when presented needlessly (Matlin et al., 2018). The existence of a “culture of fear” (Glasser, 2010) in the Portuguese asylum system, where professionals systematic use fear as a tool to manipulate and control asylum seekers and refugees through the imposition of power, jeopardizes the fundamental establishment of a trusting relationship between the professionals and these individuals. The use of fear also mirrors what Foucault (1977) coined as the process of “docilization of bodies”.

According to the same author (Foucault, 1977, pp. 136) power is use in each individual to create docile bodies *“(…) that may be subjected, used, transformed, and improved”*. With regard to asylum seekers and refugees, what the “docilization of the

bodies” intends is to transform them into a version of themselves more in line with what is expected from them, by the professionals. In one professional’s own words: *“Once, a family was complaining about the value of their rental. They were insisting that if they move to another city, they could find a much cheaper apartment. It got to a point that I scream at them, “Look, take your bags and go to that city!” But they ended up staying. Sometimes we need to be more severe with these people, so they understand that they are in Portugal, and they must be grateful to us, and not to start to demand things.”* (Lúcia).

Thus, the “culture of fear” (Glasser, 2010) perpetuated by the professionals produces breaches on the asylum seekers and refugees legal and human rights, whether demarcating the limits of legality and normality, whether imposing on the subjects the internalization of obedience or even through simple segregation (Foucault, 1997). The reported verbal abuse and terror perpetrated by the professionals working in the Portuguese asylum system, as well as a lack of empathy or comprehension regarding the refugee women vulnerable situation, constitutes “structural” and “symbolic” forms of violence.

According to Robertshaw, Dhesi & Jones (2017), professionals working in any institution in direct contact with asylum seekers or refugees have the responsibility to recognize that people who have undergone forced migration are likely to have very different needs and experiences. They also must integrate new skills into their professional roles and adapt to the new challenges created by the most recent refugee crisis. Nonetheless, it is the asylum counties’ duty to provide proper education and training for those professionals and to establish the best practices regarding the integration process of refugees (Matlin, Depoux & Schütte, 2018). By failing to do so, the Portuguese state, like many other European states, is ignoring that professionals working may be unaware of rights owned by vulnerable people and should be provided the means to develop skills and competencies to successfully perform their duties (Tantardini & Tolay, 2019; Wright et al., 2016).

Like other studies (McLaren & Paterson, 2019; Crawley & Skleparis, 2018; Titzmann & Lee, 2018), the speeches of some professionals also confirmed the existence of cultural shock between them and the asylum seekers and refugees under their tutelage: *“One of the most challenging aspects of the integration process is the differences between the cultural traditions of these people and our own. For example, is very difficult for these people to someday stabilize themselves economically with so many children. They will always need the support of the Portuguese state. For us, a child is a hindrance,*

and a hassle, and a source of expenses. For them, the more children they have, the richer they are. But they are poor. So, I think they should get more aligned with our culture.” (Irene).

Likewise, some refugee women also disapproved the food served to them at the accommodations where the meals were provided by the institution, like Ama (Togo) who *“sometimes, I go to sleep without eating, or I eat and then I vomit because I am not used to Portuguese dishes and condiments.”* The disapproval had to do with cooking incompatibilities due to cultural differences. Regarding this matter, Deolinda confirmed that this was a typical situation, but with good faith and willingness, these cultural incompatibilities would be easily overcome by *“keeping an open mind in relation to other people culture and traditions, and to find alternative ways to resolve problems instead of ignoring them.”* She also acknowledged that there are some professionals willing to take steps in that direction, but the institutions' leaderships frequently do not support this type of initiative, because *“they say that there are no exceptions, and they justify that with phrases such as “those people have already gone hungry and have not died.”*

Again, “structural” and “symbolic” forms of violence operates in the form of abusive power, through the establishment of institutional practices that do not respect cultural differences and through the perpetuation of prejudices about these people, such as the idea that if these people have already been deprived of any kind of food, any food they receive should be considered a blessing.

Contrary to the opinion of the professionals interviewed that the more adaptable to the national culture these individuals are, the easier and more successful their integration process will be, some authors (e.g., Antonsich, 2018; Boucher & Maclure, 2018; Modood, 2018; Kastoryano, 2018, Zapata-Barrero, 2014) argued that, in reality, cultural diversity, if managed well, offers more advantages for asylum societies than it creates problems. To embrace cultural diversity, it is fundamental to develop abilities and skills to respect differences and effectively interact with individuals from different backgrounds. Professionals working with individuals from diverse cultural backgrounds and traditions that lack the required complex assemblage of skills, may expose those same individuals to risk, and can have a negative impact on their mental health, self-image, and sense of belonging (Mengistu & Manolova, 2019).

1.2.2. Labor Market Integration

Studies about asylum seekers and refugees labor market integration in asylum countries have been scarce. Brell, Dustmann, and Preston (2020) provided an overview of the integration of refugees into the labor markets in a considerable number of high-income countries. Except for the United Kingdom, the United States, and Canada, employment rates for refugees are very low (under 20%) in the first two years after their arrival, compared to other immigrant groups, with a short-term tendency to increase. Nonetheless, employment levels of refugees in the longer term (a decade) in many asylum countries do not come close to the levels of natives or other immigrants.

This shows that the period of integration appears to be much longer for refugees than for other immigrants. Simultaneously, refugees lag behind labor migrants in terms of earnings. Moreover, refugee women appear to be employed at particularly low rates and they experience lower employment rates than refugee men or other migrant women. These findings provided by Brell, Dustmann, and Preston (2020) are aligned with other studies (Hillmann & Koca, 2021; Kofman, 2020; Pallmann, Ziegler & Pfeffer-Hoffmann, 2019; Worbs & Baraulina, 2017; Hainmueller, Hangartner, Lawrence, 2016), and with the data provided by study 2.

Indeed, most of the refugee women had not been able to find work in Portugal at the time of the interview: *“I had sent CVs since I received the ARP, and I still have not found a job. And that is a major problem because without work what future will I have? I really don't know!”* (Promesse, Congo). Within the small group of women who have worked, most of them claimed to have worked illegally, *“I took care of an elderly woman. She paid me, but I did not have a contract.”* (Alice, Angola); and an even smaller number of women were helped by the professionals from the institutions in their labor market integration: *“First I worked for two months for the institution that welcomed me, doing translations. And now they found a paid internship for me. And I'm working as a seamstress”* (Shamshi, Somalia).

Although not frequent, some refugee women also reported health issues as an impediment for them to find a job, such as in the case of Khadija (Syria) who *“would like to work but that I have a back problem, and I cannot have any kind of job, or at least nothing that forces my spine too much.”* Studies (Hynie, 2018; Chen, Hall & Renzaho, 2017; Shishehgar et al., 2017; Hainmueller, Hangartner & Lawrence, 2016; Schick et al., 2016) have demonstrated that depression and general health problems may negatively affect refugees' economic integration.

To explain the problems of labor market integration for refugees, researchers have most often focused on human capital theory (i.e., refugees lack employable skills) and social capital theory (i.e., refugees lack resourceful social ties). According to social capital theory, social contacts provide access to resources that can be helpful in attaining other forms of capital (Van Tubergen, 2006). Therefore, having more social contacts within the Portuguese society, either with Portuguese citizens or with other refugees already fully integrated, will positively affect refugees' economic integration. But most of the refugee women interviewed had not formed significant relationships with Portuguese citizens at the time of the data collection, nor did they have family connections with other fully integrated refugees. More recent studies also pointed to the benefits of having friends that are national citizens of the asylum country, or of having family members already fully integrated into the asylum country, to refugees' employment opportunities (Campion, 2018; Eggenhofer-Rehart et al., 2018; Dustmann et al., 2017; Correa-Velez, Barnett & Gifford, 2015).

The basic assumption of the human capital theory is that individual skills determine labor market success (Chiswick & Miller, 2001). Considering the effect of education on economic outcomes, a straightforward proposition is that both pre-migration and post-migration education represent skills that will foster economic integration. The participants of study 2 are from countries with different and generally less advanced educational systems than Portugal, with qualifications that may, at times, be only partially or not at all recognized by Portuguese institutions and employers.

Besides, as already explored in Chapter 8, the majority of the refugee women interviewed had low levels of professional training, as emphasized by Ammar (Syria): *"I would like to work here in Portugal, to be either a seamstress or to be a hairdresser but the problem is that I have no experience in those areas."* In addition, the majority of them never performed work outside of the household. Consequently, the lack of labor market experience can be seen as the second form of human capital that can negatively affect the economic integration of refugee women.

On the other hand, the skills acquired while performing a specific job can have a positive effect on future employment because such experience is valued by employers (Chiswick & Miller, 2009). While this reasoning applies to work experience in the origin and in the asylum countries, the extent to which pre-migration labor market practice is recognized by employers can be small, because of limited compatibility with the asylum society labor market (Kanas & Van Tubergen, 2009). The findings of study two point to

the lack of work experience, the low rates of education and training; and the Portuguese state's limitation of education and professional training provided for refugee women has the main reasons for the lower rates of employment and the difficulties encountered by the refugee women interviewed while trying to find a job.

The data gathered regarding labor market integration of refugee women also showed a third form of human capital that negatively affected these women's employment rates: their proficiency (or lack of) in the asylum country's language. The Portuguese language is not spoken in the countries of origin of most of the refugee women interviewed, which means that they arrived without any knowledge of the Portuguese language: *"I really want to find a job, but the language barriers make it very difficult."* (Jassim, Syria).

Language skills are an important determinant of immigrants' labor market performance because reasonable language skills are required for most professions in the asylum country, as recalled by Amal (Iraq): *"The problem with work is that all employers ask me to speak Portuguese and I still don't know how to speak Portuguese."* For Lang (2021), better language skills enhance refugees' economic success by increasing the range of jobs in the labor market for which they are qualified. In general, all immigrants who speak the local language are more likely to find a job and more productive on the job (Lang, 2021; Lochmann, Rapoport, & Speciale, 2019; Åslund, & Engdahl, 2018; Sarvimäki & Hämäläinen, 2016; Chiswick & Miller, 2014; Clausen, et al., 2009; Hayfron, 2001).

Data also reveals that the majority of the refugee women complained about the lack of institutional support regarding their labor market integration. On the contrary, none of the professionals admitted not helping the refugee women to find a job, and they even admitted that that task was one of their main responsibilities. But they also declared that there were more important tasks than supporting in finding a job: *"We must capacitate them to look for work by themselves. Because what could happen is that if the institution finds a job for a certain person, and then that person wants to change jobs or if they get fired, that person will not be able to look for a new opportunity alone."* (Rita). The professionals also argued that it was easier to integrate refugee men in the Portuguese labor market *"due to their physical capacity and their previous experiences of work. Besides that, most men do not approve that their wives work outside of the home. It's like that in their culture"* (Alda). As demonstrated above, there are studies that suggest that refugee women face more challenges than refugee men regarding the labor market

integration (Fendel, 2019; Kalkum et al., 2019; Pallmann et al., 2019; Pfeffer-Hoffmann, 2018; Worbs & Baraulina, 2017).

But the findings encountered in study 2 point to a much worrying reality that is not based on gender differentials or in the focal points of analysis of human and social capital theories. Indeed, from the data collected third focus of analysis is proposed: the institutional capital theory. Indeed, as showcased above, the professionals' positioning regarding the refugee women's integration in the Portuguese labor market simultaneously enables and reproduces two forms of violence: "structural" and "symbolic". In relation to the former, the strategy presented by the professionals of capacitating refugee women to search for jobs themselves as a way of improving their autonomy and scope of action may seem, at a first glance, the most appropriate one. But the truth is that they do not provide the proper tools for refugee women to do so, such as education and training and teaching of Portuguese.

Regarding the latter, the professionals' speech also highlighted some prejudices regarding the refugee women's culture and traditions. And, according to the findings of study 2, these prejudices do not represent the refugee women's reality, at least not the ones interviewed for the current thesis, as they affirmed that their husbands were "*not against me finding a job*" (Hanan, Syria); or "*my husband was very excited for me when I got the translator position at [name of the organization]*" (Maara, Syria), and "*my husband is always encouraging me not to give up trying to practice my profession here in Portugal.*" (Alia, Sudan).

In that sense, this thesis concludes that it is a good that professionals in charge of refugee women's integration into the labor market empower these women to look for jobs themselves, as a way of building their autonomy and self-sufficiency. At the same time, that can only be accomplished by providing the refugee women with employment tools such as improving educational and training levels; teaching the language; demystifying cultural prejudices. Only then it would be possible to make a positive contribution to refugee women's agency.

It becomes once more crucial to mention the concept previously introduced in this thesis, "institutionalized regulatory practices" to stress the use of "structural" and "symbolic" violence by the professionals against refugee women. The idea of self-efficacy, that is, the belief in one's ability to do something, that the professionals seem to have in relation to the refugee women's own capability to enter the labor market, is not matched with the support they provided to them to improve their skills, their scope of

action, or their awareness regarding their rights and their power to make choices and to acquire resources. Therefore, the institutional capital theory works as a harmful practice for refugee women that breaches their rights as refugees, which consequently prevents these women from successfully entering the Portuguese labor market and improving their financial situation.

1.2.3. Discrimination in Public services

Discrimination is commonly described as the unfair or prejudicial treatment of people and groups based on characteristics such as race, gender, age, or sexual orientation. To understand the extent of discrimination against asylum seekers and refugees in Portugal, the current thesis will use Oberman's (2020, pp.2) concept of "*discrimination*" as "*(...) treating people worse than others because of their membership of a socially salient group. Socially salient groups are groups, whose membership is important to the structure of social interactions across a wide range of social contexts.*" Following Oberman's (2020) line of thought, discrimination will be analyzed from two different but interconnected ways, the discriminatory behaviors that are a product of the regime itself, and the discriminatory practices that states' public services professionals choose to endorse against asylum seekers and refugees.

The security and hostile treatment of asylum seekers and refugees goes beyond "intersectional discrimination at borders" and extends to the harmful and biased practices that national institutions and state entities choose to endorse within the refugee asylum system (Oberman, 2020). Securitization and hostile practices are spread across different institutional devices and discourses. In the case of asylum seekers and refugees, their classification as "crimmigrant others" (Aas, 2019), "outsiders" (Becker, 1968), or as "folk devils" (Cohen, 1972), by state's institutions and entities that associate them "with illegality and crime" (Aas, 2019, pp.3) legitimize their repression or interdiction in accessing basic services. Cohen's work (1985) explored the ways in which society responds to behavior and people labeled as deviant, problematic, worrying, threatening, troublesome, or undesirable. This response appears under many terms: punishment, deterrence, treatment, prevention, segregation, justice, rehabilitation reform, or social defense. The dispersion of social control mechanisms, from prison to the community, generates a wider and deeper deepening of these mechanisms in the social network and reaches a larger number of people. Simultaneously, there seems to be a lack of clear

division between the classes of non-deviant and deviant, and within the latter, of the different categories of deviants (Cohen, 1985).

In recent decades, the representation of irregular migration, especially of asylum seekers and refugees as terrorists, dishonest or bogus by the media and political commentators has contributed to the creation of a “moral panic” (Krzyżanowski, 2020; Pasamonik, 2017; Bauman, 2016; Martin, 2015; Souter, 2011; Cohen, 2002), which encompasses the labeling of “(...) a condition, episode or group of persons (...) as a threat to societal values and interests” (Cohen, 1972, pp. 9). During a “moral panic” situation, the perceived threat and the real threat are disproportionate: the former is exacerbated in comparison to the latter. For Martin (2015) a “moral panic” can be lengthened from episodic (Cohen, 1972) to relatively permanent, such as in the case of the unstoppable “war on terror” where the figure of the Muslim-terrorist-refugee is portrayed as a transnational “folk devil”. Furthermore, it is possible to recognize in today’s society a classic form of “moral panic”, that is, a negative, broad and unified response to refugees and their claims for international protection (Cohen, 1972; Martin, 2015). These consensual response has penetrated in the states’ approach to irregular migration, border control practices, individuals perceptions, and also the conduct of professionals and technicians from public institutions and services, as evidenced by the research findings of study 2 and summarized by Hilal (Syria): *“The professionals working at public services have a negative opinion about us. They often mistook us for economic migrants. And even if we say that we are refugees, they make no additional effort to help us. Anyway, I think that my legal status should be completely irrelevant for the performance of the public service’ technicians. They should do their job properly. But the truth is that I have felt discriminated against by some professionals”*

Some authors (e.g., Himmel & Batista, 2020; Ther, 2019; Nural, 2017; Ticktin, 2016; Geary, 2013; El-Tayeb, 2011), dedicated their research to understanding the importance of Becker’s (1963) “outsiders” work and his approach to the labeling theory to the figure of asylum seekers and refugees in the so-called modern European refugee crisis. The discriminatory, segregating, and exclusionary behavior that the sample for study 2 reported regarding public officials public officers and services towards asylum seekers and refugees seems to place such a vulnerable group of people under Becker’s (1963, pp.3) definition of “outsiders”.

Complaints were also made about the discriminatory behavior found in public schools, from teachers. Adilah (Morocco) tells her experience: *“A teacher told my son to*

go to the back of the classroom to say his prayers. And then he started asking my son questions, "Are you going to stay here? Are you going to France? Why did you come to Portugal?" We don't know what the teacher's intention was, but my son felt very uncomfortable and did not want to go back to school." And professionals, like Irene explained that *"The teachers normally do not sympathize with their learning pace because they are much harder to teach than Portuguese children. I think that teachers do not have the adequate training to understand these situations and to overcome the extra challenges that these children represent. In fact, a supplementary effort is fundamental on the teachers' part, and I don't think they are willing to do so."*

The fact that public officers and services do not treat asylum seekers and refugees the same way that they treat nationals, by making them wait for longer periods to be attended; failing to understand them or provide them with translation; the refusal to adopt better integration practices in schools, are a product and a producer of "structural" and "symbolic" forms of violence. Indeed, according to Becker (1963) rules, deviations, and labels are always constructed in political processes, in which some groups can impose their views as more legitimate than others. Himmel and Batista (2020) through a qualitative content analysis of Portuguese and German media, were able to conclude that the asylum seekers and refugees are labeled as "the others", which can be seen as a plausible explanation for the discriminatory and violent behavior encountered by some of the refugee women in Portuguese public services, and also confirmed by the professionals interviewed.

The obscure and invisible ways in which "structural" and "symbolic" forms of violence are perpetrated in the social order prevents asylum seekers and refugees from achieving their potential (Farmer, 2005). Likewise, the social exclusion, rejection, and judgment faced in their daily routine (Pickering, 2011; Crisp et al., 2012; Jaji, 2009) can easily escalate to more visible and life-threatening violent situations, such as it happened to Maara (Syria), who was physically assaulted by a doctor in a Portuguese public hospital:

"I went to the hospital canteen to buy some soup. I noticed that the television was broadcasting the attack of Charlie Hebdo in France. And two doctors kept looking at me and at the television and commenting something between them. I found that very weird, but they were leaving their table, so I started walking, with my tray, towards them, to sit at their table. When I came across them, one of the doctors took my tray and threw my bowl of soup at me. He burned my face with the soup. I fell to the floor, and I started to cry."

It is possible to assume that the doctor had a fear/panic reaction towards this woman: fear of the other, fear of the media figure of terrorism about which "moral panics" have been generated in the last 20 years, after 9/11. A moral panic (Cohen, 1972) is a widespread feeling of fear, often an irrational one, that threatens that some evil person or things the values, interests, or well-being of a community or society. Some moral panics can become embedded in standard political discourse and transmitted to individuals, which include concepts such as "Red Scare"⁴¹ and terrorism (Walsh, 2016).

"Moral force" stands for the transformation of global privilege into issues of morality and the maintenance of the moral order through the social production of the "crimmigrant others" (Aas, 2019). For Bauman (2016, pp. 106) *"the problems generated by the current 'migration crisis', and exacerbated by migration panic, belong to the category of the most complex and controversial: in them, the categorical imperative of morality comes into direct confrontation with the fear of the 'great unknown' epitomized by the masses of strangers at the gate. Impulsive fear aroused by the sight of the aliens bearing inscrutable dangers enters combat with the moral impulse prompted by the sight of human misery."* For the professionals interviewed, education is a key-tool to fight discriminatory and violent behavior asylum seekers and refugees by professionals working at national public services, such as Matilde (professional) stated: *"There are many obstacles that arise when these people go alone to public services that do not arise if I go with them. People who work at public services such as in the health centers, in the finances, in the social services, should receive proper training because there is so much ignorance about the actual reality of asylum seekers and refugees. Their vulnerabilities and struggles are unfamiliar to us, so education on asylum is crucial."*

States have the moral and legal obligation to adopt proper measures to rebut false facts and to address the fear of difference and the threat of losing national/cultural identity. Contemporary societies are marked by a strong protectionist and exclusionary tendency, or at least, that is the message that the images of frightening and violent asylum seekers, Muslim terrorists disguised as refugees, and illegal Mexicans, seem to convey. In reality, current issues on migration control have as its keywords "protection" and "security" against the "alleged" foreign threat, with the traditional distinctions between criminals and the law-abiding being used to demarcate and reinforce the division between the foreign and the national (Bucken-Knapp, Fakih & Spehar, 2019; Koehler &

⁴¹ A Red Scare is the promotion of a widespread fear of a potential rise of communism, anarchism or other leftist ideologies by a society or state (Walsh, 2016).

Schneider, 2019; Scheim & Bauer, 2019; Matlin, Depoux, & Schütte, 2018; Anderson, 2013). So, in this thesis, it is argued that the first step to allow the full and positive integration of refugees into the asylum society is to fight discrimination particularly at public services used by those populations with proper education and training that eliminates prejudices among the professionals regarding these clusters of people.

1.2.4. The lack of a gender-based agenda

The findings of the current thesis reveal that gender is a crucial missing piece of the Portuguese asylum system. Although the issues of persecution and gender-based violence have been placed on the international agenda (through the lobbying activities of transnational feminist networks), and the need to offer international protection to victims of this type of persecution has been recognized by national political authorities and international organizations (Janmyr, 2017), according to the findings of study 2, this protection is not yet effectively available in Portugal.

Under the 1951 Convention, gender does not present itself as a ground of persecution or as a category for someone to apply for refugee status. In this sense, the CEDAW was a milestone in advocating non-discrimination against refugee women, as well as gender equality in the displacement journey and in the resettlement process in asylum countries. It also provided a far-reaching definition of gender-based violence as physical, psychological, and sexual, and the greater vulnerability to violence by women belonging to minority groups, such as women in situations of armed conflict, refugees, and migrants (Hellum & Aasen, 2013). In 2014, the CEDAW created its general recommendation no. 32 on the gender-related dimensions of refugee status, asylum, nationality, and statelessness of women. Through that general recommendation, the CEDAW aimed to provide authoritative guidance to states parties on legislative, policy, and other appropriate measures to ensure the implementation of their obligations regarding non-discrimination and gender equality relating to refugee status, asylum, nationality, and statelessness of women.

Prior to that, in 2010, UNGA established its Resolution 1765, and its Recommendation 1940, on gender-related claims for asylum, both of them advocating gender-sensitive asylum procedures. It also reaffirmed that asylum states have the responsibility to help and protect asylum-seeker and refugee women and to provide them with adequate assistance, to overcome the trauma they have experienced in their countries of origin or during transit. Furthermore, in 2017, UNGA created Resolution 2159 on

protecting refugee women and girls from gender-based violence. UNGA also welcomed the inclusion of a strategic objective to protect the rights of migrant, refugee, and asylum-seeking women and girls in the Council of Europe Gender Equality Strategy 2018-2023.

Regarding the European Union, in 2014, the creation of the Istanbul Convention represented the main progress for VAW in international human rights law. Acknowledging that migrant women are subjected to multiple and intersectional discrimination, several provisions of the Istanbul Convention (2014) are specifically referred to migrant and refugee women. This international treaty contemplates the response of a state to violence and prevention of violence against women. The monitoring of the implementation of the Istanbul Convention (2014) in the states parties is the responsibility of GREVIO and the Committee of the Parties.

On 13 May 2015, the European Commission adopted the Agenda for European Migration, as a response to the 2015 Mediterranean refugee crisis. As such, the European Commission planned to reduce incentives for irregular migration, manage borders, ensure security, and develop a more effective asylum policy. This agenda is also focused on proposals for the creation of resettlement and relocation systems, and also on a “Union Action Plan” against human trafficking. The European Commission also expressed its concerns to protect women in the “Action Plan for Gender 2016-2020” (Peroni, 2016).

Portugal has ratified all of the legal instruments mentioned, as well as European asylum policies and international policy directives (Coelho, 2016). The 1976 Constitution of the Portuguese Republic, in its article 8, clarifies that the treaties that oversee the European Union, as well as the orders from its institutions, are applicable in the internal order. Although Portugal has no general law on violence against women, it criminalizes numerous forms of gender-based violence. The 1976 Constitution of the Portuguese Republic enshrines the principle of equality regardless of the sex of the person, and the promotion of equality between men and women as a fundamental task of the state (Cáritas Portuguesa, 2019). Furthermore, it establishes the equality principle, in its article 13, that reinforces that promotion of equality between women and men is one of the Portuguese state’s fundamental responsibilities and explicitly authorizes the adoption of positive action measures in that regard, in its article 9. Articles 26-1 guarantee the right of every person to legal protection against all forms of discrimination.

The 1976 Constitution of the Portuguese Republic also includes a fundamental article regarding asylum, article 22, which assures asylum to foreigners and stateless persons persecuted for their activity in favor of democracy, national peace, and freedom

of human rights (Costa & Teles, 2017). The political refugee status is also defined in the aforementioned article. However, it only incorporated the first asylum law in 1982, which has considered as receptive and generous, reflecting the openness of Portuguese society at the time. After the country's inclusion in the Schengen Area in 1993 and later in the Common European Asylum System, Portugal adopted a more restrictive approach, by limiting the right to apply for asylum, establishing, in turn, the regime of subsidiary protection (Costa & Sousa, 2017).

The number of women asylum seekers in Portugal has been increasing, and according to the SEF Immigration Annually Report, in 2019, of the 1,849 requests for international protection, around 30% were female. In the same year, these requests were based on gender-based violence such as female genital mutilation, forced marriage, and discrimination based on sexual orientation (Oliveira, 2020). Given that, it is quite worrying that the Portuguese asylum system in its reception conditions and integration practices does not include a gender perspective, especially because Law no. 27/2008, in its article 2 (y) defines as “particularly vulnerable persons” “(...) *persons who have been subjected to acts torture, rape or other serious forms of psychological, physical or sexual violence.*”, which, as the data from 2019 showed, is often the case of asylum seekers and refugee women in Portugal. Furthermore, the same Law determines that acts committed for gender reasons are a foundation for the right to asylum, in its article 5 (f), “*acts committed specifically on the basis of gender or against minors.*” In addition, the same law decrees that housing providers must prevent gender-based aggression and violence (Ribeiro, 2017).

According to the professionals interviewed, gender-based measures are not receiving much-needed attention and subsequent implementation within the Portuguese asylum system, such as Graça explained: “*There are no specific measures for women and men in the integration process. Since 2019, a team has been created within the ACM, which is the team of intersectional inequalities, with the objective of cross-cutting gender issues in the different activities promoted by the ACM.*”. However, Graça also referred that the team on intersectional inequalities has not yet implemented considerable changes in terms of gender measures in the specific area of the right to asylum, which, according to the professionals’ opinion, it is a crucial step in providing best practices of reception and integration for female refugees: “*Refugee women who are victims of physical, sexual, and psychological abuse need continuous and effective psychological support. An intervention that takes into account the life history of the refugee women is fundamental,*

not only for the fulfillment of their right to asylum but also for their positive integration in Portugal.” (Camila).

In fact, as already demonstrated throughout this thesis, women face discrimination and all sorts of violence before, during, and after their displacement journey (Canning, 2017; Sapia, 2017; Freedman, 2016; Hathaway & Foster, 2014; Luibhe´id 2013; Pickering & Cochrane, 2012; Doocy et al., 2007). Post-migration presents additional challenges to the already traumatic experience of displacement, such as the long wait for the completion of the asylum process, the lack of employment, the uncertainty for the future, the lack of knowledge about the new health system, and of the language. All these factors influence the stability and physical and psychological well-being of this group of people (Freedman, 2016). Therefore, it is important to consider that not only the previous experiences of discrimination and gender-based violence encountered by asylum seekers and refugee women will shape their ability to integrate into the resettlement country, but also the integration practices themselves will have a positive or a negative impact on integration.

The professionals also confirmed the existence of gender-based difficulties on the integration process, like Raquel for who *“working with a sample of asylum seekers or refugee women, due to the very nature of their condition as females, is a very complex task. From my experience, refugee women have more difficulty to integrate into the host country because they are not as social as men, they face more challenges learning the language, finding jobs, finding help to take care of their children, and making friends.”*.

In 2017, CPR updated its “Age, Gender and Diversity Strategy”, which aimed to prevent sexual and gender-based violence, in addition to promoting participation, empowerment, and awareness. During the second half of 2017, the CPR developed group discussions between asylum seekers and officials in order to assess and identify the specific needs and risks of women, with the intention of developing a strategy to address these issues (AIDA, 2018; de Matos, 2019). Nonetheless, only a few gender initiatives that specifically targeted asylum seekers and refugee women were mentioned by some professionals, such as *“a project in the realm of positive parenting, and intercultural contexts.”* (Margarida); *“physical activity and a digital literacy activity for women only.”* (João); and *“Portuguese classes, where parents are enrolled in different classes to ensure that both parents are never present at the same time because this allows for a division of the parental roles.”* (Rita). Adding to that, most of the professionals conveyed that they did not feel comfortable or trained properly to talk to these women about their life

experiences in terms of violence, because *“it's very complicated for us to talk about these matters with these women. I wouldn't know how to help them.”* (Alda); or *“when I do interviews with refugee women, I always request a psychologist to be present as well, because I aware that my training in the social field didn't prepare me to deal with women that suffered violent trauma experiences.”* (Maria, Portugal).

As mentioned above, the Resolution of the Council of Ministers of Portugal, No. 103/2020, established a single system for the reception and integration of applicants and beneficiaries of International protection coordinated by a “Single Operating Group” that includes several national institutions. Nonetheless, among all the measures that this Resolution proposes, none of them is related to the provision of specialized training for the professionals working in the institutions that constitute the “Single Operating Group”. Therefore, the lack of gender practices aimed at protecting, supporting, and empowering refugee women can be perceived as a form of “structural” and gender-based violence because women are being prevented from receiving the proper support to overcome their traumatic and violent experiences. Furthermore, the neglect of gender-specific necessities in the integration of refugees also contributes to the perpetuation of the “culture of silence” regarding gender-based discrimination and violence and of the “intersectional continuums of violence” (Canning, 2017, p.27) in these women's lives. Regarding this matter, at the end of 2020, ACM took the initiative to open the first “victim support office” for migrant women, with the aim “to give a more personal answer, to provide guidance, clarifications, and information, so these women know that they are not alone and that they can contact this office and ask for help.” (Deolinda).

But the ACM's initiative cannot be categorized as a gender-based practice because although the terms “refugee”, “asylum-seeker” and “migrant” are used to describe people who are on the move, who have left their countries and have crossed borders, their legal status is not the same. And although there may be contact points in terms of gender-based violence experienced by asylum seekers and refugee women and migrant women, the request for international protection in the case of the formers, evidences their specific vulnerabilities and insecurities.

Therefore, asylum seekers and refugee women would benefit more from a victim support office for victims of gender-based violence in their countries of origin and in transit or destination countries, where a safe space could be created to provide them with counseling, psychological support, and health care, including sexual and reproductive health care and specific post-rape care. They should also be provided with gender-specific

information on the cultural norms and expectations of the asylum country, with a view to helping them to identify their role, their responsibilities, their fundamental rights and freedoms, and the opportunities available to them (UNCHR, 2020).

Additionally, according to the professionals interviewed, in order to overcome gender-bias patterns, it is also central to work with asylum seekers and refugee men. As mentioned by Joana for who “when we talk about the implementation of gender measures, we must also take into account interventions with men because intervening only with the victims is doing half the job. It is foremost important to educate men regarding gender equality. Otherwise, men would continue to be an obstacle for these women’s empowerment.” In accordance with the professionals’ discourse, there is a limited but growing body of evidence on engaging men and boys in gender-based violence prevention and response. Impact and process evaluations of education programs to change norms associated with violence have shown positive results (GCE, 2018; Barker et al., 2010). Programs that promote gender-equitable relationships between men and women by engaging men in discussions of gender and masculinity may be more effective for the elimination of gender-based violence (Fleming et al., 2015; Lwambo, 2013). Men need knowledge, skills, mentoring, and peer support to construct a positive, non-violent version of masculinity (Hoang, Quach & Tran, 2013; Hart, 2008).

With this in mind, it would be expected that an asylum country, such as Portugal, should provide integration practices regarding gender equality measures in a manner that both men and women can break patterns of gender stereotypes and beliefs and attitudes about masculinity and femininity that diminish and subordinate women to men. In fact, one of the recommendations to the Portuguese State made in the last EU Report of the Working Group on the Universal Periodic Review (2019, pp. 12) on the matter of gender-based practices was to “*continue its efforts to overcome stereotypical attitudes regarding the roles and responsibilities of women and men in the family and in society and eliminate gender-based discrimination by adopting a comprehensive strategy in this area.*”

The Istanbul Convention (2014), like other human rights treaties and especially those elaborated and promoted within the Council of Europe, follows the model of “Prevention”, “Protection” and “Prosecution”, which respond to the due diligence standard, but it also includes integration policies, since effective prevention, protection and prosecution require overarching measures that frame the response to gender-based violence against asylum seekers and refugee women (Peroni, 2016). Therefore, protecting refugee women from all forms of gender-based violence does not only mean preventing

such violence from happening, and condemning the ones that perpetuate such violence, but it also implies that proper support and assistance is provided to the ones that already experience such violence. This goal is only possible to achieve by implementing integration practices based on a gender perspective (AIDA, 2018). And collecting and producing detailed gender-specific statistical data on refugee women is equally fundamental, to define the most pressing needs, to detect specific vulnerabilities and strengths, and to allow for the development of targeted and more individualized national integration policies (Simon-Butler & McSherry, 2019).

2. Decentralized approach penalties

In recent years, increasing numbers of asylum seekers formally lodge applications for international protection after crossing the borders of various European and Non-European countries (e.g., Aliverti, 2020; Aas, 2019; Barker, 2018; Fassin, 2018; Bosworth, 2011). The support provided by states' institutions is fundamental to ensuring respect for the human rights of refugee women and preventing the emergence of new situations of violence (Barbarett, 2014). Nonetheless, alarms about uncontrolled illegal migration have encouraged asylum countries to implement border control measures beyond border control zones, which progressively restrain the scope of action of asylum seekers and refugees in the asylum countries. Several investigations (Freedman and Jamal, 2009, Bekyol & Bendel, 2016, Dionis et al., 2016, Freedman, 2016; 2009, Hersh & Obser, 2016, Sansonetti, 2016) have reported a large number of cases in which institutions failed to comply with the specific needs of refugee women and contributed to the exposure of refugee women to new risks of sexual assault or violence, making them vulnerable and unsafe again.

As an example, two studies were developed using qualitative research, namely interviews. Freedman (2016) conducted a qualitative study in Greece (Kos), Serbia (Belgrade), and France (Paris and Calais) between June 2015 and January 2016, with a total of 40 female and 20 male refugees who were interviewed using an open and non-directive interview methodology. In addition, interviews were conducted with key informants, including UNHCR representatives, national and international NGOs, and local migrant support/solidarity associations. Telephone and e-mail interviews were also conducted with regional representatives of UNHCR, the European Parliament, Frontex, and the European Asylum Support.

Hersh and Obser's study (2016), conducted in Berlin, Cologne (Germany), and Stockholm (Sweden), interviewed refugee women in shelters. The research team also met with several relevant stakeholders in both countries, including local and national government officials; non-governmental organizations dedicated to promoting women's rights, human rights, and the rights of migrants; also, staff and volunteers at the accommodation center. In both studies, analysis of interviews with refugees and key informants highlighted a number of varied forms of violence and insecurity that were gender specific. The analysis also highlighted ways in which reception and integration conditions for refugee women have created new forms of violence and have aggravated the existing violence, such as domestic/intimate partner violence.

Other studies have focused more on developing a broader picture of the problems/constraints faced by refugee women, as well as a series of suggestions to reduce or even eliminate such difficulties. Dionis et al., (2016) developed a study aimed at producing a report to propose positive actions to be implemented by international, local, regional or national organizations, civil society organizations, and NGOs to protect refugee women and girls from acts of violence. This study aimed to promote the exchange of good and promising practices and to create an open space for transnational dialogue, sharing of experiences and peer-to-peer learning.

Sansonetti (2016), at the request of the FEMM Committee (European Parliament Committee on Women's Rights and Gender Equality), presented in its study an overview of the most important issues faced by refugee and asylum women and provided a summary of international standards and applicable European laws. The author also collected details of available funding at the European level and offered recommendations for improving the reception and integration services of this vulnerable population. Bekyol and Bendel (2016) provided an overview of the implementation of the Directive 2013/33 which laid down rules for receiving applicants for international protection on European soil. This study examined the gender issues and reception needs of vulnerable groups, such as refugee women in Munich (Germany) and Brussels (Belgium).

According to the findings of study 2 presented above, it is possible to conclude that the imbalanced treatment between asylum seekers under the EU's schemes and spontaneous asylum seekers, and within each of these groups, in terms of the integration practices are intrinsically related to the decentralized approach adopted by the Portuguese asylum system. In light of these findings, the current thesis offers the concept of "decentralized approach penalties" that acknowledges the unequal opportunities, uneven

access to goods and services, and the inequalities within and between social groups, enabled by the Portuguese asylum system.

As mentioned above, the Resolution of the Council of Ministers of Portugal, No. 103/2020, established a single system for the reception and integration of applicants and beneficiaries of International protection. In this context, the Resolution established that *"the Working Group for the European Agenda for Migration was created, with the mission of measuring the installed reception capacity and devising an action and response plan on the resettlement, relocation and integration of migrants."* (pp. 40). Indeed, currently, there are multiple governmental organizations, in different parts of Portugal, responsible for hosting and supporting both asylum seekers under the EU's schemes and spontaneous asylum seekers. Granting that the decentralized approach implemented in Portugal was supposed to only be applied to asylum seekers in the EU schemes, the fact is that after receiving their ARP, spontaneous asylum seekers are also being spread across the country, under the tutelage of the ISS or the ISCM.

Therefore, both of these two clusters of asylum seekers are assigned a place to stay in a particular geographical area, based on the availability of accommodations. According to article 7 of the Reception Conditions Directive (2013), applicants may move freely within the territory of the asylum country, but not within the European Union territory. Nevertheless, the findings of study 2 lead to the conclusion that the Portuguese state may limit the freedom of movement to an assigned area within the country since the refugee women interviewed reported that their opinions regarding their relocation within the Portuguese territory were not taken into consideration. Furthermore, these women also declared receiving littler information or explanation for their relocation, which contradicts the mentioned Resolution, that establishes that *"support in service, clarification and information aimed at applicants and beneficiaries of international protection (...)"* (pp. 42) must be guaranteed to asylum seekers and refugees.

Besides the limitation to the right of free movement, another worrying aspect regarding the Portuguese asylum system was also uncovered by the findings of study 2. Currently, in the Portuguese asylum system, multiple institutions and other national entities involved in the integration process are providing dissimilar support both in terms of available resources and in terms of the quality of those same resources for asylum seekers and refugees. In the mentioned Resolution, it is determined that *"the ACM, IP, within the framework of its attributions, prepares a single reception and integration model for applicants and beneficiaries of international protection, defining the principles,*

guidelines, responsibilities of the various competent entities and refugees, and coordinates the processes reception and integration.” (pp. 41). But the findings of the current thesis pointed to an absence of coordination between all local stakeholders.

The concept of “decentralized approach penalties” also illustrates the inconsistent and quite often insufficient support provided by all of the national stakeholders involved in the Portuguese asylum system to spontaneous asylum seekers and asylum seekers under the EU’s schemes refugees, as well as the absence of a homogeneous set of practices. The referred Resolution also attributed to *“the Single Operating Group the mission of articulating the action of the entities that comprise it, within the framework of their respective attributions, as well as the relationship with third parties, for the purpose of designing and implementing the single system for the reception and integration of applicants and beneficiaries of international protection.”* But the reality is far from looking as good as written on paper. Indeed, a striking example of “decentralized approach penalties” is the difference in the duration of the support provided to the same group of asylum seekers, namely, asylum seekers under the EU’s schemes by the different stakeholders involved in their integration. The Refugee Support Platform (PAR) provides assistance for 24 months, while other entities provide assistance for 18 months. By providing support for different periods to the same population, the “decentralized approach penalties” is not providing an identical cluster of people with the same opportunities for them to achieve their full potential.

The facts presented seemed to contradict The Resolution of the Council of Ministers of Portugal, No. 103/2020 itself, where one can read, in its first page, that *“in order to ensure greater effectiveness and efficiency in the scope of reception and integration of applicants and beneficiaries of international protection, including unaccompanied, resettled or relocated children, it is urgent to create a structure that ensures cooperation and coordination between the various actors.”* (pp. 42). Therefore, the “decentralized approach penalties” is a clear demonstration of the divergence between the law in books and the law in practice.

3. Life-rebuilding through adversity as coping strategies

The refugee women interviewees for this thesis shared their short- and long-term plans for their future in Portugal, ranging from learning the language to starting or restarting studies, or finding a job, such as Amélia (Angola) who was planning *“to first studying at the university the economic law in Portugal and then to find employment”*,

where she could put to use the degree in accounting that she already had. Similarly, Yaya (Gambia) intended to first learn the Portuguese language properly and then *“maybe, who knows, I can go to the university. I would love to get a degree.”* She was motivated by her own experienced as a refugee woman to help others, and, in her own words: *“to make ourselves visible to the world leaders that are constantly trying to disregard us or to portray us as lost causes.”*

As shown in the current chapter, several forms of “structural”, “symbolic”, and gender-based violence deeply marked these women’s experiences in Portugal. These forms of violence were produced and reproduced by the Portuguese asylum system’s reception conditions and integration practices. In spite of that, these women were still able to exercise their agency by adjusting to their surroundings as best as they can, by dealing with the stressors mentioned above, and by creating stratagems interrelated to them.

Some vivid examples of resistance and resilience were shared during the conduction of the interviews despite structures that would not necessarily make it easy to do so. For example, Maara (Syria) when confronted with the abuse of power perpetrated on her by the SEF’s director, although she felt *“very unsafe and scared”*, she was able to confront her and to show her that she was well aware of her rights: *“I asked her: ‘If I want, I can ask for a lawyer, for any reason, right? For example, if I feel threatened here, right?’ She looked very scared, and she just replied ‘Yes’. And I said ‘Good, because I think I will need one!’”* In fact, the women that were arrested at the Portuguese airports and placed in the detention centre all showcase their agency, by rebelling against the repressive system they were under, like Promesse (Congo) who *“told them [referring to the police officers] that I wanted the legal assistance I am entitled to, because they could not take my newborn daughter away from me just like that”*; or to be persistence in the face of terrible conditions, like Ama (Togo) who *“was able to endure that month in the detention centre by focusing on the reason that brought me to Portugal in the first place: to survive!”*

The refugee women interviewed were also able to overcome the limitations imposed on their scope for action and empowerment by the lack of institutional support, by displaying a considerable amount of deliberation as to their next steps in Portugal and by actively shaping their integration processes to build a life for themselves and their families. For some of the women that meant to search for help outside of the institutions responsible for their integration processes, such as in the case of Adilah (Morocco) who

faced with the scarcity of money for the maintenance of essential goods for their survival and that of their family, *“resorted to the help of the Santa Casa of Misericordia [non-profit Portuguese organization] for food.”*; or Alia (Sudan) who *“researched by myself for some organization that taught Portuguese, and I found this institution Lisbon Project, and they helped me to find a Portuguese course and also to enroll my daughters in school.”*

For others, they used their personal skills and perseverance to overcome the hardships encountered in establishing a new life in Portugal, like Maara (Syria) for whom it was very difficult to rent a house since landlords were prejudiced against her because she was a refugee until she *“I stopped saying that I was a refugee”*. Because she is *“fluent in English, I went and made a false registration at the university to have proof that I was legal in Portugal and shown that registration to landlords. After that, I found a house in no time [laughs].”*; or Alice (Angola) for whom the money allowance provided to her by the Portuguese state was not enough for her to rent a room and therefore be able to leave the reception center with terrible conditions that she was placed in, so she *“started to work illegally as a nanny. I had a lot of experience in that field.”*

Gender-based violence, which is rooted in gender inequality, the abuse of power and harmful norms, can manifest itself in more subtle and almost invisible ways such as preventing women from increasing their educational level, from enrolling in more qualified and well-paid jobs, and ultimately, from being empowered (Lever et al., 2018). The refugee women interviewed expressed a willingness and a desire to further enrich their levels of education and to attend Portuguese classes. They seemed very aware of the fact that education plays a crucial role in the integration process and in facilitating intercultural understanding and inclusion, like Ammar (Syria) *“We asked for Portuguese classes. It is the only way to integrate us here in Portugal, right? We need to proper communicate with the Portuguese.”* This awareness made some of the interviewees take opportunities that presented to themselves as alternatives to learn the Portuguese language, since the classes that should have been provided by their integration institutions were non-existent, as Jassim (Syria) who *“met a man who was also living in a reception center, and he told us that he was going to start taking Portuguese classes at another institution and that he was going to ask if we could go too. And that institution said we could, and we went.”*

Education is therefore seen by refugee women as a key site for both the promotion of empowerment and inclusion, and the measurement of its achievement. They saw the

teaching of the asylum county's language, an intervention in possible gaps in their prior education, the providence of specialized training to facilitate their access to the labor market, and children's registration in school as main steps for their integration and inclusion in Portugal. And when confronted with the lack of support of the institutions involved in the Portuguese asylum system in taking these steps, they searched for alternative help, as demonstrated in the statements above. According to Day (1999) the constituent elements of empowerment are knowledge, conation, and transformations. Knowledge is seen as having three sub-categories: practical, self-knowledge, and contextual. Conation is identified as a conscious desire to act. Taking action is part of transformative learning, is an indication of emancipation of oppressed or disadvantaged people. Some of the women that presented high levels of education also asked for help to get their education recognized by the Portuguese state, such as Alia (Sudan) who asked for assistance on this matter to *"a friend that works in a Portuguese university."* Clearly, these narratives correspond with McPherson's (2014, pp. 88) study on how refugee women conceptualize education and her statement that *"these women saw education as a tool to be used by themselves and others for self-development."*

While not all the refugee women interviewed specified particular preferences in terms of employment prospects, all of them conceptualized the possibility of finding a job within the wider framework of building a life in Portugal. Even the women that were married and that previously were financially supported by their husbands, while they work at home, stated that they would like to find a job *"so I can feel that I am making a contribution to this country that accepted me and my family. My husband feels the same way, and he encourages me a lot to find work."* (Fatima, Iraq). This type of narrative not only contradict the commonly shared opinion of the professionals interviewed that *"it is more difficult for women to find jobs because their husbands do not want them to work or because they are not used to work."* (Raquel), but it also showcases that for these women, *"inclusion has a more comprehensive approach to participation in which spaces are created to value the presence and contribution of minorities."* (Ghorashi, 2021, pp. 12). In this regard, a proper integration translates into the participation of these women's in the Portuguese labor market, which would allow them to *"improve my economic status. So, I worked on a project to make homemade soap and I also made Syrian sweets and sold them."* (Hilal, Syria); but a meaningful inclusion means that their contribution to the Portuguese society matters, because *"We refugees have much to offer to Portugal and to*

the Portuguese. We just need to have the proper support that enables us to prove that." (Shaimma, Iraq).

To be resistant in fighting for their mental well-being quite often meant to not take no for an answer, like Jassim (Syria) who refused to give up on her right to receive mental health support, in spite of the fact that she *"asked for psychological help a lot of times, and the professionals from the institution were always postponing it. But I kept on insisting so, finally, the institution got me a psychologist."* For other women, it implied to be resilient to the challenges encountered during psychological sessions, such as in the case of Hanan (Syria) who resorted to *"sign language and I tried to speak in English"* to overcome the language barriers in relation to the psychologist provided to her that only spoke Portuguese. These narratives prove, once more, that refugee women's experiences of agency should not be generalized, as has unfortunately been done by a number of studies.

Family separation in situations of displacement is particularly common as a result of experiences of conflict, persecution, and abuse. This separation also decreases the chances of all family members being resettled together in a country of asylum (Löbel & Jacobsen, 2021; Dubow & Kuschminder, 2021; Morris, Lenard & Haugen, 2021; Kraus, Sauer & Wenzel, 2019). And, as also reported by the interviewees, the devastating psychological, emotional, and social impacts of family separation are some of the most demanding problems for female refugees (Cheung & Phillimore, 2017; Bakker, Dagevos & Engbersen, 2014; Garnier, 2014). When families are split up, refugees find it more difficult to be integrated into the new societies of the asylum countries, in many different ways, including learning the local language, finding education and employment, and creating relationships with their new neighbors (UNHCR, 2013). But when speaking about refugee mothers being separate from their children, the negative impacts are aggravated, especially regarding their mental well-being, and exacerbate the struggles of people who have already experienced a great deal of hardship (Garnier, 2014). Nevertheless, it appears improper to consider refugee women's mental health problems as evidence of lack of resilience because some of these may be considered as ordinary responses to anomalous settings (Montgomery, 2010).

Consequently, vulnerability and agency should not be interpreted as opposite poles of the same continuum, as they co-habit simultaneously in these women's lives: their separation from their children had an enormous impact on them emotionally, but it also became a source of "life-rebuilding through adversity", as it promoted personal strength,

determination, and action-taking to be reunited with their children: *“I have been working hard to build a good life here, to provide my children with everything they need. I also have been working with the institution to bring them to Portugal. It's a lot of bureaucracy, a lot of legal procedures, but I'll manage. That's my mission!”* (Yaya, Gambia). Equally remarkable is the positive influence that children have on their mothers' adaptation to Portugal, *“the fact that my children are happy and feel welcomed in Portugal by their classmates at school, gives me even more strength to commit myself and do everything in my power to be successful in this country”* (Rana, Syria), even if at a distance, as evidenced in Yaya's (Gambia) narrative.

Hence, refugee women's agency is of crucial significance in voicing plans and in challenging the normalized and institutionalized bias encountered in the Portuguese asylum system, that often-generated stress and insecurity, and ultimately, for these women to reshape their lives.

The research findings presented in chapter 11 qualified the current thesis to reach two main conclusions that will provide answers for the last two sub-questions that guided the data collection and analysis.

To the sub-question - “What is the impact of the reception conditions and integration practices offered to refugee women under the tutelage of the Portuguese state?” – this thesis concludes that the reception conditions and integration practices in place in the Portuguese asylum system are producing and reproducing “structural” and “symbolic” forms of violence for the asylum seekers and refugees under its tutelage.

In relation to the sub-question – “What role do refugee women play in their asylum processes?” this research argues that refugee women embrace an active role in strategizing, as well as in creating means to overcome the hardships encountered during and within their reception and integration processes.

Beyond considering and interpreting the narratives of the refugee women interviewed, the current thesis, through the use of the Grounded Theory, aimed to contribute to theorizing a new perspective regarding the process of becoming a refugee woman, which will be fully detailed next, in part IV.

PART IV

A contribution to theorizing a new perspective on becoming a refugee woman

Chapter 12:

What does it mean to be a refugee woman in the twenty-first century?

“Conventional wisdom holds that refugee women are victimized, dependent, and dispirited.” (Pessar, 2001, pp. 462). All too often, this is the portrayal associated with refugee women perpetuated in scientific academia, in politics, and in the media. This representation is worrisome as it conveys a pernicious gendered view of female asylum seekers and refugees which has considerable potential to influence states' views and public opinion, and can lead to an embrace of flagrant misrepresentations, simplified narratives, and gender stereotypes of refugees in general. When researching refugee women, it is essential to ask these women about their life-paths, their feelings, their personal experiences, and to carefully listen to what they have to say. It is also crucial to consider the myriad of backgrounds, experiences, and individual identities, to recognize the diversity in the lived experiences of female refugees. By focusing on the personal and individual narratives of refugee women, on which this research is centered, it is possible for a new perspective to emerge, one that does not see them as *“a homogeneous, undifferentiated group”* (Binder & Tošić, 2005, pp. 618).

Otherwise, one could easily neglect, on one hand, refugee women's intersectionality, enabled by the overlapping of their identities, both as females and as refugees. Canning's concept of *“intersectional continuums of violence”* (2017, pp. 28) emphasizes the need to pay attention to a larger spectrum of refugee women's lives, *“rather than assigning identities as though migrant women are a monolithic group.”* In this way, it is possible to recognize the multiple forms of violence experienced by refugee women, and simultaneously, that not all women experience violence in the same way. Indeed, intersectional approach evidence that female refugees have experienced at least double marginalization, based on their insecure status as refugees and, concurrently, on their female gender (Vervliet et al., 2014). This double marginalization is, at the same time, a product and a producer of “structural”, “symbolic”, and gender-based violence.

On the other hand, by failing to listen to their voices and perspectives, one could overlook or dismiss refugee women's agency, both as a form of emancipatory resistance against oppressive structures, and as a capacity for action within structures. In fact, traditionally, perceptions and representations of asylum seekers and refugees have been

centered on male refugees, highlighting men's motives to escape their countries of origin and their experiences in doing so. This one-dimension gender analysis ignores divergent narratives that do not fall into the hetero-normative, male category of refugees (Kea & Roberts-Holmes, 2012; Guine & Fuentes, 2007). Furthermore, when refugee women's experiences are added to migration studies, they are often portrayed as dependents who obey their male partners or relatives, thus neglecting any potential for individuality in decision-making or movement.

Narrative criminology is a relatively new theoretical perspective based on the influence of stories on harmful actions and patterns of action. Instead of studying what the stories tell, narrative criminology researchers study the stories themselves, to gain insight into those who experienced them. Narrative criminology adopts a constitutive view of stories, thus privileging the framing of the accuracy of the tales under research. This recent academic field looks at the role of stories in causing active harm, passive complicity, giving up offending, and resistance to harm (Pemberton, Mulder, & Aarten, 2019; Presser & Sandberg, 2019; Pemberton & Aarten, 2018; Sandberg & Ugelvik, 2016). According to Pemberton and Aarten (2018), narrative criminology is linked to victimization and seeks its roots in the personal history of individuals, by looking to understand which narratives are involved in the process of resistance to damage patterns, and in one's perception of its own identity.

Drawing on the semi-structured interviews conducted with twenty-four refugee women, combined with the biographical narratives method, the current chapter explores the dominant narratives that influence the particular stories told by these women. In doing so, it is this thesis goal to challenge the exclusionary conceptualizations of violence and agency (Fiddian-Qasmiyeh, 2014) regarding refugee women's lives. By identifying specific stressors and coping strategies in the daily lives of refugee women, in three stages and (geographical and symbolic) places, namely, in the country of origin, during the displacement journey, and in the country of asylum, this thesis was able to answer the nine sub-questions that guided the conduction of this research and to propose new concepts to illustrate their lived realities. This set a crucial background that will support the answer that this thesis will provide, in the current chapter, for the main question that guided this research from its inception: "What does it mean to be a refugee woman in the twenty-first century?". In doing so, this thesis will offer a contribution to theorizing a new perspective regarding the process of becoming a refugee woman.

Based on the mentioned research findings, as well as on the scientific literature on the matter, this thesis proposes a new perspective on refugee women, one that sees their experiences of violence and of agency as not as mutually exclusive, but rather as interconnected, because “*although women are victimized in different situations [...], they also work in the junction between oppression and agency to create a better life*” (Bailey, 2012, pp. 852). To clarify this argument, this chapter will be structured around Pemberton and Aarten’s (2018, pp. 542) three constructs central to narratives.

In section 1, “*the centrality of narrative to identity*” will be used to guide the analyses of refugee women’s integration of their refugee condition in their identities; section 2 will navigate through the “*the role of narrative in emotions*” to evaluate the influence of refugee women’s feelings in their use of agency; and in section 3, “*the importance of narrative in connecting individual lives to the wider cultural context*” will serve as a starting point to understand the influence of the refugee women’s cultural habits, religion, and traditions in their behavior, in their daily routines, and in their aspirations in the countries of asylum.

This tripartite analysis will allow the current thesis to offer, in section 4, a contribution to theorizing a new perspective on the process of becoming a refugee woman - “refugee women’s holistic identity” – composed of two concepts, namely, “violence against refugee women” and “refugee women’s agency”. This thesis believes that this new perspective can become a useful tool for migration scholars conducting research on female refugees, as well as for policymaking, and for the implementation of best practices in states asylum systems.

1. “The centrality of narrative to identity”

Through the analysis of the internalized, evolutionary, and integrated story of each of the twenty-four refugee women interviewed, this thesis was able to grasp “*the centrality of narrative to identity*” (Pemberton & Aarten, 2018, pp. 543). In doing so, it is possible to understand how these women’s life paths are deeply marked by experiences of violence in three stages and (geographical and symbolic) places of the process of becoming a refugee: in the country of origin, during the displacement journey, and in the asylum country. All of the refugee women interviewed agreed on the uniqueness of the condition of being a refugee, very distant and different from being an economic migrant, as Maara’s (Syria) discourse acknowledges: “*We, refugees, did not decide to leave because we wanted to improve our financial status. Mine was very good, actually. Our*

decision to flee was based on the violence experienced in our home countries that endangered our lives and of our loved ones”.

Indeed, the dissemination of the familiar and widespread confusion between these two dissimilar clusters of people, economic migrants, and refugees, among politicians and general public, supports the common portray of asylum claims as unfounded, dishonest, or bogus (Aliverti, 2020). This confusion, along with the often depiction of refugees as Muslim terrorists, seems to justify the current “moral panics” (Cohen, 1972), created around them. Furthermore, it continues to feed the unclear division classes of non-deviant and deviant, which can lead to their personification as “folk devils” (Cohen, 1972), and as “crimmigrant others” (Aas, 2019). This personification is very worrying because it neglects the fundamental motive that leads one to become a refugee, and consequently, the hardships encountered along that journey.

As showcased in Maara’s (Syria) discourse, “violence-based escape” was the main reason that made the interviewees flee from their countries of origin. Several recounts of violence experienced in their home countries were individually shared by the refugee women interviewed. As a result of the analysis of these recounts, this thesis was able to answer to sub-questions - (1)“what type of violence affects the lives of refugee women in their countries of origin?” and (2)“why do refugee women escape from their home countries?” - which is that war-related violence and family-related violence are major sources of direct or indirect forms of “structural”, “symbolic”, and gender-based violence for refugee women in their countries of origin, and the main reasons for them to flee. The decision to escape was made “*consciously and well aware of the challenges that we could encounter along the journey*” (Eisaa, Syria).

Nevertheless, this decision still generated feelings of sadness and anguish regarding their departure from a life that the majority of the interviewees considered to be “*good and happy, despite the violence suffered.*” (Ama, Togo), and in which these women saw themselves as active subjects and co-creators of their realities, like Promesse (Congo) who “*worked as a hairdresser, I made good money, I was able to support myself. I decided to get pregnant, and I was very much in love with my boyfriend.*”. Indeed, the narratives of the refugee women interviewed regarding their lives in the countries of origin often demonstrated their engagement in initiatives to make changes (resistance) and to take the best advantage of their living environments (resilience).

Accordingly, the lives of refugee women are deeply marked by broken rhythms, where their sense of stability and security is often interrupted. According to this research

results, it was possible to discover that, the answer to the sub-question (4) "What are the dangers faced by refugee women during the escape journey?", is that the escape journey from the countries of origin was a key enabler of experiences of "structural" and "symbolic" forms of violence for refugee women, perpetrated by harmful border control practices. As the interviewees recalled it "*we faced many difficulties during our escape.*" (Hanan, Syria), such as "*long walks where we fear being captured by the regime police.*" (Mariam, Syria), "*boat rides that could easily end up with us killed.*" (Jassim, Syria) and being chased by "*the military police officers who were trying to kill me.*" (Ama, Togo). The refugee women felt that they "*were pushed to the limit! To survive, we had to activate our survival mode.*" (Ammar, Syria). And they were able to do so, and to successfully reach their planned destination, which proves their "intersectional resilience to slow violence", that is, their capacity to solve problems, to cope with issues, and to navigate through the dangers encountered during their escape, despite, as well as because of, their various vulnerabilities.

To reach their planned destination, seemed, at first, the last step that these women needed to take to feel safe and restart their lives. But as Canning's "*intersectional continuums of violence*" (2017, pp. 28) concept already revealed, the cycle of violence affects refugee women beyond their lives in the countries of origin, or during their escape. This uncovered the answer to the sub-questions - (6) "What are the hardships encountered by refugee women in 'transit' countries? - which is that the extension of migration and border control practices to the territory of 'transit' states, and to its citizens, was the major source of "structural" and "symbolic" forms of violence used against refugee women, and the main reason for them to apply for international protection with the UNHCR. This extension imposed severely restricted limitations to the rights of the refugee women interviewed, first as humans, and after their international protection request acceptance, as refugees.

The hardships encountered, which were enabled and perpetuated by "structural" and "symbolic" violence, placed these women's "*under a huge pressure to leave*" (Fatima, Iraq), which seems to be, in fact, the main goal of migration and border control practices. Their position of precarity, insecurity, and uncertainty in 'transit' countries, fostered by states, their nationals, and even the UNHCR, were far aggravated by the long periods of waiting: "*for them to make up their mind in relation to my international protection request.*" (Shaimma, Iraq); "*so that an asylum country was assigned to me.*" (Khadija, Syria); and "*to actually come to Portugal [the asylum country].*" (Eisaa, Syria).

According to Jacobsen et al., (2021, pp.2) *“waiting is not only formed and experienced within multifaceted and fluctuating processes, but it is in itself prolific and sustain the creation of migrant illegality or irregularity.”*

Waiting was experienced by these women as a *“suspended time”* (Ammar, Syria) in relation to the rebuilding of their new lives, but it was not perceived as a discontinuity to their future, nor to their determination to achieve that much-desired new life, as Hilal (Syria) explained: *“We never stopped looking for the better way to live in Turkey, and then, searching for information on Portugal, so we could prepare ourselves for our lives here [referring to Portugal].”* These women’s ability to cope with, and to manifest against the adversities encountered in ‘transit’ countries, evidence, once more, their resistance and their resilience in relation to oppressive structures.

Despite feeling happy and secure with their arrival in Portugal, the lives of the refugee interviewees were disrupted again by the inconsistent and quite often insufficient support provided to them by national stakeholders involved in the Portuguese asylum system, as well as by the absence of a homogeneous set of practices. Results show that these women were victims of “decentralized approach penalties” enabled by the Portuguese state. Likewise, this thesis answer to the sub-question - (8) “What is the impact of the reception conditions and integration practices offered to refugee women under the tutelage of the Portuguese state?” - is that the reception conditions and integration practices in place in the Portuguese asylum system are producing and reproducing “structural”, “symbolic” and gender-based violence for the refugee women under its tutelage. But where one could easily just concentrate on the tragedy that deeply marks refugee women’s journeys, the analysis conducted revealed these women’s capability to adjust to their turbulent surroundings the best they could, to fight for their rights, and to rebuild their realities in accordance with their dreams, future plans, and goals: *“It is hard, but life has never been easy, right? So, I am not going to change my behavior now. I was always a fighter, and I will keep on fighting until I fulfill my objectives. And then I will make new ones [laughs]. Life is too short to just sit and wait.”* (Promesse, Congo).

Statements like Promesse's (Congo) emphasize that refugee women are neither passive victims nor helpless aid beneficiaries. And so, it is easy to understand why respondents felt so uncomfortable and unhappy with the negative meaning that the word “refugee” had, and continues to have, in their lives. It is visible in the case of Amélia (Angola), for whom *“It's very difficult to be called a refugee woman. I was not born a refugee woman! Of course, I chose to be one, but it was an act of courage, of survival.”*;

or Alia (Sudan) who shared that *“It’s very difficult to leave your family behind, your home, and move into an unknown future. But most people don’t recognize that.”*. For the interviewees, being known as refugees often entails more harm than good, because *“the word ‘refugee’ ‘seems to mean the same thing as ‘criminals’ to some people. It’s so unfair.”* (Fatima, Iraq).

The narratives of these women demonstrate a lack of self-identification with the negative meaning associated with the refugee label: *“I don’t feel like a refugee woman, because I’m not a lost cause nor a parasite on society”*. (Ammar, Syria). On the contrary, they presented a greater identification with the refugee status, because the refugee status allows them to hold on to the idea of a temporary and non-permanent situation, of something that they are experiencing currently, but that they will, eventually, leave in their past, as Shamshi (Somalia) explained: *“ I don’t like when people say, ‘to be a refugee’. Because being means that something will not change. I always say that I asked for asylum. So, currently, I am under the Portuguese state protection as a refugee. But in a little while, I’ll be a Portuguese.”*

These women’s choice to see their rights as refugees (according to the legal definition), and simultaneously, their ability not to get caught in the trap of its negative social label, validates their roles as active actors in the refugee system, as they fight and challenge restrictions and make efforts to contribute to change. It also proves that refugee women are able to use temporariness in their favor because the individual’s condition, in existential terms, can last a lifetime, but temporarily means that *“this is not forever, this is only for now. My refugee status doesn’t define me as a person, because one day I will be able to become a Portuguese citizen.”* (Alice, Angola).

Nonetheless, these women do not choose to forget or to remove from their identities the violence experienced, but rather to accept it as one of many other parts constituting their stories: *“I think that this situation of fleeing my country, having an abortion, having been mistreated by that doctor, are situations that happened to me. But those events do not tell you who I am as a person. They just tell you part of my story.”* (Maara, Syria). At the same time, these women also choose to highlight an equally important feature of their identities, that is, their agency, which empowers them to fight for the recognition of their rights, to withstand adversity, and to bounce back, as Maara’s statement also shows: *“I am Maara, a Syrian woman who faced many struggles and who survive all of them. But, in this country, I am also a person who is doing everything I can to become a Portuguese*

citizen, while benefiting from the support fairly provided to because legally, I am a refugee.”

2. “The role of narrative in emotions”

The collection of refugee women’s stories for this research enabled the analysis of *“the role of narrative in emotions”* (Pemberton & Aarten, 2018, pp. 546). In the course of each individual's life, there are critical episodes that are often described as turning points, that generated deep emotions, and consequently, action tendencies. Thus, any biographical narrative will always be profoundly marked by the emotions that shape its core. Likewise, regarding the findings of the current thesis, the emotions generated from the stressors encountered by the interviewees, frequently played a decisive role in their action planning and taking.

For instance, the interviewees reported that they were *“very happy”* in their lives in the countries of origin, and, if it wasn’t for the violence suffered, they would *“never had left.”* (Ama, Togo). Even the narratives of the Middle East women, who are often described as submissive and subordinated to the male figures of their families, pointed to a different perspective. These women’s narrative showcased that they were able to recognize and establish themselves as active, valued, and crucial elements in their family dynamics, and for their relatives: *“Men do not like to hear this, but without us, they would never properly function [laughs]! We are the ones who keep the house running and the kids healthy.”* (Rana, Syria).

The lived experiences of violence in their countries of origin generated feelings of insecurity, despair, and *“fear, so I decided that the best option for me was to escape.”* (Madalena, Angola). Even if feelings such as sadness and loss were also present in relation to the life and the loved ones that they needed to leave behind, the refugee women interviewed still found the strength to flee because *“I could always start from scratch in another country but for that, I needed to stay alive.”* (Amal, Iraq), and *“my love for my friends and family remains. And one day we will see each other again.”* (Gloria, Congo). Indeed, this findings enabled this thesis to answer the sub-question – (3) “Does women's vulnerability in their countries of origin limit their ability to act?” – which is that vulnerability and agency do not stand in contrast to each other and are not mutually exclusive in the lives of refugee women in their countries of origin.

Similarly, the hardships faced during the escape generated suffering and fear, as they often thought that they may end up hurt or killed, or that something like that could

happen to their relatives as well: *“There was a point in our escape that I really thought that we were going to die because shots were coming from the Syrian military and the Turkish border control police at the same time. But I had made up my mind that we would survive, so the only option was to move forward.”* (Eisaa, Syria). Eisaa’s narrative evidence the answer found to the sub-question – (5) “what is the impact of the escape journey on refugee women’s narratives of survival?” - which is that the escape from the countries of origin is one crucial stage/place of the process of becoming a refugee woman that shows these women’s agency to move forward, with the focus on surviving and improving their well-being, and of their relatives. And being able to succeed in the escape journey, which has the direct meaning of surviving for them, made these women feel *“very accomplished, because it is wonderful to feel that you are the one in charge of your own life, of your own future. That nobody can take away your dignity. They I survive. I just kept on moving forward.”* (Rana, Syria).

Their lives in ‘transit’ countries were deeply marked by feelings of exclusion, discrimination, and injustice, that, consequently, made these women perceive themselves as undesirable, rejected, and as a humanitarian, legal, and psychological weight for states and for their national citizens. This could easily and dangerously have placed them under the “outsiders” label (Becker, 1963), and make them behave accordingly. But instead of allowing for their segregation into the marginal spaces of society to happen, the refugee women interviewed stood up against the “structural” and “symbolic” forms of violence suffered in ‘transit’ countries. They also did not feel like a burden; they felt unwelcomed, and as such, they decided that they did not want to stay *“in a country where I am not seen as an asset, or where people are constantly discriminating against me and my family. I thought, to myself “They don’t want me? Good! I don’t want them either!”* (Jassim, Syria).

So, despite and because of the negative feelings experienced in ‘transit’ countries, these women and their families gathered the strength and determination much-needed to apply for international protection with the UNHCR, and to comply with its procedures that generated a lot *“of anxiety, stress, and trauma. But I found the perseverance I needed to be cooperative with all the interviews, medical examinations, and bureaucracies that left me waiting for infinite times to be resettled in Portugal.”* (Rana, Syria). Some authors (e.g., Jacobsen et al., 2021; Anderson, 2014; 2013; Conlon, 2011; Vigh, 2008; 2009) used the word “waiting” as a critical component of refugees’ experiences of (im)mobility and discrimination. “Waiting” includes the time that asylum seekers and refugees spend in

refugee camps, asylum receptions, detention centres, and at border crossings, as well as the temporal insecurity and conflicts in time.

“Waiting” can be seen as both a social phenomenon that multiplies in irregular migration, and as an analytical perspective on migration procedures and practices: *“Honestly I can't understand how it could have taken so long for me to get an answer to my asylum request.”* Shamshi, Somalia). The latter can offer a modern understanding of the complex and shifting core of processes of bordering, belonging, state power, exclusion and inclusion, and social relations in irregular migration (Jacobsen et al., 2021; Hage, 2009). Hence, the answer to the sub question- (7) “What is the meaning of applying for international protection?” which is that one must see in refugee women’s application for international protection and their compliance with the UNHCR measures one of the most significant displays of their agency on the process of becoming a refugee woman. This was the answer found for the sub-question:

Furthermore, these women showed proactivity in searching for information on Portugal once they were informed that they were going to be resettled there. Despite feeling *“insecure and with some fear, as I had no idea that there was a country called Portugal”* (Mariam, Syria), these women did not assume a passive and helpless attitude and sought, once again, to make the best of an unfair situation. The same can be said in relation to their behavior towards the reception conditions and integration practices in place in the Portuguese asylum system. They demonstrated to be well aware of the breaches of their rights, which generated feelings of injustice, dissatisfaction, and anger. Nonetheless, these women’s narratives also highlighted how they actively chose to stay positive, hopeful, and proud of themselves for managing to survive all the adversities encountered along their journey of becoming a refugee woman: *“I've been through a lot, believe me, but at this moment, I can only feel happiness and joy at having arrived here, in Portugal. Finally, I feel safe again. I am a real-life superwoman [laughs]!”* (Khadija, Syria).

Khadija’s statement also confirms the answer to the last sub-question: (9) “What role do refugee women play in their asylum processes?” - which is that refugee women embrace an active role in strategizing, as well as in creating means, to overcome the hardships encountered during and within their reception and integration processes. Experiences of violence that deeply mark refugee women’s narratives should not be dismissed or downplayed. But simultaneously, their agency, that is, their resistance and resilience to and within the structures that pose political, social, cultural, and economic

challenges to them, both on a systematic and individual basis, should be identified and praised. As Shamsa (Syria) affirmed: *“It's very difficult to be a refugee woman. But it is also a blessing. You just need to look at it from the right perspective!”* (Shamsa, Syria).

3. Using “narrative in connecting individual lives to the wider cultural context”

According to Pemberton and Aarten (2018, pp. 549), *“the importance of narrative in connecting individual lives to the wider cultural context”* refers to the shaped and reshaping of collective memories, which are influenced by the cultural narratives of history, ethnicity, religion, and politics, that constitute people's life stories. On this matter, the refugee women's narratives revealed their respect for cultural habits, religion, and traditions that shaped their behavior and daily routine in their countries of origin. Most of the women maintain a strong connection with their past life through daily practices of their traditions, religion, and culture, and by maintaining regular contact with their family members who still live in their countries of origin. But to return to their home countries is something that they have little hope for, as Darya (Syria) shared: *“I love my country so much, but it is unthinkable for me to go back there. The truth is that my country, as I knew it, no longer exists.”*

At the same time, the findings of the current thesis also evidenced that, instead of understanding the collective memories of the past as a fixed canons, these women are re-interpreting their life paths according to their new reality. These women demonstrated being quite willing to adjust to the Portuguese society, like Rana (Syria), who wishes that *“Portugal, one day, becomes my country. I will do anything to be a good Portuguese [laughs]. In such a way that people, in a few years from now won't even realize that I wasn't born here.”* Even so, their past is still very relevant as it gives their current lives its complete meaning, as they navigate through and integrate in their identity, their nationalism and their new citizenship status, as well as their experiences of violence and their capability for agency, like Maara's speech illustrates: *“When I think about myself, I always reach the same conclusion: I am a Muslim woman who went through a lot of pain, a lot of violence. But I also grew with those experiences, I used my inner strength and my faith to survive. And for these two reasons, today, I am also a Portuguese woman. I am a Muslim Portuguese gal! [laughs]”*.

Indeed, as Maara's statement emphasized, the interviewee's willingness to rebuild their lives in Portugal does overshadow or to eliminates their national identity. As it is

possible to conclude, they are, strategically and productively, using aspects of their culture and traditions as models to reinvent themselves, to reorganize to reconstruct, their identities according to their new cultural, social, and political contexts. As Adilah (Morocco) explained: *“I don’t intend to forget where I was born. But the only way to move forward is to adapt to the Portuguese reality, and to hope that in the future, I can define myself as a Moroccan and as a Portuguese woman!” Portugal is now our country. At least that's how we see things, and we hope the Portuguese can see things in that way too.”*

Instead of bringing them down, their personal losses on different levels, such as family, social, and cultural, stimulated the interviewees to embrace a positive and integrative attitude towards Portugal and the Portuguese: *“We didn't come here to impose our traditions. We eat like the Portuguese, we adopt the habits of the Portuguese, and we want to contribute to the Portuguese society. We love Portuguese people; they are very nice and friendly.”* (Rana, Syria). Once more, refugee women’s agency can be seen in their commitment and determination to reinvent themselves, and to adjust to a new reality completely new to them: the reality of Portugal, within the European context: *“I never once dreamed about coming to Europe, let alone to Portugal, a country that, to be honest with you, I didn’t even know that existed! But here I am, learning how to be a European Portuguese citizen, and I am enjoying it!”* (Hilal, Syria).

Indeed, despite all the challenges faced in Portugal, the refugee women interviewed have been responding to their new circumstances in a creative and upbeat way, by accommodating their new reality, while maintaining important aspects of their previous one: *“After all I consider myself a very lucky person because I am free to be whatever I want to be, and I want to be a woman that is able to keep her history and culture but is also able to improve herself by keeping an open mind to the multiple benefits that restarting life in this country brings.”* (Amal, Iraq). In Portugal, the refugee women’s agency is again showcased by their capacity to actively respond to changes, including to deal with new circumstances, a new language, new social and economic roles, new community structures, new family relationships, and such.

In general, the literature on refugee women places the emphasis on their suffering and hardship (European Commission, 2017; Sapia, 2017; Hathaway & Fosterm, 2014; Hellum & Aasen, 2013; Pittaway & Pittaway, 2004; Pittaway & Bartolomei, 2001). Although one can't ignore or deny that these aspects are part of the tragic experiences of the process of becoming a refugee woman, it is also important to acknowledge the

different ways in which refugee women gather strength not only to survive, but also to restart their lives, to improve their conditions, and to aim for success.

Their vulnerability condition together with their action-taking must be equally considered when analyzing the role of violence and agency in the refugee women's lives. The autobiographical experiences of violence and agency can generate a complex nest of emotions, each of them intrinsically connected to various behaviors propensities. Thus, it is essential that the social recognition of the victims' narratives, that is, the external construction that others make about a victim's experience, takes into account that such construction may be at odds with the victims' views of themselves and of their journeys.

In fact, most of the refugee women interviewed refused to be seen or portrayed as static victims, as they often placed the emphasis not only on their harmful experiences, but also on their capability to overcome those experiences, such as Shamshi (Somalia) who do not agree on her identification as *“a refugee. If you want to describe us, then you can say something like ‘this is a strong woman’, or for example, that ‘this is a woman with vulnerabilities’. But we cannot say that all that we are is victims because the experiences that made me a victim are the same ones that also made me a survivor.”*

The dominant representations of refugee women portray them as helpless, static, and passive victims, and reinforce the division between “us and them.” This portrays creates a sense of belonging to a common us, supported by what does it mean to be a European woman against the “others” that are not, and therefore, do not belong (Himmel & Batista, 2020). The perception of refugee women as vulnerable victims in need of protection has been strategically used by the international community, especially by the so-called supranational European Union (Ticktin, 2016). Although these actions may benefit these women, as it mobilizes support for certain protection measures, at the same time, these humanitarian campaigns often ignore refugee women's agency.

Likewise, the desire to bring awareness of what does it truly means to be a refugee woman in the twenty-first century was not an exclusive objective to this thesis, as it was also shared by many of the interviewees and was often pointed as one of the reasons for them to agree to participate in the current research. Some of them even mentioned their interest and desire to take a more active role in the task of ending the cloak of invisibility that has been covering refugee women's realities, like Yaya (Gambia): *“By telling my story, I'm telling the story of the humanity too, at least, of many who seem invisible to so many. I hope to make the politicians and world-decision leaders listen to me because if my story is heard, many others like me will get the same change. Maybe then we can*

create a new reality, one that fights against violence and recognizes the strength of its survivors.”

4. Violence and agency in the construction of a holistic identity

The one-dimensional portrayal of refugee women as dependents who follow the male figures of their families is intrinsically linked to the old conceptualization in forced migration studies of women within the private sphere settings. Additionally, it is also common to mix refugee women with children in research and policies, especially in media representations which *“rely heavily on feminized and infantilized images of ‘pure’ victimhood and vulnerability”* (Sigona, 2014, pp. 370), a worrisome representation coined by Enloe (1998). Both of these representations, of the woman limited to the home environment, on one hand, and their blend with children, on the other, neglect their potential for decision-making, movement, and individuality.

According to Hajdukowski-Ahmed, Khanlou, and Moussa (2008), from the 1980s until recent years, three diverse and growing levels of discourse related to the identity and agency of refugee women have been dominant in refugee women’s representations: first, as vulnerable victims in need of international protection; second, as occupying a victimized position within different systems of power relations; and third, in an essential role within displaced families. These conceptualizations of refugee women seem to mirror their position within refugee protection law, where women were merely covered *“as part of a family unit, as mothers and wives and sisters in need of male protection”* (Kneebone, 2005, pp. 10). This emphasizes and highlights a critical and underlying theme in refugee law of the depoliticization of females’ escape motives, wherein the *“exclusion of women from the debate on refugee movements at once acknowledges and reinforces their subordinate role and status in society and their association with the domestic sphere”* (Bloch et al., 2000, pp. 170).

With the intention of contributing to the elimination of refugee women’s representations described above, and to the theorizing of a new perspective on refugee women, more adjusted to the experiences lived during the process of becoming a refugee woman, this thesis now offers a new perception on the refugee woman of the twenty-first century, coined as “refugee women’s holistic identity”. Consistent with its philosophical approach, a holistic perspective is characterized by the belief that the parts of something are intimately interconnected and explicable only by reference to the whole. In this regard, from the findings of the current thesis, it was possible to establish that there are three

stages and (geographical and symbolic) places of the process of becoming a refugee woman that have equal influence in the construction of their holistic identity: the destruction (of family dynamics, expected life trajectories, households) in countries of origin; the hardships of the displacement journey, first the challenges faced during the escape, and then, the waiting and indefiniteness of time spend in ‘transit’ countries, on the margins of society or in refugee camps; and the adaptation to the policies of reception and integration, as well as to the cultural and social settings, in the country of asylum.

By looking at the refugee woman's identity as a holistic construction, this thesis intends to highlight that the process of becoming a refugee woman can only be fully understood by recognizing the interconnection between their lived experiences of violence and their displays of agency, in all three stages and (geographical and symbolic) places mentioned above, that constitute refugee women's lives trajectories, and that highly influence their perceptions of themselves. Thus, this thesis argues that it is equally important to recognize in refugee women's narratives the traumatic experiences of violence, and the consequential suffering that deeply mark their life-paths, as well as, simultaneously, their ability to find a positive meaning in those traumatic experiences and to overcome it, and to reinvent and to adapt themselves, as both individuals and social agents that actively intervene in the refugee regime. But for that to happen, it is crucial to start to listen to their voices and to their own stories.

In fact, according to the narratives of the refugee interviewees, their new identities can only be fully achieved when their voices and their stories are recognized as valid and as crucial for a deeper understanding of (forced) migration in general, and of the right to asylum, in particular, such as Hanan (Syria), for whom *“it is impossible for you to feel complete if your existence is not recognized by others. And mine although full of its individualities, also tells the story of many women and girls, refugees that is. Since I become a refugee, I hear this quote a lot: To give voice to the voiceless. Well, I say something different: To give visibility to stories that have been made invisible, and therefore ignored.”*.

As mentioned above, “refugee women’s holistic identity” includes both lived experiences of violence and displays of agency. Although both have already been explored from a gender perspective in relation to refugee women, to the best of this thesis knowledge, no specific concepts of violence against refugee women and refugee women’s agency were yet offered by the scientific community. In this sense, the current thesis proposes two new concepts.

In relation to violence, it is important first to revisit the concept of gender-based violence against women (GBVAW). According to CEDAW, GBVAW includes “*any act that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life*”. Although the concept of gender-based violence against women has been often used in regard to the violence suffered by refugee women (Cochrane, 2018; Sapia, 2017; Baczynska & Ledwith, 2016; Freeman, 2016; 2015; Hathaway & Foster, 2014), this research proposes that such concept is insufficient to portray their specific realities. This insufficiency is directly related to two determining characteristics of the process of becoming a refugee woman drawn from the findings of the current research: on the one hand, the three stages and places where violence is experienced by refugee women, and, on the other hand, the “structural”, “symbolic”, and gender-based violence encountered in those experiences.

Regarding the first characteristic of violence against refugee women - the three stages and (geographical and symbolic) places - it is important to highlight the determinant role played by time. Inspired by two concepts previously presented - Kelly’s (1988; 2005) “continuum of violence against women” and Canning’s “intersectional continuums of violence” (2017) - combined with the findings extracted from the interviews conducted, it is argued that that time plays a key role in the occurrence and continuity of violence against refugee women, in three stages and (geographical and symbolic) places: the time felt as interrupted/discontinued in the countries of origin; the time experienced as “waiting”/blocked during the displacement journey, and time perceived as “adverse” during the reception and integration processes in the asylum country. Time is heavily marked by various forms of “structural”, “symbolic”, and gender-based violence, perpetrated against refugee women, which brings us to the second characteristic mentioned above.

Since several examples of “structural”, “symbolic”, and gender-based forms violence experienced by refugee women were already fully detailed throughout this thesis, it is important now to clarify that these three forms of violence are not mutually exclusive. Indeed, as already argued, they relate to one another as they often manifest in the lives of refugee women simultaneously. Furthermore, “structural” and “symbolic” violence are both responsible for creating conditions where interpersonal harm can happen, and for shaping gendered forms of violence against refugee women. Undeniably, refugee women experience gender-based violence in terms of physical, psychological,

emotional, and sexual harm. But they also suffer from more obscure and shadowed forms of violence, enabled by unequal gender discourses, beliefs and dialogues, that reaffirm the inferiority and subjection of women to men, and of refugees to national citizens, and by structures within political, social, and economic organizations that legitimate such discourses (Yücel, 2021; Chamberlain-Salaun, Mills & Usher, 2013; Crisp et al., 2012). Thus, “structural”, “symbolic”, and gender-based violence are, in fact, conceptual instruments that complement and relate to each other.

Succinctly, violence against refugee women includes gender-based forms of physical, psychological, and sexual violence that shouldn’t be disregarded, but it also highlights the oppressive structures (political, social, cultural; economic) that aggravate and produce vulnerabilities for refugee women, as well as the unequal gender discourses, beliefs, and dialogues that reaffirm the inferiority and subjection of women to men, and of refugees to national citizens. At the same time, this concept also recognizes that “structural” and “symbolic” violence can co-exist with gender-based violence, and simultaneously, can also increase the risk for it to happen.

Even though not all refugee women will experience violence in the same way (Canning, 2017), the results of the current research suggest that all refugee women will experience some form of “structural”, “symbolic”, and gender-based violence in the three different stages and (geographical and symbolic) places of the process of becoming a refugee woman. Accordingly, “violence against refugee women” must then be conceptualized as the continuum of several forms of “structural”, “symbolic” and gender-based violence that result in physical, psychological, sexual, and emotional harm and suffering for refugee women, produced and reproduced across three stages and (geographical and symbolic) places: in the country of origin, during the displacement journey, and in the country of asylum.

Given the arguments presented, the current thesis endorses Kelly’s idea (1988, 2005) that, when studying gender-based violence, the focus should not be on the dichotomized and stereotyped concepts of “victims” and “perpetrators”⁴². In fact, the analysis carried suggest that the focus should be equally placed on gender-based, “structural”, and “symbolic” forms of violence. Such focus should then lead to an analysis of the daily violence faced by refugee women through the prism of complex political, social, historical, cultural, and prejudiced processes that produce and reproduce this

⁴² Which narrows the problem of violence to the individuals that practice it or suffer from it and allocates them into categories of “good” or “bad”, violent or non-violent.

violence. To explain violence against refugee women in neoliberal times and, ultimately, to prevent it from happening, it is essential to pay attention to its roots, that is, to the discourses that validate it, to the structures that support it, and to its prevalence and specificities in relation to refugee women.

In relation to the second feature of the “refugee women’s holistic identity” - the display of agency in all three stages and (geographical and symbolic) places – it is proposed that “refugee women’s agency” should include these women’s demonstrations of resistance and resilience throughout their life-paths. Although these two characteristics have been recognized by migration studies of agency in the lives of refugee women, resistance for some decades, and resilience more recently, to the best of this thesis knowledge, no scientific definition of refugee women’s agency including both, was yet provided. Therefore, this research offers a new concept of “refugee women’s agency” that includes these women’s emancipatory confrontation against the oppressive structures (political, social, cultural; economic) that try to limit their scope for action (resistance), and simultaneously, their capacity to adapt and to act within those same structures (resilience).

First, the findings of the current research demonstrate that agency voiced itself in a remarkably individual manner, a finding that corroborates the argument that agency can be seen both as a capacity for action and against structures. Secondly, the interviewees deliberately exercised their agency within particular political, cultural, economic, and social structural settings, that also shaped their identities and their displays of agency, which substantiates refugee women’s intersectionality. Third, the examples provided throughout this thesis of the refugee women’s agency establish that the traditional approach to agency, as “possessing it” or “lacking it” is dated and obsolete, which supports the view of refugee women’s agency as resistance and resilience. Therefore, refugee women’s agency as a concept enables a shift from the representations of refugee women as passive, helpless, and traumatized victims of patriarchal traditions, which are based on uncritically assumed Western perspectives on allegedly liberal and illiberal values.

Additionally, it is also important to mention again a new concept offered in the course of the research: the one of “reconfiguration of being”. It was offered to emphasize refugee women’s resilience and resistance in face of the migration control mechanisms that try to limit their scope for action and freedom. In fact, in response to such difficulties, the women interviewed did not embrace a passive attitude, but rather continued to assert

their agency by negotiating bordering practices, harsh landscapes, and ultimately by applying for international protection with the UNHCR. This thesis argues that the “reconfiguration of being” should also be considered not only in relation to refugee women’s use of agency during the displacement journey, but also in the country of asylum as well. So “refugee women’s holistic identity” also includes “reconfiguration of being” as a determinant component for a more accurate representation of the meaning of being a refugee woman in the 21st century.

Likewise, the “reconfiguration of being” was also fundamental for these women to overcome the hardships imposed on them by the “annihilation through borders expansion”; the “institutionalized regulatory practices”; and the “decentralized approach penalties”⁴³. As mentioned in chapter 11, and in the current chapter as well, in Portugal, interviewees were capable of moving beyond the “*precarity of place*” (Banki, 2013, pp. 453) and the “precarity of being” and through the “reconfiguration of being”, they were able to adapt to their new circumstances and realities, and to plan for a better future. In spite of the hardships encountered in the reception conditions and integration practices in place in the Portuguese asylum system. The willingness these women revealed to become familiar with Portuguese culture and traditions, and to embrace the Portuguese way of living, are vivid examples of how the “reconfiguration of being” works in practice.

Briefly, through the creation of the concept of “violence against refugee women”, the current thesis intends to redirect the focus on refugee women’s violence to its roots, that is, to its gender-based, “structural”, and “symbolic” forms of violence, that are, at the same time, a producer and a product of these forms of violence. Furthermore, by offering a new perspective on refugee women’s agency, this thesis aims to show their active role in the refugee system, in all three stages and (geographical and symbolic) places that profoundly mark their life trajectories. An analysis of the everyday violence experienced by refugee women through the prism of the complex and oppressive structures (political, social, cultural; economic) that produce and reproduce it, as well as from their negotiations of agency in diverse, moving surroundings, and in relation to those mentioned structures, allows for a better understanding of the process of becoming a refugee woman, and consequently, to this thesis contribution to the theorizing of a new perspective, with a more accurate representation of refugee women, based on “refugee women’s holistic identity”.

⁴³ All of these concepts were created by this thesis and already explained in chapter 10 and 11.

As a final note, this thesis recognizes and supports the work of other scientists (e.g., Colvin & Munz, 2020; Honkala, 2017; Dionis et al., 2016; Freedman, 2015; Berry et al., 2015; Edwards, 2010) who have been denouncing the harm derived from the absence of a gender perspective in the legal concept of refugee. The 1951 Convention is based on a liberal rights narrative relying on “gender neutrality” and its universal applicability. But, by not including a gender perspective in the 1951 Convention, the refugee status fails to consider the gender-related persecution that affects women primarily (Edwards, 2010). Although the figure of the refugee woman has emerged as the iconic portrait of modern-day forced migration (Dionis et al., 2016; Berry et al., 2015), asylum-seeking women, and gender as a concept more broadly, have historically been at the margins of the refugee regime.

Furthermore, the refugee category has been depoliticized and historically decontextualized by the international community and aid organizations, reducing them to a suffering victim, poor ‘third world’ women and mothers, without a voice, without the capacity to act or to make decisions regarding their own lives (Colvin & Munz, 2020). These representations of asylum-seeking women are problematic because they ignore their agency as well as their historical, political and cultural memory, and uniqueness, diluting them into a vast and anonymous mass: refugees, thought of as a universal category. Consequently, it is important to recognize the limitations that a definition created seventy years ago, such as the refugee definition, presents in a world that has undergone significant changes. Grouping all refugees into a single category means ignoring their heterogeneity, skills, abilities, qualifications, and specific needs. After all, each individual that applies for asylum has a name, an opinion, family members, stories, memories, life trajectories and reasons for being who they are and how they came to be.

In the specific case of refugee women, although some of them flee persecution for many of the same motives as their male counterparts, many more suffer further persecution and loss of additional political, social, and economic rights. Adding to that, various expressions of gender-specific harm such as female genital mutilation, forced marriage, so-called honor crimes, and forced sterilization are common in women’s asylum claims, as well as the continuing of several forms of “structural” and “symbolic” violence throughout their life courses (Yücel, 2021; Campion, 2018; Cochrane, 2018; Sapia, 2017; European Commission, 2017; Freeman, 2016; 2015; Hossain et al., 2014b). The continuous emergence of challenges regarding gender-

related claims, and violence perpetration within the grounds of refugee law is rooted in its very own neglect of gender-specific harm's roots (Honkala, 2017; Freedman, 2015).

So far, attempts to increase refugee women's recognition and inclusion in the legal framework of the 1951 Refugee Convention led to creation of the "2002 Guidelines on Gender-Related Persecution". And this small step was only possible to achieve by portraying refugee women as having a monolithic identity: as passive, dependent, and vulnerable victims. By its very nature, "the 2002 Guidelines" can only inform, and not constrain, a state's legal policy towards female refugees. Additionally, "the 2002 Guidelines" used to assist in interpreting gender-related persecution claims are supported by prejudices or stereotypes regarding an idealized refugee women (Honkala, 2017).

In this context, the current thesis proposes new conceptualization of the concept of refugee, sensitive to gender and inclusive of the "refugee women's holistic identity", which accounts for the specific forms of violence suffered by refugee women and their agency in rebuilding their lives and adapting to the different realities experienced, can contribute significantly to the protection of women under the refugee regime. On a theoretical level, it would provide refugee women's studies researchers a useful model for designing research and interpreting data collected with female refugees. On a practical level, it can make a valuable contribution to the policies used to support, protect, and assist refugee women.

As a final note, the next chapter will provide recommendations for best practices regarding the reception conditions and integration practices in place in the Portuguese asylum system, from a gender perspective.

Chapter 13:

Gendering the Portuguese asylum system agenda: Recommendations for best practices

As showcased throughout this thesis, refugee women, because they are females, face specific vulnerabilities and protection needs, in three stages and places of the process of becoming a refugee woman: in the country of origin, during the displacement journey, and in the asylum country. Therefore, gender should be a cross-cutting matter and a key factor when planning reception conditions and integration practices targeting asylum seekers and refugees. Nonetheless, the findings of the current research regarding the Portuguese asylum system pointed that, in Portugal, gender-based policies and practices are still scarce and ineffective. The recommendations for best practices that will be presented in chapter 13 have the primary intention of contributing to the elimination of the current breaches of human rights, both as women and as refugees, perpetrated by the Portuguese state, and to prevent revictimization, secondary victimization, feelings of insecurity, and vulnerability in these population.

1. Proper training and female professionals

Promoting good practices in relation to policies and measures that support the effective integration of refugees into the social, economic and cultural fabric of Portuguese society must include gender-sensitive training of officers and technicians who deal with asylum seekers and refugees (including border guards and SEF officers, police, technicians responsible for the reception and insertion phases). An interdisciplinary team trained and sensitized to intercultural contexts, which also takes into account the social conditions of this population, which promotes and ensures the sharing of experiences and knowledge (regular meetings with refugee women), is foremost important. Closer and constant monitoring by professionals is essential in the first days after the arrival of asylum seekers and refugees in Portugal, to immediately identify their urgent needs. The professionals working with this vulnerable population must be aware of any on-going problems with the person's health, housing, finance and legal situation or asylum application process, etc. Incorporate information on the status, needs and rights of refugees and refugee women in all training activities for officers and technicians

responsible for welcoming, monitoring and assisting this population is a crucial practice that the Portuguese state must promote.

Providing education and specialized training on best practices, from a gender perspective to professionals in contact with asylum seekers and refugees, is fundamental to bring awareness of the life-courses of discrimination and violence experienced by refugee women in particular, and to improve their professional performance, as well as their sensitivity and empathy. It is recommended that services provide regular supervision and additional psychological support for professionals working with refugees and asylum seekers as they often report that working with asylum seekers and refugees is considerably more stressful and posed greater ethical dilemmas than work with other population.

Professionals also described several challenges to undertaking their work, including difficulties managing language barriers and using interpreters, conflict between working with refugee's practical versus psychological needs, as well as difficulties in maintaining professional boundaries. In terms of the emotional impact, professionals frequently describe feeling overwhelmed, helpless, powerless, frustrated and exhausted. The burnout states reported by professionals are, in most cases, related to the lack of sufficient staff working in the Portuguese Asylum System. Therefore, it is crucial to hire more people for this sector.

Furthermore, a significant step in a gender-based approach would be to employ women in official posts dealing with women asylum seekers and refugees, including qualified interviewers with specific prior training in refugee status determination procedures. It would ensure adequate access for asylum seekers to these procedures, even when accompanied by male family members, and facilitate the interview in cases of victims of violence and/or sexual exploitation.

2. Gendered reception conditions and integration practices

As already demonstrated throughout this thesis, women face discrimination and all sorts of violence before, during, and after their displacement journey (Canning, 2017; Sapia, 2017; Freedman, 2016a; Hathaway & Foster, 2014; Luibhe'íd 2013; Pickering & Cochrane, 2012; Doocy et al., 2007). Therefore, it is important to consider that not only the previous experiences of discrimination and “ structural”, “symbolic”, and gender-based violence encountered by refugee women will shape their ability to integrate into the resettlement country, but also that the integration practices themselves will have a positive or a negative impact on integration. Vieira (2018) pointed out that, despite the

increasing numbers of female asylum seekers in Portugal, the legislation does not specify much regarding the issue of gender. But this is a common thing according to Castellá (2017) that emphasized that, in the asylum country, because each state has its own legislation regarding asylum, international protection requests based on gender issues can be more or less diffuse.

Law No. 26/2014 of 5 May established the conditions and procedures for granting asylum, including in its articles that acts committed for gender reasons are a foundation for the right to asylum (Ribeiro, 2017). In that sense, according to the research findings, the lack of a gender-based agenda in the Portuguese asylum system evidences the failure of the Portuguese state to acknowledge and explicitly recognize gender-based violence, its causes, and consequences for refugee women. The Portuguese State is also ignoring the particular difficulties faced by female asylum seekers and refugees (e.g., overcoming trauma; learning the language; finding jobs) in terms of their adaptation to the country, which demand specific interventions, as the ones offered next.

2.1. Reception centers

Due to the traumatic experiences, the feeling of loss, disorientation and anxiety often reported by refugee women, it would be important that, regardless of whether they enter Portugal spontaneously or through the EU's schemes, that all refugees were first accommodated in a reception center. This would not only give the refugees a feeling of equal treatment, regardless of their channel of entrance, but it would also help them to feel more protected and supported by the Portuguese state. Creating new reception centers and improving the conditions of the existent ones such as creating separated wings for women, children, men, women accompanied by children, married women with their husbands; ensuring basic hygiene conditions and sharing common spaces such as kitchens, bathrooms, social rooms; and guaranteeing that both male and female professionals are always present in the reception centers to meet the requests that refugees may have, without the gender of the professionals being an impediment for them to expose their problems, they are also valuable examples of gender best practices.

In reception centers it is essential to identify asylum-seekers and refugees with specific needs: girls and boys at risk, including unaccompanied and separated children; persons with serious health conditions; persons with special legal or physical protection needs; single women; women-headed households; older persons; persons with disabilities, and persons with a diverse sexual orientation or gender identity, and respond

immediately and adequately to those needs. Measures to be taken include ensuring that services and infrastructure in the reception centers, for example, are physically accessible to those with limited mobility; establishing effective referral systems to ensure that people with specific needs have access to relevant service providers; providing a fast-track processing of their accommodation needs, registration, refugee status determination and other responses; putting in place appropriate systems to prevent and respond to violence, exploitation and abuse; ensuring persons with specific needs have access to information about programmes that concern them.

2.2. Financial support

The amount of financial support must be sufficient to ensure that the basic needs of asylum seekers and refugees are guaranteed by the Portuguese State such as access to housing, food, health services, medicines and such. Taking into consideration that women may have additional expenses related, for example, to the acquisition of contraceptive methods, follow-up appointments and medical examinations in case of pregnancy, expenses with children, adjustments to their monthly allowance compared to that of refugee men must be considered. Indeed, a special emphasis on women's integration must include specific funding priorities as an instrument for promoting women's integration.

Targeted housing schemes, temporary solutions when status holders have to leave the reception facility, and support mechanisms for finding affordable and with the minimum conditions housing, would ensure a smoother transition once the refugee status is granted.

2.3. Medical care

Upon their arrival in Portugal, all asylum seekers and refugees must be checked for any ongoing physical or mental health problems, so they can be signposted to the most appropriate service. Asylum seekers and refugees may come from a country where they did not have access to health care, and they may have chronic or acute physical illnesses that need addressing. Physical health problems may also be a direct result of the trauma, including experiences of violence. Therefore, it is crucial to identify any problems that may impact the asylum seekers' and refugees' well-being and positive integration in Portugal. Medical exams should be performed by female technicians, in the case of refugee women, and by male technicians, in the case of refugee men.

Create programs aimed at increasing the health opportunities for refugee women by training and mobilising health leaders and mediators, and video and telephone interpretation services in the health system. Gendering health support represents one way to mitigate in the refugee women the effects of the negative and violent experiences and to empower them by providing information regarding their reproductive rights and the rights over their bodies.

2.4. Portuguese courses

As communication is an essential element, it is crucial for refugees to learn Portuguese to communicate without constraints. Only in this way, they will manage to acquire some self-confidence and autonomy to travel alone to essential institutions (Social Security, health center, hospital, employment center, children's school). To the many of the problems reported regarding the lack of availability of Portuguese courses for asylum seekers and refugees, an online teaching course could be a helpful alternative solution. Nowadays most people know how to use a computer, and especially in the case of the asylum seekers and refugees staying in reception centers, gaining access to one should not be problematic. So, in that way, it would be possible to include more refugees in the courses with a lower cost for the Portuguese State since the same teacher could teach more students.

Still regarding the teaching of Portuguese, to surpass the language barriers that often negatively impact the first years of the integration process for refugee women, it is necessary to target and implement measures that take into account the specific needs and challenges faced by women when learning a new language. Therefore, the Portuguese courses must be designed with a gender perspective that recognizes these challenges and creates creative and efficient women-specific courses that will allow them to properly learn Portuguese.

2.5. Employment

Since refugee women present more difficulties regarding their integration in the market labor, it is essential to promote measures of education and professional training, supplemented with professional counselling, intercultural training and skills recognition support for refugee women that must offer a wide range of activities like skills development, vocational courses, group and individual job search consultation and techniques, resume and cover letter writing, interview preparation, promoting job

retention and conflict management skills. Addressing the needs of women in both finding a job and in childcare duties must also be the aim of labor market initiatives targeting refugee women. It is fundamental to provide specific career orientation and individual support to mothers, to help women prepare for employment while finding supportive solutions regarding the care of their children.

Produce an efficient mechanism that allows and facilitates the recognition of studies carried out in the country of origin for refugees. In the impossibility of doing so, a project should be designed targeting the implementation of an innovative competence-based portfolio and pedagogical tools for the identification, validation and development of the competences of refugees. Women with higher qualifications often deal with underemployment and work in a lower skilled position than what they are qualified to do. A program that especially supports women with a higher education level or work experience, in planning their professional careers while they learn Portuguese and attend integration courses would be most beneficial.

Another good initiative would be to match women asylum seekers and refugees with women who are firmly established in the Portuguese labor market that could serve as mentors. The mentoring programmes could have the duration of one year, and the mentors would share their knowledge, experience and networks, provide advice regarding job applications, interviews, workplace culture, reassessment of job possibilities, etc. If possible, ensure the participation of former refugee women well succeeded workwise in Portugal. Furthermore, it is recommendable to provide mentoring, networking opportunities and skills training to refugee women to support entrepreneurship, to increase the visibility of female refugee entrepreneurs as role models for other women; and to raise awareness about the specific needs of refugee women entrepreneurs.

2.6. Psychological support

Asylum seekers and refugees must be referred to a wide range of health services from primary care to community mental health teams and specialist services such as forensic or in-patient psychiatric wards. They should also receive help from emergency departments or be referred to other health services such as pain clinics. Accessing mental health services can be difficult particularly for asylum seekers and refugees who may face additional barriers such as a lack of understanding of the Portuguese health care system, adverse perceptions about mental health care based on stigma in their home country, or anxiety about being involved with any official government agency. So, it is vital that the

psychologist considers the health service from the asylum seekers and refugee's viewpoint and makes it as accessible as possible.

Dealing with officialdom can often seem unpleasant and hostile. Additional training for reception staff is an example of good practice, as well as to be welcomed with a smile, and ushered to a seat in the waiting area, and perhaps offered a drink of water. The psychologist must communicate properly with the patient, which implies a knowledge of the patient's own language or of a language in which both the patient and the psychologist can communicate. On the impossibility of so, a good practice will be to provide training to refugees that show natural aptitude and sensitivity necessary to mediate the consultations and that have been in Portugal for a considered amount of time, so this person could serve as a mediator to facilitate communication between the psychologist and the patient. In general, asylum seekers and refugees may find it easier to speak to a psychologist and a mediator of their own gender. In the case of women, it is recommendable that both the psychologist and the language mediator are females. Refugee men may prefer male professionals, however, on some occasions, for example, when talking about sexual torture, men may wish to have a female interpreter. The refugees' preferences should be respected.

Psychologists must carry out background reading on their patient's home country before the first appointment, to familiarize themselves with the patient's home country's health service, particularly mental health service. It is respectful to understand what the main political concerns are and any ongoing violation of human rights, and useful to know what religions/languages are common. It is also important to think carefully about timings of outpatient appointments, so that clients are more likely to turn up. For example, try to avoid times that asylum seekers and refugees have to sign on at the Immigration Office, or avoid Friday afternoons for Muslim refugees. A single-parent mother may prefer an appointment that means she can get her children to and from school. This is particularly important for people who have newly arrived and may not have built up community support to help with childcare.

A major concern that refugee women face is related to gender-based violence, such as human trafficking, forced or early marriage, forced sexual relationships, honor crimes, domestic violence and female genital mutilation. Gendering health support by providing mental health support, psychological counselling and individual and group therapy sessions for female refugees, represents one way to mitigate the effects of these negative and violent experiences. In that sense, women would benefit from the creation of a

refugee women's support office with an accessible telephone line or webpage that they could easily reach out to in case of needing help. This office should also be prepared to activate other national entities such as the police, host institutions, technicians responsible for their integration process, and other national institutions that support victims such as APAV and the ACM victims' support office in the case of women experiencing violence in Portugal.

2.7. Parenting

To attain full and effective equality for vulnerable spontaneous asylum seekers, it is necessary to implement gender-based practices to reflect and account for their dissimilar circumstances compared to their male counterparts. It is essential to ensure specific intervention for women alone and for women with children and/or husbands by implementing a multidisciplinary approach. When assessing the best interests of women, a multidisciplinary team of qualified professionals should, as far as possible, be involved.

It is also fundamental to recognize the particular challenges faced by women asylum seekers and refugees in balancing language learning with their child care duties as mothers. Subsequently, to create a welcoming space for language learning and activities that encourage language practice, cultural exchange, and community cohesion, it is important to specifically design programs for mothers. For example, language courses for mothers could be held at the kindergarten, primary school of their children, or at children's centers. In the case of mothers accompanied by fathers, another solution could be to enroll them in different language learning classes, so one of the parents is free to take care of the children.

2.8. Legal aid

Ensure (by the technicians responsible for the reception and integration of refugee women) all relevant information to refugees on their rights and duties, functioning of competent services/institutions, relevant geographic references. To guarantee that both spontaneous asylum seekers and asylum seekers under the EU's schemes are entitled to legal representation, individual legal counselling and advice, not only upon their arrival in Portugal, but through all of the asylum-seeking application and the integration process. In this matter, it would be beneficial the creation of a counselling center for women, that would offer them advice regarding administrative and legal matters.

Member-states are bound by various obligations to guarantee family reunification. Nonetheless, the practical reunification of refugee women with their children and other family members has proved complex. Underlining the importance of protecting the right to family life and to enhance the protection of persons entitled to/requesting reunification with their family members, it is important that family reunification be considered a priority, when the Portuguese state is considering which asylum seekers and refugees to receive in the country. Provision of information, legal aid, counselling and support services on family reunification entitlements and related procedures should become available at the initial stage of the procedure.

Furthermore, as a good practice, they should foster co-operation with responsible authorities and service providers in other member states or third countries to support potential beneficiaries to collect required documents and go through the procedures. In addition, legal aid providers need to work closely with the other actors and service providers involved, such as social services, to optimize and co-ordinate support.

Dissemination of information material should go hand in hand with individual counselling and information sessions, and it should be tailored to the needs of the person concerned. Specific information should be provided on essential requirements and elements of the procedure, including the timelines, age limitations, required documents, and fees, that may result in restricting access to the procedure. Moreover, information provision could be complemented by the dissemination of relevant documents and application forms in a language known by the applicants, preferably their native language, along with proper explanations, guidance and support to fill in the applications.

2.9. Interventions with men

It is now widely accepted that strategies to end violence against women and girls must include work with men and boys. A good practice would be to create group-based gender education and reflection to work with asylum seekers and refugee men. The emphasis of the interventions of such groups would be improving gender equity in the social sphere, and within the household. In particular, these groups could also work with men to change their attitudes and practices with the respect to sharing more equitably with their wives decision-making and the gendered division of labor and parenthood within the household. It would be also important to include Portuguese men in these groups that could provide positive role models for their peer male, especially in promoting

positive masculinities, women's agency, and speaking out against violence against women.

2.10. Intercultural mediators

It is fundamental to create a culturally and linguistically competent service composed of intercultural mediators that not only mastery the language of the asylum seekers and refugees, but also are trained for their cultural diversity. In this regard, it would be very beneficial to hire for these jobs people who have passed or are still undergoing international protection, and who have been in Portugal for a few years and speak Portuguese correctly. This would not only make the beneficiaries of this service feel more comfortable being supported by their peers and having access to information in their mother tongue, but it would also help the integration in the labor market of refugees.

2.11. Social inclusion

Social isolation and lack of a personal network can be an issue for refugee women, especially when they are confined to household tasks and do not carry out remunerated work. Therefore, it is crucial to safeguard adequate and culturally competent support to women, based on their gender specificities, at the most diverse levels (e.g., financial, legal, social, psychological) during their integration process, through the establishment of an organized support network for the refugee population, which will accompany them as they adapt to Portugal and to the Portuguese.

An example of good practice on this matter would be the development of participatory programs that should promote initiatives that help to insert, share and reinforce the feeling of belonging, self-esteem, and self-confidence of refugee women. These programs should include Portuguese women and also other refugee women that are already positively included in the Portuguese Society. It must also ensure the presence of female technicians.

2.12. Refugee women's agency

Refugee women may face challenges opening up about their burdens for many reasons: self-blame, fear of the consequences, and mostly fear of re-victimization. therefore, it is important to create a safe space for these women to trust the professionals. A good practice would be to offer refugee women with workshop sessions and informal meetings where they could creatively express themselves through art, drama therapy and

product design and overall promote their physical and emotional well-being. Such sessions would also be a great platform for these women to learn about topics such as their rights, their sexual and reproductive health, to bring awareness of the multiple forms of discrimination and violence faced by them, which often happens subconsciously, and to encourage them to take action and to claim their social, political, and economic participation.

3. Civil society

Strengthening and broadening public information, education, awareness-raising, and sensitization activities through media work, school activities, special campaigns, seminars, and constituency-building. A good practice would be to create a campaign that aired on national television that concisely explains the refugee issue and, at the same time, that destroys prejudice and discrimination by representing refugees in a positive way, highlighting their agency and contribution to Portuguese society. The Portuguese school curricula, from primary to secondary education, should also include the refugee theme, not only to raise awareness among children, but also to make them more receptive and supportive of possible refugee children they have as colleagues at school.

On a more general note, due to the problems caused by the decentralization model implemented by the Portuguese State, it is essential to create a working group composed by representatives of all institutions and organizations involved in the Portuguese asylum system. This working group should create a manual of good practices, training actions for professionals, and should elect an inspection team to ensure that the policies and measures that support the reception and integration of asylum seekers and refugees are followed in an equal manner by all institutions, to avoid different treatment between people with the same status. Furthermore, to be effective in protecting the rights of spontaneous asylum seekers it is necessary to take into account the differences between them and other irregular migrants. As a good practice it is important to provide proper training of key stakeholders from the government and civil society on basic protection issues, including refugee rights, reception conditions for asylum-seekers, durable solutions, and child protection.

Since no gender perspective or significant initiatives have been implemented in the Portuguese asylum system, the Portuguese state is not fulfilling its ratifications of the international agreements and legal instruments regarding refugee women. Portugal is

neither sending a strong and assertive message that condemns any form of discrimination and violence against refugee women, nor providing the proper gender-based support and assistance these women. Gender-based best practices are not only aimed to help refugee women to overcome their traumas, but it also has the purposes to raise these women awareness of their rights, including access to education and work, participation in social, economic, and cultural life, protection against gender-based and domestic violence, and access to justice. The set of recommendations for best practices provided by the current thesis have the aim to serve as a good basis to inspire Portuguese political leaders, policy makers, non-profit organizations and many other stakeholders of the Portuguese asylum system to recognize refugee women's specific needs and to improve the support provided to them.

Conclusion:

Time to make a difference, organizing for a change

The current thesis began with one complex question: “What does it mean to be a refugee woman in the twenty-first century?”. Between the answer found, and question initially posed, an extensive and challenging scientific journey was undertaken. The steps taken during the planning of the methodology guided this scientific journey through specific paths that enabled nine more sub-questions to surface: (1) “What type of violence affects the lives of refugee women in their countries of origin?”; (2) “why do refugee women escape from their home countries?”; (3) “Does women's vulnerability in their countries of origin limit their ability to act?” (4) “what are the dangers faced by refugee women during the escape journey?”; (5) “what is the impact of the escape journey on refugee women’s narratives of survival?”; (6) “what are the hardships encountered by refugee women in ‘transit’ countries?”; (7) “what is the meaning of applying for international protection?”; (8) “What is the impact of the reception conditions and integration practices offered to refugee women under the tutelage of the Portuguese state?” and (9) “what role do refugee women play in their asylum processes?”. The answers found to these sub-questions led this thesis to reach eight conclusions, that will be presented shortly.

Initially, and in accordance with the Grounded Theory that advocates that the researcher must enter the research field knowing as little as possible about the topics of investigation, this research sought the basic theoretical guidelines that could constitute the analytical organizers from which the empirical work would be directed. It was during this phase that it became clear to the researcher the limited existence of studies on refugee women that are based on their own perspectives. Indeed, the current knowledge on this matter is mostly driven from the viewpoints of other actors involved in the asylum process (e.g., politicians, professionals, police forces).

In this way, the daily reality experienced by refugee women, as well as their interpretations, meanings, and feelings about their live paths, are often disregarded, ignored, or generalizing, over-simplified, and ultimately inadequate. In Portugal, in the context of social sciences, only a few studies dedicated to refugee women were found, and at the time of the conclusion of the current research, regarding specifically the field

of criminology, to the best of our knowledge, there were no published studies that focused on the gender matter involved in the refugee process.

This investigation started from the assumption that the life paths of refugee women were intrinsically marked by disrespect for their human rights and by various acts of violence against them. As reported by Freedman (2016a) refugee women may be particularly vulnerable to physical, sexual, and psychological violence, while living in the country of origin, during the displacement journey, and in the country of asylum. From this perspective, the current research sought out to investigate these three specific places and stages and how it influenced the process of becoming a refugee woman. As it becomes evident, gender assumed a major role in this research, and gender-based violence was considered, from the very beginning, an endemic and problematic issue that must be seriously tackled with the respect and consideration it deserves and demands.

Accordingly, this thesis was also based on the premise that women's social, political and private settings, the relationships established with the various individuals who interacted with them, and the multiple roles played by women throughout their life span, constitute interpretive references and strategic potentialities to understand refugee women's agency. By keeping an open mind, a non-prejudice attitude when planning the current research, and when analyzing the data collected, and by actually listening to what the refugee women interviewed had to say about their own experiences, this thesis was able to gather displays of refugee women's agency, which was been mostly neglected or kept from scientific investigations, policymaking, politicians discourses, and aid campaigns (Kanal & Rottmann, 2021). Their capacity to empower themselves, to feel useful, to take action, to fight to participate in the decisions that affect them and their families, and to reclaim their own active role in the refugee regime, were considered as important as the experiences of violence they encountered on the process of becoming a refugee woman.

The current research is composed by two studies that share one specific objective: to access refugee women's narratives to validate their experiences of violence and agency as a direct source of knowledge. Specifically, both studies aim to analyze individual dimensions that allow access to the meanings, intersubjective constructions, and perceptions of refugee women regarding their life trajectories in three stages and (geographical and symbolic) places: study 1 in their country of origin and during the displacement journey; and study 2 in their country of asylum, through the analyses of the reception conditions and integration practices in place in the Portuguese asylum system,

from a gender perspective. The empirical part of this research is therefore subdivided into a tripartite analysis of the mentioned stages and places regarding refugee women's experiences of violence and agency on the process of becoming a refugee woman.

Guided by the sub-questions that surfaced along the scientific journey undertaken mentioned above, this thesis was able to reach four main conclusions in relation to violence: (Question 1 and 2) war-related violence and family-related violence are major sources of direct or indirect forms of "structural", "symbolic", and gender-based violence for refugee women in their countries; (Question 4) the escape journey from the countries of origin was a key enabler of experiences of "structural" and "symbolic" forms of violence for refugee women, perpetrated by harmful border control practices; (Question 6) the extension of migration and border control practices to the territory of 'transit' states, and to its citizens, was the major source of "structural" and "symbolic" forms of violence used against refugee women, and the main reason for them to apply for international protection with the UNHCR; and (Question 8) the reception conditions and integration practices in place in the Portuguese asylum system are producing and reproducing "structural", "symbolic" and gender-based violence for the refugee women under its tutelage.

Likewise, the sub-questions mentioned above also played a key role in this thesis recognition of refugee women's agency and led to four main conclusions: (Question 3) vulnerability and agency do not stand in contrast to each other and are not mutually exclusive in the lives of refugee women in their countries of origin, and the main reasons for them to flee; (Question 5) the escape from the countries of origin is one crucial stage/place of the process of becoming a refugee woman that shows these women's agency to move forward, with the focus on surviving and improving their well-being, and of their relatives; (Question 7) one must see in refugee women's application for international protection and their compliance with the UNHCR measures one of the most significant displays of their agency on the process of becoming a refugee woman; and (Question 9) refugee women embrace an active role in strategizing, as well as in creating means, to overcome the hardships encountered during and within their reception and integration processes.

In this sense, throughout of the current thesis, several new concepts were offered to portray the lived experiences of refugee women in terms of violence and agency in the most accurate way possible: "violence-based escape"; "annihilation through borders expansion"; "intersectional resilience to slow violence"; "precarity of

being”; “institutionalized regulatory practices”; and “decentralized approach penalties”. The damage of victimization can be understood as a narrative rupture, which compromises the sense of control and continuity of refugee women’s life courses, throughout time and with the social environs. The way refugee women attempt to make sense and to give a positive meaning to their biographies, while adopting narrative means to regain agency and re-establish themselves in an unfamiliar social and cultural context, occurs in narrative modes of reasoning, sharing, and integrating.

Consequently, the two central themes that guided the conduction of studies 1 and 2, violence and agency in the lives of refugee women, and the answers found to the nine sub-questions, enabled this thesis to answer to the question that directed the current investigation from the outset: “What does it mean to be a refugee women in the twenty-first century?” The answer found allowed this research to contribute to theorizing a new perspective of the process of becoming a refugee woman: “refugee women’s holistic identity”. In that matter, the current thesis demonstrated that the role of narrative in the construction of life stories is of most importance. So, through the use of narrative criminology, this thesis was able to provide insights into refugee women’s experiences of victimization, as well as of survival, that are the roots of the construction of their holistic identity. For that reason, “refugee women’s holistic identity” encompasses the three concepts offered by this thesis: “violence against refugee women”; “refugee women’s agency” and “reconfiguration of being”.

Narrative criminology allowed the researcher to reflect and to analyze her own notions of humanity, humanitarianism, and humanitarian crises, and to broaden her personal view of refugee women, to include their active role as agents in their own right, that goes far beyond their limited and monolithic representation of passive victims to be saved. Indeed, by looking at the refugee woman's identity as a holistic construction, the current thesis highlights that the process of becoming a refugee woman can only be fully understood by recognizing the interconnection between their lived experiences of violence and their display of agency in three stages and (geographical and symbolic) places: in the country of origin, during the displacement journey, and in the country of asylum.

Accordingly, this thesis offered the concept of “violence against refugee women”, which must be conceptualized as the continuous of several forms of “structural”, “symbolic” and gender-based violence that result in physical, psychological, sexual, and

emotional harm and suffering for refugee women, produced, and reproduced across three stages and places: in the country of origin, during the displacement journey, and in the country of asylum. As well, also proposed the concept of “refugee women’s agency” which includes refugee women’s emancipatory confrontation against the oppressive structures (political, social, cultural; economic) that try to limit their scope for action (resistance), and simultaneously, their capacity to adapt and to act within those same structures (resilience).

Succinctly, this thesis also argued that a new concept of a refugee must be created, one sensitive to gender and centered on the refugee women’s construction of a holistic identity. In order for the refugee regime to recognize refugee women’s narrative authority, and to include those narratives in its policy and practice, it is fundamental to identify the unique condition of women in the process of becoming a refugee. Indeed, bearing in mind that specific gender issues are a structural part of the asylum condition, a gender-based perspective on the refugee women’s condition is essential for the creation of a more contemporary and accurate definition of the refugee status and concept.

Accordingly, and due to the lack of gender-based measures in the Portuguese asylum system, the current thesis also proposes a set of recommendations for best practices in the hopes to contribute for the creation of better and evidence-based reception conditions and integration practices that acknowledges the distinctive position of refugee women, because they are females, and that provides specific and scientific-ground support. In sum, this thesis aims to help to create an asylum system in Portugal that ensures that refugee women's rights, as refugees and as females, are fully respected and fulfilled, and that their vulnerabilities are considered in institutional practices and well-intervened.

Although each life story shared by all women interviewed was analyzed in its uniqueness, together, the data collected can contribute to a deep reflection on the experiences of refugee women and can enable an understanding of their female condition in the refugee regime. Adding up to that, the research findings also touch on a subject that has been globally discussed: the long and difficult struggle for the establishment of women's rights as human rights (Goonesekere & Alwis, 2005), even more so when it comes to a particular group within women, as in the case of refugee women. Of course, the fight must be for women's rights in general, where naturally, refugee women's rights are encompassed. Unfortunately, women's rights are not necessarily prioritized in the agenda of many non-governmental organizations, civil society groups, and political

parties, especially refugee women, which still sometimes fail to acknowledge theirs as human rights (Hellum & Aasen, 2013). In general, the human rights movement has been slow to advocate women and girls' human rights (Goonsekere & Alwis, 2005).

The current thesis also trusts that the cases of these women represent so many other cases of refugees in Portugal, where the law enshrines does not correspond to the reality experienced by international protection female applicants. In this sense, the researcher aims to enable a reflection on the condition of female asylum seekers and refugees worldwide, and in the particular case of Portugal, within the academy fields and with policymakers and government leaders, so that refugee women in Portugal (and refugees in general) live in better conditions, with more dignity, with alternatives that allow them to give a positive direction to their lives and be protagonists of their own history.

The data analysis focused on the past and on the present of the process of becoming a refugee woman, but this research also contemplates the future, by reinforcing the need for the update of the concept of refugee and its legal status based on a gender perspective; by drawing attention to the responsibility of states to eliminate violence against refugee women, to not perpetuate this violence, and to severely punish cases in which it occurs; and by evoking refugee women's agency to neutralize their common western representations as passive, subjugated, and helpless victims of patriarchy. On a more general consideration, it is argued that, for women's rights to be finally framed within human rights' law it is necessary: to create greater awareness of the gender misconceptions present in human rights violations; to conduct more research on violence against women; and to build genuine partnerships with women's movements around the world.

Despite the contributions of this research to the scientific knowledge in the field of criminological, gender, and migration studies on refugee women, this investigation also has some limitations. Although having fulfilled all the methodological assumptions presented in part II, the current research posed some particular problems regarding the objectivity of scientific knowledge. These problems correspond, above all, to those related to any investigation that uses qualitative methodologies. But, in particular, to those arising from the application of data collection techniques that require a more intimate relationship between the researcher and the subjects studied. The knowledge produced under these conditions is the object of questioning, and often of doubt, especially among apologists for epistemologies with a positivist bent, in terms of the validity, reliability and objectivity of the results obtained in these investigations. For these epistemologies, in

general terms, validity, reliability and objectivity come from the suppression of any subjective interpretations and arguments in the production of knowledge (Imai, 2017; Alvesson & Skoldberg, 2009; Corbin & Strauss, 2008).

But, in reality, qualitative researchers are interested in knowing is the experiences, opinions, expectations, values, and perceptions of the researched, and in doing so, to accomplish credibility, transferability, dependability, and confirmability, that creates the trustworthiness of the research (Chandra & Shag, 2017; Berger, 2015). To follow these qualitative goals, this thesis gave considerable attention and importance to the reflexivity exercised throughout the current investigation that had a significant effect on the development and improvement of the present research. Reflexivity was a crucial activity that sharpened and deepened, in one hand, the researcher's awareness of the understandable countenance of her ethics as an individual conducting research, and on the other, the need to constantly navigate between the much-desired objectivity and the inevitable subjectivity that arises from the relationship created between the researcher and the researched.

Regarding future paths for empirical research, this thesis considers pertinent to develop studies that, in addition to a gender approach with regard to the refugee regime, also take into account its heterogeneity and, in this way, differentiate the specific needs of different clusters of people – namely, women, children, men, elderly, people with disabilities, and such. In this way, it would also be value to further research the particularities of refugee women's escape (e.g., relationship with smugglers and support for illegal immigration). Likewise, it is also fundamental to research asylum states, European and non-European, so more well-grounded information is provided about their practices towards irregular migrants, asylum seekers, and refugees.

In relation to Portugal, it would be pertinent to analyze more deeply the causes (economic, political, social, historical) for the insufficiency of the gender approach in the reception system in Portugal; to conduct a documentary analysis of a large sample of asylum applications in Portugal to analyze acceptance/refusal decisions, relating to gender, age or nationality, or reasons for the application; to research the emotional impact of work with refugees on professionals from reception and integration institutions; and to further study of public perceptions and knowledge about migrants and refugees in Portugal, including public officials.

These future paths for empirical research can allow, in the years to come, for asylum systems, reception conditions, integrations practices, professionals' training and support,

and awareness raise campaigns with the civil society to be based on academic and scientific knowledge.

On a final note, this thesis wishes to raise awareness of the potential contributions of refugee women to the countries and its society that welcome them, and, and more broadly, to the so often lost notions of humanity, human rights, kindness, and equality. Refugee women are much more than victims and mere passive beneficiaries. They are creative and have specific skills and knowledge that can make significant contributions to the creation of a fair, free, and inclusive world. For refugee women, the benefits of participation in society are clear: it builds self-esteem, rebuilds self-confidence, reduces feelings of isolation and exhaustion, depression, and unhappiness, and it leads to self-sufficiency. For the rest of us that do not experience the process of becoming a refugee woman in person, we must search for the positive effects of including refugee women's in our reality in the fundamental principles that guide humankind, such as impartiality, neutrality, independence, voluntary service, unity, and universality.

As wisely said by Portuguese author and Nobel prize winner, José Saramago, *"I am against tolerance because it is not enough. Tolerating the existence of the other and allowing him to be different is still not enough. When we tolerate, we are only conceding, and this is not a relationship of equality, but of superiority of one over the other."* And when phrases like these seem too abstract, one can always do the enriching exercise of listening to what the protagonists themselves have to say, like Rana (Syria):

"The choice of becoming a refugee, especially for women, is not an easy one to make. So, for me, a refugee woman is a courageous woman, who found in escaping a way to fight for her physical and moral integrity, and who hopes to rebuild her life with dignity, in a country that she desires to call "home" one day. Therefore, we deserve to be included in social and political spaces where our voices can be heard, so changes can happen.

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Appendix 1

A road map to the analysis of the findings of studies

1 and 2

Stressors	• Placed-related - War-related vulnerabilities; • Role-related - Political activism and persecutions; Sexual assault; • Family-related - Forced marriage; Domestic violence; and Female Genital Mutilation (FGM).	• Irregular migration: - Traveling methods; - Gender; - Intermediaries. • Overlap between detention centres and refugee camps; • Daily-living settings: - Governmental support; - Children's well-being; - Social exclusion. • The UNHCR practices: - The choice of the asylum country; - Legal proceedings.	• Reception conditions: - Detention centres; - Welcome measures - Financial support; - Housing; - Health; - Education and training; - Legal support; - Psychological support; • Integration practices: - Professionals' behavior; - Labor market integration; - Discrimination in public services. - The Lack of a gender-based agenda
	Country of origin	Escape Journey 'Transit' countries Displacement Journey	Country of asylum
Coping strategies	• Culture and traditions; • Motherhood; • Identity-building by belonging.	• The escape from the countries of origin • Application for international protection	• "Life-rebuilding through adversity"

Appendix 2

Law no. 27/2008, its amended Law no. 26/2014
and

The Resolution of the Council of Ministers of
Portugal, No. 103/2020

As condições e procedimentos de concessão de asilo ou protecção subsidiária e os estatutos de requerente de asilo, de refugiado e de protecção subsidiária

Lei n.º 27/2008 - Diário da República n.º 124/2008, Série I de 2008-06-30

Estabelece as condições e procedimentos de concessão de asilo ou protecção subsidiária e os estatutos de requerente de asilo, de refugiado e de protecção subsidiária, transpondo para a ordem jurídica interna as Directivas n.os 2004/83/CE, do Conselho, de 29 de Abril, e 2005/85/CE, do Conselho, de 1 de Dezembro

Lei n.º 27/2008

de 30 de Junho

Estabelece as condições e procedimentos de concessão de asilo ou protecção subsidiária e os estatutos de requerente de asilo, de refugiado e de protecção subsidiária, transpondo para a ordem jurídica interna as Directivas n.os 2004/83/CE, do Conselho, de 29 de Abril, e 2005/85/CE, do Conselho, de 1 de Dezembro.

A Assembleia da República decreta, nos termos da alínea c) do artigo 161.º da Constituição, o seguinte:

Capítulo I

Disposições gerais

Artigo 1.º

Objecto

1 - A presente lei estabelece as condições e procedimentos de concessão de asilo ou protecção subsidiária e os estatutos de requerente de asilo, de refugiado e de protecção subsidiária, transpondo para a ordem jurídica interna as seguintes diretivas comunitárias:

- a) Diretiva n.º 2004/83/CE, do Conselho, de 29 de abril, que estabelece normas mínimas relativas às condições a preencher por nacionais de países terceiros ou apátridas para poderem beneficiar do estatuto de refugiado ou de pessoa que, por outros motivos, necessite de protecção internacional, bem como relativas ao respetivo estatuto e ao conteúdo da protecção concedida;
- b) Diretiva n.º 2005/85/CE, do Conselho, de 1 de dezembro, relativa a normas mínimas aplicáveis ao procedimento de concessão e perda do estatuto de refugiado;
- c) Diretiva n.º 2011/95/UE, do Conselho, de 13 de dezembro, que estabelece normas relativas às condições a preencher pelos nacionais de países terceiros ou por apátridas para poderem beneficiar de protecção internacional, a um estatuto uniforme para refugiados ou pessoas elegíveis para protecção subsidiária e ao conteúdo da protecção concedida;
- d) Diretiva n.º 2013/32/UE, do Parlamento Europeu e do Conselho, de 26 de junho, relativa a procedimentos comuns de concessão e retirada do estatuto de protecção internacional;
- e) Diretiva n.º 2013/33/UE, do Parlamento Europeu e do Conselho, de 26 de junho, que estabelece normas em matéria de acolhimento dos requerentes de protecção internacional.

2 - Simultaneamente, procede-se à consolidação no direito nacional da transposição da Diretiva n.º 2003/9/CE, do Conselho, de 27 de janeiro, efetuada pela Lei n.º 20/2006, de 23 de junho, que estabelece as normas mínimas em matéria de acolhimento de requerentes de asilo nos Estados membros.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 2.º

Definições

1 - Para efeitos do disposto na presente lei entende-se por:

- a) «Autorização de residência», a autorização emitida pelas autoridades portuguesas nos termos legais que permite a um estrangeiro ou a um apátrida residir no território nacional;
- b) «Beneficiário de proteção internacional», uma pessoa a quem foi concedido o estatuto de refugiado ou o estatuto de proteção subsidiária, definidos nas alíneas i) e j);
- c) «Centro de acolhimento», qualquer local utilizado para o alojamento coletivo dos requerentes de asilo;
- d) «Condições de acolhimento», o conjunto de medidas adotadas a favor dos requerentes de proteção internacional em conformidade com a presente lei;
- e) «Condições materiais de acolhimento», as condições de acolhimento que compreendem o alojamento, a alimentação, o vestuário e despesas de transporte, fornecidos em espécie ou sob a forma de subsídios ou de cupões ou de subsídios para despesas diárias;
- f) «Convenção de Genebra» a convenção relativa ao estatuto dos refugiados, celebrada em Genebra em 28 de julho de 1951, alterada pelo Protocolo de Nova Iorque de 31 de janeiro de 1967;
- g) «Decisão definitiva», a decisão sobre o pedido de proteção internacional insuscetível de recurso;
- h) «Detenção», medida de confinamento de requerente de proteção internacional em zona especial;
- i) «Estatuto de proteção subsidiária», o reconhecimento, por parte das autoridades portuguesas competentes, de um estrangeiro ou de um apátrida como pessoa elegível para concessão de autorização de residência por proteção subsidiária;
- j) «Estatuto de refugiado», o reconhecimento, por parte das autoridades portuguesas competentes, de um estrangeiro ou de um apátrida como refugiado que nessa qualidade seja autorizado a permanecer em território nacional;
- k) «Membros da família», os familiares do beneficiário de proteção internacional:
 - i) Cônjuge ou membro da união de facto;
 - ii) Filhos menores ou incapazes a cargo do casal ou de um dos cônjuges ou de um dos membros da união de facto;
 - iii) Filhos menores adotados, por decisão da autoridade competente do país de origem, pelo requerente ou pelo seu cônjuge ou membro da união de facto;
 - iv) Ascendentes na linha reta e em primeiro grau do beneficiário de proteção internacional se este for menor;
 - v) Adulto responsável por menor não acompanhado;
- l) «Menor», nacional de um país terceiro ou apátrida com menos de 18 anos de idade;
- m) «Menores não acompanhados», quaisquer pessoas nacionais de países terceiros ou apátridas com idade inferior a 18 anos que entrem em território nacional não acompanhadas por um adulto que, por força da lei ou do costume, se responsabilize por elas, enquanto não são efetivamente tomadas a cargo por essa pessoa, ou que tenham sido abandonados após a entrada em território nacional;
- n) «Motivos da perseguição», os que fundamentam o receio fundado de o requerente ser perseguido, que devem ser apreciados tendo em conta as noções de:
 - i) «Raça», que inclui, nomeadamente, considerações associadas à cor, à ascendência ou à pertença a determinado grupo étnico;
 - ii) «Religião», que abrange, designadamente, o facto de se ter convicções teístas, não teístas e ateias, a participação ou a abstenção de participação em cerimónias de culto privadas ou públicas, quer a título individual, quer em conjunto com outras pessoas, noutros atos religiosos ou expressões de convicções, ou formas de comportamento pessoal ou comunitário fundadas em credos religiosos ou por estes impostas;
 - iii) «Nacionalidade», que não se limita à cidadania ou à sua ausência, mas abrange também, designadamente, a pertença a um grupo determinado pela sua identidade cultural, étnica ou linguística, pelas suas origens geográficas ou políticas comuns ou pela sua relação com a população de outro Estado;
 - iv) «Grupo», um grupo social específico nos casos concretos em que:

Os membros desse grupo partilham de uma característica inata ou de uma história comum que não pode ser alterada, ou partilham de uma característica ou crença considerada tão fundamental para a identidade ou consciência dos membros do grupo que não se pode exigir que a ela renunciem; e

Esse grupo tenha uma identidade distinta no país em questão, porque é encarado como diferente pela sociedade que o rodeia;
 - v) «Opinião política», que inclui, designadamente, o facto de se possuir uma opinião, ideia ou ideal em matéria relacionada com os potenciais agentes da perseguição às suas políticas ou métodos, quer essa opinião, ideia ou ideal sejam ou não manifestados

por atos do requerente;

o) «Órgão de decisão», órgão administrativo responsável pela apreciação dos pedidos de proteção internacional e competente para proferir uma decisão, em primeira instância, sobre esses pedidos;

p) «País de origem», o país ou países de nacionalidade ou, para os apátridas, o país em que tinham a sua residência habitual;

q) «País de origem seguro», o país de que o requerente é nacional ou, sendo apátrida, residente habitual, em relação ao qual o requerente não tenha invocado nenhum motivo grave para considerar que o mesmo não é seguro, tendo em conta as circunstâncias pessoais do requerente no que respeita ao preenchimento das condições para ser considerado refugiado e avaliado com base num conjunto de fontes de informação, incluindo, em especial, informações de outros Estados membros, do Alto-Comissário das Nações Unidas para os Refugiados (ACNUR), do Conselho da Europa e de outras organizações internacionais pertinentes;

r) «País terceiro seguro», o país onde o requerente de asilo tenha permanecido ou transitado antes de chegar a Portugal e onde, comprovadamente, não seja objeto de ameaças à sua vida e liberdade, onde sejam respeitados o princípio de não repulsão e o direito de não ser objeto de tortura ou tratamento cruel, desumano ou degradante, e onde possa requerer o estatuto de refugiado e, sendo-lhe concedido, receber proteção, nos termos da Convenção de Genebra, observadas as seguintes regras:

i) Uma ligação entre o requerente de asilo e o país terceiro em causa que permita, em princípio, que essa pessoa se dirija para esse país;

ii) Certificação de que o conceito de país terceiro seguro pode ser aplicado a determinado país ou a determinado requerente, incluindo a análise casuística da segurança do país para determinado requerente e a designação nacional de países considerados geralmente seguros;

iii) Avaliação individual, nos termos do direito internacional, da segurança do país terceiro em questão para determinado requerente e que, no mínimo, autorize o requerente a contestar a aplicação do conceito de país terceiro seguro, com o fundamento de que seria submetido a tortura, tratamento ou pena cruel, desumana ou degradante;

s) «Pedido de proteção internacional», pedido de proteção apresentado por estrangeiro ou apátrida que pretenda beneficiar do estatuto de refugiado ou de proteção subsidiária e não solicite expressamente outra forma de proteção suscetível de ser objeto de um pedido separado;

t) «Pedido subsequente», pedido de proteção internacional apresentado após ter sido proferida uma decisão definitiva sobre um pedido anterior, incluindo os casos em que o requerente tenha desistido expressamente do pedido e aqueles em que tenha havido uma decisão de indeferimento na sequência da sua desistência implícita;

u) (Revogada.)

v) «Perda de proteção internacional», o efeito decorrente da cessação, revogação, supressão ou recusa de renovação do direito de asilo ou de proteção subsidiária;

w) «Permanência no país», a permanência em Portugal, onde foi apresentado o pedido de proteção internacional ou onde o mesmo está a ser apreciado, incluindo a fronteira e as zonas de trânsito;

x) «Pessoa elegível para proteção subsidiária», o nacional de um país terceiro ou um apátrida que não possa ser considerado refugiado, mas em relação ao qual se verificou existirem motivos significativos para acreditar que não pode voltar para o seu país de origem ou, no caso do apátrida, para o país em que tinha a sua residência habitual, quer atendendo à sistemática violação dos direitos humanos que aí se verifique, quer por correr um risco real de sofrer ofensa grave na aceção do artigo 7.º, e ao qual não se aplique o n.º 1 do artigo 9.º, e que não possa ou, em virtude das referidas situações, não queira pedir a proteção desse país;

y) «Pessoas particularmente vulneráveis», pessoas com necessidades especiais, designadamente os menores, os menores não acompanhados, os deficientes, os idosos, as grávidas, os membros de famílias monoparentais com filhos menores e as pessoas que tenham sido sujeitas a atos de tortura, violação ou outras formas graves de violência psicológica, física ou sexual;

z) «Primeiro país de asilo», o país no qual o requerente tenha sido reconhecido como refugiado e possa ainda beneficiar dessa proteção ou usufruir nesse país de proteção efetiva, nos termos da Convenção de Genebra, e onde, comprovadamente, não seja objeto de ameaças à sua vida e liberdade, onde sejam respeitados o princípio de não repulsão e o direito de não ser objeto de tortura ou tratamento cruel, desumano ou degradante, desde que seja readmitido nesse país;

aa) «Proibição de repelir ('princípio de não repulsão ou non-refoulement')», o princípio de direito de asilo internacional,

consagrado no artigo 33.º da Convenção de Genebra, nos termos do qual os requerentes de asilo devem ser protegidos contra a expulsão ou repulsão, direta ou indireta, para um local onde a sua vida ou liberdade estejam ameaçadas em virtude da sua raça, religião, nacionalidade, filiação em certo grupo social ou opiniões políticas, não se aplicando esta proteção a quem constitua uma ameaça para a segurança nacional ou tenha sido objeto de uma condenação definitiva por um crime ou delito particularmente grave;

ab) «Proteção internacional», o estatuto de proteção subsidiária e o estatuto de refugiado, definidos nas alíneas i) e j);

ac) «Refugiado», o estrangeiro ou apátrida que, receando com razão ser perseguido em consequência de atividade exercida no Estado da sua nacionalidade ou da sua residência habitual em favor da democracia, da libertação social e nacional, da paz entre os povos, da liberdade e dos direitos da pessoa humana ou em virtude da sua raça, religião, nacionalidade, convicções políticas ou pertença a determinado grupo social, se encontre fora do país de que é nacional e não possa ou, em virtude daquele receio, não queira pedir a proteção desse país ou o apátrida que, estando fora do país em que tinha a sua residência habitual, pelas mesmas razões, não possa ou, em virtude do referido receio, a ele não queira voltar, e aos quais não se aplique o disposto no artigo 9.º;

ad) «Representante», a pessoa que age em nome de uma organização que representa um menor não acompanhado, na qualidade de tutor legal, a pessoa que age em nome de uma organização nacional que, nos termos da lei, seja responsável pela assistência e bem-estar dos menores, ou qualquer outro representante adequado designado, de acordo com a lei, para defender os interesses do menor não acompanhado;

ae) «Requerente», um estrangeiro ou um apátrida que apresentou um pedido de proteção internacional que ainda não foi objeto de decisão definitiva;

af) «Requerente com necessidade de garantias processuais especiais», um requerente cuja capacidade de exercer os direitos e cumprir as obrigações previstos na presente lei é limitada por força de circunstâncias pessoais;

ag) «Requerente com necessidades de acolhimento especiais», uma pessoa vulnerável, designadamente menores, menores não acompanhados, deficientes, idosos, grávidas, famílias monoparentais com filhos menores, vítimas de tráfico de seres humanos, pessoas com doenças graves, pessoas com perturbações mentais e pessoas que tenham sido sujeitas a atos de tortura, violação ou outras formas graves de violência psicológica, física ou sexual, como as vítimas de violência doméstica e as vítimas de mutilação genital feminina, que carece de garantias especiais a fim de usufruir dos direitos e cumprir as obrigações previstas na presente lei;

ah) «Retirada do estatuto de proteção internacional», a decisão proferida por autoridade competente que revoga, suprime ou recusa a renovação do estatuto de refugiado ou de proteção subsidiária a uma pessoa.

2 - Para efeitos do disposto na subalínea iv) da alínea n) do número anterior, dependendo das circunstâncias no país de origem, um grupo social específico pode incluir um grupo baseado na identidade de género ou numa característica comum de orientação sexual, não podendo esta ser entendida como incluindo atos tipificados como crime, de acordo com a lei, bem como considerar os aspetos relacionados com o género, embora este por si só não deva criar uma presunção para a qualificação como grupo.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Capítulo II

Beneficiários de protecção internacional

Artigo 3.º

Concessão do direito de asilo

1 - É garantido o direito de asilo aos estrangeiros e aos apátridas perseguidos ou gravemente ameaçados de perseguição, em consequência de actividade exercida no Estado da sua nacionalidade ou da sua residência habitual em favor da democracia, da libertação social e nacional, da paz entre os povos, da liberdade e dos direitos da pessoa humana.

2 - Têm ainda direito à concessão de asilo os estrangeiros e os apátridas que, receando com fundamento ser perseguidos em virtude da sua raça, religião, nacionalidade, opiniões políticas ou integração em certo grupo social, não possam ou, por esse receio, não queiram voltar ao Estado da sua nacionalidade ou da sua residência habitual.

3 - O asilo só pode ser concedido ao estrangeiro que tiver mais de uma nacionalidade quando os motivos de perseguição referidos nos números anteriores se verifiquem relativamente a todos os Estados de que seja nacional.

4 - Para efeitos do n.º 2, é irrelevante que o requerente possua efectivamente a característica associada à raça, religião, nacionalidade, grupo social ou político que induz a perseguição, desde que tal característica lhe seja atribuída pelo agente da perseguição.

Artigo 4.º

Efeitos da concessão do direito de asilo

A concessão do direito de asilo nos termos do artigo anterior confere ao beneficiado o estatuto de refugiado, nos termos da presente lei, sem prejuízo do disposto em tratados ou convenções internacionais de que Portugal seja parte ou a que adira.

Artigo 5.º

Actos de perseguição

1 - Para efeitos do artigo 3.º, os actos de perseguição susceptíveis de fundamentar o direito de asilo devem constituir, pela sua natureza ou reiteração, grave violação de direitos fundamentais, ou traduzir-se num conjunto de medidas que, pelo seu cúmulo, natureza ou repetição, afectem o estrangeiro ou apátrida de forma semelhante à que resulta de uma grave violação de direitos fundamentais.

2 - Os actos de perseguição referidos no número anterior podem, nomeadamente, assumir as seguintes formas:

- a) Actos de violência física ou mental, inclusive de natureza sexual;
- b) Medidas legais, administrativas, policiais ou judiciais, quando forem discriminatórias ou aplicadas de forma discriminatória;
- c) Acções judiciais ou sanções desproporcionadas ou discriminatórias;
- d) Recusa de acesso a recurso judicial que se traduza em sanção desproporcionada ou discriminatória;
- e) Acções judiciais ou sanções por recusa de cumprir o serviço militar numa situação de conflito na qual o cumprimento do serviço militar implicasse a prática de crime ou acto susceptível de provocar a exclusão do estatuto de refugiado, nos termos da alínea c) do n.º 1 do artigo 9.º;
- f) Actos cometidos especificamente em razão do género ou contra menores.

3 - As informações necessárias para a tomada de decisões sobre o estatuto de proteção internacional não podem ser obtidas de tal forma que os agentes de perseguição fiquem informados sobre o facto de o estatuto estar a ser considerado ou que coloque em perigo a integridade física do requerente ou da sua família em Portugal ou no Estado de origem.

4 - Para efeitos do reconhecimento do direito de asilo tem de existir um nexo entre os motivos da perseguição e os atos de perseguição referidos no n.º 1 ou a falta de proteção em relação a tais atos.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 6.º

Agentes da perseguição

1 - São agentes de perseguição:

- a) O Estado;
- b) Os partidos ou organizações que controlem o Estado ou uma parcela significativa do respectivo território;
- c) Os agentes não estatais, se ficar provado que os agentes mencionados nas alíneas a) e b), são incapazes ou não querem

proporcionar protecção contra a perseguição, nos termos do número seguinte.

2 - Para efeitos da alínea c) do número anterior, considera-se que existe protecção sempre que os agentes mencionados nas alíneas a) e b) do número anterior adotem medidas adequadas para impedir, de forma efetiva e não temporária, a prática de atos de perseguição por via, nomeadamente, da introdução de um sistema jurídico eficaz para detetar, proceder judicialmente e punir esses atos, desde que o requerente tenha acesso a protecção efetiva.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 7.º

Protecção subsidiária

1 - É concedida autorização de residência por protecção subsidiária aos estrangeiros e aos apátridas a quem não sejam aplicáveis as disposições do artigo 3.º e que sejam impedidos ou se sintam impossibilitados de regressar ao país da sua nacionalidade ou da sua residência habitual, quer atendendo à sistemática violação dos direitos humanos que aí se verifique, quer por correrem o risco de sofrer ofensa grave.

2 - Para efeitos do número anterior, considera-se ofensa grave, nomeadamente:

- a) A pena de morte ou execução;
- b) A tortura ou pena ou tratamento desumano ou degradante do requerente no seu país de origem; ou
- c) A ameaça grave contra a vida ou a integridade física do requerente, resultante de violência indiscriminada em situações de conflito armado internacional ou interno ou de violação generalizada e indiscriminada de direitos humanos.

3 - É correspondentemente aplicável o disposto no artigo anterior.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 8.º

Protecção sur place

1 - O receio fundado de ser perseguido, nos termos do artigo 3.º, ou o risco de sofrer ofensa grave, nos termos do artigo anterior, podem ter por base acontecimentos ocorridos ou actividades exercidas após a saída do Estado da nacionalidade ou da residência habitual, especialmente se for demonstrado que as actividades que baseiam o pedido de asilo constituem a expressão e a continuação de convicções ou orientações já manifestadas naquele Estado.

2 - O disposto no número anterior não é aplicável quando o receio ou o risco tiverem origem em circunstâncias criadas pelo estrangeiro ou apátrida após a sua saída do Estado da nacionalidade ou da residência habitual, exclusivamente com o fim de beneficiar, sem fundamento bastante, do estatuto de refugiado ou de protecção subsidiária.

Artigo 9.º

Exclusão do asilo e protecção subsidiária

1 - Não pode beneficiar do estatuto de refugiado o estrangeiro ou apátrida quando:

- a) Esteja abrangido pelo âmbito do ponto D do artigo 1.º da Convenção de Genebra, relativa à protecção ou assistência por parte de órgãos ou agências das Nações Unidas, que não seja o ACNUR, desde que essa protecção ou assistência não tenha cessado por qualquer razão sem que a situação da pessoa em causa tenha sido definitivamente resolvida em conformidade com as resoluções aplicáveis da Assembleia Geral das Nações Unidas;
- b) As autoridades competentes do país em que tiver estabelecido a sua residência considerarem que tem os direitos e os deveres de quem possui a nacionalidade desse país ou direitos e deveres equivalentes;
- c) Existam suspeitas graves de que:

- i) Praticou crime contra a paz, crime de guerra ou crime contra a humanidade, nos termos dos instrumentos internacionais que estabelecem disposições relativas a estes crimes;
 - ii) Praticou crime doloso de direito comum punível com pena de prisão superior a três anos fora do território português, antes de ter sido admitido como refugiado;
 - iii) Praticou atos contrários aos objetivos e princípios das Nações Unidas enunciados no preâmbulo e nos artigos 1.º e 2.º da Carta das Nações Unidas.
 - d) Represente perigo ou fundada ameaça para a segurança interna ou externa ou para a ordem pública.
- 2 - Não pode beneficiar do estatuto de proteção subsidiária o estrangeiro ou apátrida quando:
- a) Se verifique alguma das situações a que se refere a alínea c) do número anterior;
 - b) Represente perigo ou fundada ameaça para a segurança interna ou externa ou para a ordem pública;
 - c) Tiver cometido um ou mais crimes não abrangidos pela alínea c) do n.º 1 que seriam puníveis com pena de prisão caso tivessem sido praticados no território português e tiver deixado o seu país de origem unicamente com o objetivo de evitar sanção decorrente desse crime ou crimes.
- 3 - (Revogado.)
- 4 - São ainda consideradas, para efeitos da aplicação da alínea c) do n.º 1 e das alíneas a) e c) do n.º 2, as pessoas às quais seja aplicável o disposto nos artigos 26.º e 27.º do Código Penal.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Capítulo III

Procedimento

Secção I

Disposições comuns

Artigo 10.º

Pedido de proteção internacional

- 1 - Presume-se que qualquer pedido de proteção, ainda que implícito, é um pedido de proteção internacional, conforme o disposto na alínea s) do n.º 1 do artigo 2.º
- 2 - Na apreciação dos pedidos de proteção internacional deve ser determinado, em primeiro lugar, se o requerente preenche as condições para beneficiar do estatuto de refugiado e, caso não preencha, se é elegível para proteção subsidiária.
- 3 - Os pedidos de proteção internacional apresentados às autoridades de outros Estados membros que procedam a controlos fronteiriços ou de imigração em território nacional são apreciados pelo Serviço de Estrangeiros e Fronteiras (SEF).

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 11.º

Direito de permanência no território nacional

- 1 - Os requerentes de proteção internacional são autorizados a permanecer em território nacional até à decisão sobre a admissibilidade do pedido.
- 2 - Este direito de permanência não habilita o requerente à emissão de uma autorização de residência.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 12.º

Efeitos do pedido de proteção internacional sobre infrações relativas à entrada no país

- 1 - A apresentação do pedido de proteção internacional obsta ao conhecimento de qualquer procedimento administrativo ou processo criminal por entrada irregular em território nacional instaurado contra o requerente e membros da família que o acompanhem.
- 2 - O procedimento ou o processo são arquivados caso seja concedida proteção internacional.
- 3 - Para efeitos do disposto nos números anteriores, o pedido de proteção internacional e a decisão sobre o mesmo são comunicados à entidade onde correr o procedimento administrativo ou processo criminal, no prazo de cinco dias úteis.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 13.º

Apresentação do pedido

- 1 - O estrangeiro ou apátrida que entre em território nacional a fim de obter proteção internacional deve apresentar sem demora o seu pedido ao SEF ou a qualquer outra autoridade policial, podendo fazê-lo por escrito ou oralmente, sendo neste caso lavrado auto.
- 2 - Qualquer autoridade policial que receba o pedido referido no n.º 1 remete-o ao SEF no prazo de quarenta e oito horas.
- 3 - O SEF informa imediatamente o representante do ACNUR e o Conselho Português para os Refugiados (CPR) enquanto organização não governamental que atue em seu nome da apresentação do pedido de proteção internacional, podendo estes contactar o requerente logo após a receção de tal comunicação com o objetivo de o informar sobre o respetivo procedimento, bem como sobre a sua possível intervenção no mesmo, a qual depende de consentimento do requerente.
- 4 - O requerente pode solicitar, até à decisão do pedido de proteção internacional, a sua extensão aos membros da família que o acompanhem, quer sejam menores ou maiores, devendo, neste caso, o pedido ser precedido de consentimento prévio expresso das pessoas a cargo, sob pena de inadmissibilidade.
- 5 - Antes de ser solicitado o consentimento prévio a que se refere o número anterior, os membros da família devem ser informados, em privado, das consequências processuais relevantes da apresentação de um pedido em seu nome e do direito que lhes assiste de apresentar um pedido de proteção internacional separado.
- 6 - O requerente menor pode apresentar um pedido em seu nome.
- 7 - O SEF procede ao registo do pedido de proteção internacional no prazo de três dias úteis após a apresentação do mesmo.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 14.º

Comprovativo de apresentação do pedido e informações

- 1 - Até três dias após registo, é entregue ao requerente declaração comprovativa de apresentação do pedido de proteção internacional que, simultaneamente, atesta que o seu titular está autorizado a permanecer em território nacional enquanto o mesmo estiver pendente.
- 2 - Ao requerente de proteção internacional é dado conhecimento dos seus direitos e deveres numa língua que este compreenda ou seja razoável presumir que compreenda.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 15.º

Deveres dos requerentes de proteção internacional

1 - O requerente deve apresentar todos os elementos necessários para justificar o pedido de proteção internacional, nomeadamente:

- a) Identificação do requerente e dos membros da sua família;
- b) Indicação da sua nacionalidade, país ou países e local ou locais de residência anteriores;
- c) Indicação de pedidos de proteção internacional anteriores;
- d) Relato das circunstâncias ou factos que fundamentam a necessidade de proteção internacional;
- e) Permitir a recolha das impressões digitais de todos os dedos, desde que tenha, pelo menos, 14 anos de idade, nos termos previstos no Regulamento (UE) n.º 603/2013, do Parlamento Europeu e do Conselho, de 26 de junho, relativo à criação do sistema "Eurodac" de comparação de impressões digitais;
- f) Manter o SEF informado sobre a sua residência, devendo imediatamente comunicar a este serviço qualquer alteração de morada;
- g) Comparecer perante o SEF quando para esse efeito for solicitado, relativamente a qualquer circunstância do seu pedido.

2 - Para efeitos do disposto no número anterior, deve ainda o requerente, juntamente com o pedido de proteção internacional, apresentar os documentos de identificação e de viagem de que disponha, bem como elementos de prova, podendo apresentar testemunhas em número não superior a 10.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 15.º-A

Tradução de documentos

1 - Ao apresentar os elementos de prova referidos no n.º 2 do artigo anterior, o requerente deve providenciar pela sua tradução para língua portuguesa.

2 - A pedido do requerente, quando este comprovadamente não disponha de meios suficientes, o SEF providencia pela tradução dos documentos.

3 - Para efeitos do disposto no número anterior, o requerente deve comprovar a relevância dos documentos a traduzir para a apreciação do pedido, competindo ao SEF avaliar a pertinência daquela tradução.

4 - A tradução dos documentos referida nos números anteriores deve ser efetuada antes do decurso dos prazos previstos para decisão do pedido de proteção.

Alterações

Aditado pelo/a Artigo 3.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 16.º

Declarações

1 - Antes de proferida qualquer decisão sobre o pedido de proteção internacional, é assegurado ao requerente o direito de prestar declarações na língua da sua preferência ou noutro idioma que possa compreender e através do qual comunique claramente, em condições que garantam a devida confidencialidade e que lhe permitam expor as circunstâncias que fundamentam a respetiva pretensão.

- 2 - A prestação de declarações assume carácter individual, exceto se a presença dos membros da família for considerada necessária para uma apreciação adequada da situação.
- 3 - Para os efeitos dos números anteriores, logo que receba o pedido de proteção internacional, o SEF notifica de imediato o requerente para prestar declarações no prazo de dois a cinco dias.
- 4 - (Revogado.)
- 5 - A prestação de declarações só pode ser dispensada:
- a) Se já existirem condições para decidir favoravelmente sobre o estatuto de refugiado com base nos elementos de prova disponíveis;
 - b) Se o requerente for considerado inapto ou incapaz para o efeito devido a circunstâncias duradouras, alheias à sua vontade;
 - c) (Revogada.)
- 6 - Quando não houver lugar à prestação de declarações nos termos do número anterior, o SEF providencia para que o requerente ou a pessoa a cargo comuniquem, por qualquer meio, outras informações.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 17.º

Relatório

- 1 - Após a realização das diligências referidas nos artigos anteriores, o Serviço de Estrangeiros e Fronteiras elabora um relatório escrito do qual constam as informações essenciais relativas ao pedido.
- 2 - O relatório referido no número anterior é notificado ao requerente para que o mesmo se possa pronunciar sobre ele no prazo de cinco dias.
- 3 - O relatório referido no n.º 1 é comunicado ao representante do ACNUR e ao CPR enquanto organização não governamental que atue em seu nome, desde que o requerente tenha dado o seu consentimento, para que aquela organização, querendo, se pronuncie no mesmo prazo concedido ao requerente.
- 4 - Os motivos da recusa de confirmação do relatório por parte do requerente são averbados no seu processo, não obstante à decisão sobre o pedido.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 17.º-A

Garantias processuais especiais

- 1 - Após a apresentação do pedido de proteção e antes da decisão prevista nos artigos 20.º e 24.º, deve ser avaliada a necessidade de promoção de garantias processuais especiais para os requerentes cuja capacidade de exercer direitos e cumprir obrigações se encontre limitada por força das circunstâncias pessoais, designadamente em virtude da sua idade, sexo, identidade sexual, orientação sexual, deficiência ou doença grave, perturbação mental, por terem sido vítimas de tortura, violação ou outras formas graves de violência psicológica, física ou sexual.
- 2 - Nos casos em que se identifiquem requerentes nas circunstâncias referidas no n.º 1, deve ser proporcionado apoio e condições necessárias ao exercício dos direitos e deveres inerentes ao procedimento de proteção internacional.
- 3 - No âmbito das condições especiais a proporcionar podem ser dilatados os prazos para a realização de entrevista ou apresentação de elementos de prova e para a realização de entrevistas com o apoio de peritos nas áreas identificadas.
- 4 - Nos casos em que não seja possível proporcionar apoio e condições aos requerentes identificados com necessidade de garantias processuais especiais em virtude de tortura, violação ou outras formas graves de violência psicológica, física ou sexual não é aplicado o regime especial dos pedidos apresentados em posto de fronteira.

5 - As medidas previstas no presente artigo são concretizadas pelo centro distrital do Instituto de Segurança Social, I. P., e entidades que com este tenham celebrado protocolos.

Alterações

Aditado pelo/a Artigo 3.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 18.º

Apreciação do pedido

1 - Na apreciação de cada pedido de proteção internacional, compete ao SEF analisar todos os elementos pertinentes, designadamente as declarações do requerente, proferidas nos termos dos artigos anteriores, e toda a informação disponível.

2 - Na apreciação do pedido, o SEF tem em conta especialmente:

- a) Os factos pertinentes respeitantes ao país de origem, obtidos junto de fontes como o Gabinete Europeu de Apoio em matéria de Asilo, o ACNUR e organizações de direitos humanos relevantes, à data da decisão sobre o pedido, incluindo a respetiva legislação e regulamentação e as garantias da sua aplicação;
- b) A situação e circunstâncias pessoais do requerente, por forma a apreciar, com base nessa situação pessoal, se este sofreu ou pode sofrer perseguição ou ofensa grave;
- c) Se as atividades do requerente, desde que deixou o seu país de origem, tinham por fim único ou principal criar as condições necessárias para requerer proteção internacional, por forma a apreciar se essas atividades o podem expor a perseguição ou ofensa grave, em caso de regresso àquele país;
- d) Se é razoável prever que o requerente se pode valer da proteção de outro país do qual possa reivindicar a cidadania;
- e) A possibilidade de proteção interna se, numa parte do país de origem, o requerente:
 - i) Não tiver receio fundado de ser perseguido ou não se encontrar perante um risco real de ofensa grave; ou
 - ii) Tiver acesso a proteção contra a perseguição ou ofensa grave, tal como definida no artigo 5.º e no n.º 2 do artigo 7.º, puder viajar e ser admitido de forma regular e com segurança nessa parte do país e tiver expectativas razoáveis de nela poder instalar-se.

3 - Constitui um indício sério do receio fundado de ser perseguido ou do risco de sofrer ofensa grave, o facto de o requerente já ter sido perseguido ou diretamente ameaçado de perseguição ou ter sofrido ou sido diretamente ameaçado de ofensa grave, exceto se existirem motivos fundados para considerar que os fundamentos dessa perseguição ou ofensa grave cessaram e não se repetirão.

4 - As declarações do requerente devem ser confirmadas mediante prova documental ou outros meios de prova admitidos em direito, a não ser que estejam reunidas cumulativamente as seguintes condições:

- a) O requerente tenha feito um esforço autêntico para fundamentar o seu pedido;
- b) O requerente apresente todos os elementos ao seu dispor e explicação satisfatória para a eventual falta de outros considerados pertinentes;
- c) As declarações prestadas pelo requerente forem consideradas coerentes, plausíveis, e não contraditórias face às informações disponíveis;
- d) O pedido tiver sido apresentado com a maior brevidade possível, a menos que o requerente apresente justificação suficiente para que tal não tenha acontecido;
- e) Tenha sido apurada a credibilidade geral do requerente.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 19.º

Tramitação acelerada

1 - A análise das condições a preencher para beneficiar do estatuto de proteção internacional é sujeita a tramitação acelerada e o pedido considerado infundado quando se verifique que:

- a) O requerente induziu em erro as autoridades, apresentando informações ou documentos falsos ou ocultando informações ou documentos importantes a respeito da sua identidade ou nacionalidade suscetíveis de terem um impacto negativo na decisão;
- b) É provável que, de má-fé, o requerente tenha destruído ou extraviado documentos de identidade ou de viagem suscetíveis de contribuir para a determinação da sua identidade ou nacionalidade;
- c) O requerente fez declarações claramente incoerentes e contraditórias, manifestamente falsas ou obviamente inverosímeis que contradigam informações suficientemente verificadas sobre o país de origem, retirando credibilidade à alegação quanto aos motivos para preencher os requisitos para beneficiar de proteção;
- d) O requerente entrou ou permaneceu ilegalmente em território nacional e não tenha apresentado o pedido de proteção internacional logo que possível, sem motivos válidos;
- e) Ao apresentar o pedido e ao expor os factos, o requerente invoca apenas questões não pertinentes ou de relevância mínima para analisar o cumprimento das condições para ser considerado refugiado ou pessoa elegível para proteção subsidiária;
- f) O requerente provém de um país de origem seguro;
- g) O requerente apresentou um pedido subsequente que não foi considerado inadmissível nos termos do artigo 19.º-A;
- h) O requerente apresentou o pedido apenas com o intuito de atrasar ou impedir a aplicação de uma decisão anterior ou iminente que se traduza no seu afastamento;
- i) O requerente representa um perigo para a segurança interna ou para a ordem pública;
- j) O requerente recusa sujeitar-se ao registo obrigatório das suas impressões digitais de acordo com o Regulamento (UE) n.º 603/2013, do Parlamento Europeu e do Conselho, de 26 de junho, relativo à criação do sistema "Eurodac" de comparação de impressões digitais.

2 - (Revogado.)

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 19.º-A

Pedidos inadmissíveis

1 - O pedido é considerado inadmissível, quando se verifique que:

- a) Está sujeito ao procedimento especial de determinação do Estado responsável pela análise do pedido de proteção internacional, previsto no Capítulo IV;
- b) Beneficia do estatuto de proteção internacional noutro Estado membro;
- c) Um país que não um Estado membro é considerado primeiro país de asilo;
- d) Um país que não um Estado membro é considerado país terceiro seguro;
- e) Foi apresentado um pedido subsequente em que não surgiram nem foram apresentados novos elementos ou dados relacionados com a análise do cumprimento das condições para beneficiar de proteção internacional;
- f) Foi apresentado um pedido por uma pessoa a cargo do requerente, depois de ter consentido que um anterior pedido fosse apresentado em seu nome e não existam elementos que justifiquem um pedido separado.

2 - Nos casos previstos no número anterior, prescinde-se da análise das condições a preencher para beneficiar do estatuto de proteção internacional.

Alterações

Aditado pelo/a Artigo 3.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 20.º

Competência para apreciar e decidir

- 1 - Compete ao diretor nacional do SEF proferir decisão fundamentada sobre os pedidos infundados e inadmissíveis no prazo de 30 dias a contar da data de apresentação do pedido de proteção internacional.
- 2 - Na falta de decisão dentro do prazo previsto no número anterior, considera-se admitido o pedido.
- 3 - A decisão sobre o pedido mencionado nos números anteriores é notificada ao requerente no prazo de dois dias.
- 4 - Relativamente aos pedidos fundamentados, é proferida pelo diretor nacional do SEF a decisão de admissibilidade.
- 5 - A decisão referida no n.º 1 é comunicada ao representante do ACNUR e ao CPR enquanto organização não governamental que atue em seu nome, desde que o requerente tenha dado o seu consentimento.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 21.º*Efeitos da decisão*

- 1 - A decisão de admissibilidade do pedido de proteção internacional determina a instrução do procedimento nos termos do previsto na secção III do capítulo III.
- 2 - A decisão de não admissibilidade do pedido determina a notificação do requerente para abandono do país no prazo de 20 dias, caso se encontre em situação irregular.
- 3 - Caso o requerente não cumpra o disposto no número anterior, o SEF deve promover o processo com vista ao seu afastamento coercivo, nos termos previstos no regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional, aprovado pela Lei n.º 23/2007, de 4 de julho, alterada pela Lei n.º 29/2012, de 9 de agosto.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 22.º*Impugnação jurisdicional*

- 1 - A decisão proferida pelo director nacional do Serviço de Estrangeiros e Fronteiras é susceptível de impugnação judicial perante os tribunais administrativos, no prazo de oito dias, com efeito suspensivo.
- 2 - À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Secção II*Pedidos apresentados nos postos de fronteira***Artigo 23.º***Regime especial*

- 1 - A decisão dos pedidos de proteção internacional apresentados nos postos de fronteira por estrangeiros que não preencham os requisitos legais necessários para a entrada em território nacional está sujeita ao regime previsto nos artigos anteriores com as modificações constantes da presente secção.
- 2 - Os funcionários que recebam requerentes de proteção internacional nos postos de fronteira possuem formação apropriada e conhecimento adequado das normas pertinentes aplicáveis no domínio do direito da proteção internacional.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 24.º

Apreciação do pedido e decisão

- 1 - O SEF comunica a apresentação do pedido de proteção internacional a que se refere o artigo anterior ao representante do ACNUR e ao CPR enquanto organização não governamental que atue em seu nome, que podem entrevistar o requerente se o desejarem.
- 2 - O requerente é informado por escrito, numa língua que compreenda ou seja razoável presumir que compreenda, dos seus direitos e obrigações e presta declarações que valem, para todos os efeitos, como audiência prévia do interessado.
- 3 - À prestação de declarações referida no número anterior é aplicável o disposto no artigo 16.º
- 4 - O diretor nacional do SEF profere decisão fundamentada sobre os pedidos no prazo máximo de sete dias.
- 5 - A decisão prevista no número anterior é notificada, por escrito, ao requerente com informação dos direitos de impugnação jurisdicional que lhe assistem, numa língua que compreenda ou seja razoável presumir que compreenda, e é comunicada ao representante do ACNUR e ao CPR enquanto organização não governamental que atue em seu nome, desde que o requerente tenha dado o seu consentimento.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 25.º

Impugnação jurisdicional

- 1 - A decisão proferida pelo diretor nacional do SEF é suscetível de impugnação jurisdicional perante os tribunais administrativos, no prazo de quatro dias, com efeito suspensivo.
- 2 - À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.
- 3 - O recurso jurisdicional das decisões respeitantes à impugnação jurisdicional referida no n.º 1 tem efeito suspensivo.
- 4 - O interessado goza do benefício de proteção jurídica aplicando-se, com as devidas adaptações, o regime legal previsto para a nomeação de defensor de arguido para diligências urgentes, podendo igualmente solicitar a nomeação célere de mandatário forense, em condições a fixar por protocolo entre o membro do Governo responsável pela área da administração interna e a Ordem dos Advogados.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 26.º

Efeitos do pedido e da decisão

- 1 - O requerente permanece na zona internacional do porto ou aeroporto, enquanto aguarda a notificação da decisão do diretor nacional do SEF, aplicando-se os procedimentos e demais garantias previstos na lei.
- 2 - A instalação temporária de menores não acompanhados ou separados obedece a condições especiais, nos termos internacionalmente recomendados, designadamente pelo ACNUR, UNICEF e Comité Internacional da Cruz Vermelha.
- 3 - Sem prejuízo do disposto no artigo anterior, a decisão de inadmissibilidade do pedido determina a aplicação do regime jurídico de entrada, permanência saída e afastamento de estrangeiros do território nacional.
- 4 - A decisão de admissão do pedido ou o decurso do prazo previsto no n.º 4 do artigo 24.º sem que lhe tenha sido notificada a

decisão determina a entrada do requerente em território nacional, seguindo-se a instrução do procedimento, nos termos dos artigos seguintes.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Secção III

Instrução do procedimento

Alterações

Alterado pelo/a Artigo 4.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 27.º

Autorização de residência provisória

1 - Nas situações em que o pedido de proteção internacional tenha sido admitido, o SEF emite uma autorização de residência provisória, válida pelo período de seis meses contados da data de decisão de admissão do mesmo, renovável até decisão final, ou, na situação prevista no artigo 31.º, até expirar o prazo ali estabelecido.

2 - O modelo da autorização de residência referida no número anterior é fixado por portaria do membro do Governo responsável pela área da administração interna.

3 - Aos membros da família do requerente a quem tenham sido declarados extensivos os efeitos da proteção internacional é emitida uma autorização de residência, nos termos do n.º 1.

4 - Na pendência do procedimento de proteção internacional, é aplicável ao requerente o disposto na presente lei e, supletivamente, o regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 28.º

Instrução

1 - O SEF procede às diligências requeridas e averigua todos os factos cujo conhecimento seja conveniente para uma justa e rápida decisão, competindo-lhe a instrução dos procedimentos de proteção internacional.

2 - O prazo de instrução é de seis meses, podendo, em casos de especial complexidade, ser prorrogado até nove meses, devendo o requerente ser informado desta situação e, a pedido, sobre os motivos da dilação, bem como do prazo previsto para a decisão.

3 - No âmbito da instrução dos procedimentos de proteção internacional, o SEF pode, se necessário, solicitar o parecer de peritos sobre questões específicas, nomeadamente de ordem médica ou cultural.

4 - Durante a instrução, o representante do ACNUR ou o CPR enquanto organização não governamental que atue em seu nome pode juntar ao processo relatórios ou informações sobre o respetivo país de origem e obter informações sobre o pedido de proteção internacional e sobre o andamento do processo, desde que o requerente tenha dado o seu consentimento.

5 - Em qualquer fase do processo, o representante do ACNUR ou o CPR enquanto organização não governamental que atue em seu nome pode apresentar as suas observações ao SEF, no exercício das funções que lhe incumbem por força do artigo 35.º da Convenção de Genebra.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 29.º

Decisão

- 1 - Finda a instrução, o SEF elabora proposta fundamentada de concessão ou recusa de proteção internacional.
- 2 - O requerente é notificado do teor da proposta a que se refere o número anterior, podendo pronunciar-se sobre a mesma no prazo de 10 dias.
- 3 - (Revogado.)
- 4 - Após o decurso do prazo a que se refere o n.º 2, a proposta devidamente fundamentada é remetida ao diretor nacional do SEF, que a apresenta ao membro do Governo responsável pela área da administração interna no prazo de 10 dias.
- 5 - O membro do Governo responsável pela área da administração interna decide no prazo de oito dias a contar da data da apresentação da proposta referida no número anterior.
- 6 - O SEF notifica a decisão proferida ao requerente, numa língua que este compreenda ou seja razoável presumir que compreenda, com menção do direito que lhe assiste nos termos do artigo seguinte, e comunica-a ao representante do ACNUR ou ao CPR enquanto organização não governamental que atue em seu nome, desde que o requerente tenha dado o seu consentimento.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 30.º

Impugnação jurisdicional

- 1 - A decisão proferida nos termos do artigo anterior é susceptível de impugnação judicial perante os tribunais administrativos, no prazo de 15 dias, com efeito suspensivo.
- 2 - À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 31.º

Efeitos da decisão de recusa

- 1 - Em caso de decisão de recusa de proteção internacional, o requerente pode permanecer em território nacional durante um período transitório, que não exceda 30 dias.
- 2 - O requerente fica sujeito ao regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional a partir do termo do prazo previsto no número anterior.

Artigo 32.º

Extinção do procedimento

- 1 - O procedimento é declarado extinto sempre que o requerente de proteção internacional desista expressamente do pedido ou se verifique desistência implícita do mesmo e o procedimento se encontrar parado por mais de 90 dias, designadamente quando o requerente:
 - a) Notificado para o efeito, não fornecer informação essencial para o seu pedido;
 - b) Não comparecer na entrevista pessoal;
 - c) Desaparecer ou se ausentar sem ter contactado o SEF;
 - d) Não cumprir a obrigação de se apresentar ou outra obrigação de comunicar.

2 - A declaração de extinção do procedimento compete ao diretor nacional do SEF, com faculdade de subdelegar.

3 - Sem prejuízo de declaração de extinção proferida nos termos do número anterior, o requerente de proteção internacional que se apresente novamente às autoridades tem o direito de requerer a reabertura do procedimento, o qual, neste caso, é retomado na fase em que foi interrompido.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Secção IV

Pedido subsequente

Artigo 33.º

Apresentação de um pedido subsequente

1 - O requerente ao qual tenha sido negado o direito de proteção internacional pode, sem prejuízo do decurso dos prazos previstos para a respetiva impugnação jurisdicional, apresentar um pedido subsequente, sempre que disponha de novos elementos de prova que lhe permitam beneficiar daquele direito ou quando entenda que cessaram os motivos que fundamentaram a decisão de inadmissibilidade ou de recusa do pedido de proteção internacional.

2 - O pedido subsequente é dirigido ao SEF e deve ser instruído com todos os documentos de prova que fundamentam a sua apresentação, podendo o SEF conceder ao requerente um prazo razoável para apresentar novos factos, informações ou elementos de prova.

3 - O SEF informa o representante do ACNUR e o CPR enquanto organização não governamental que atue em seu nome da apresentação de pedido subsequente.

4 - O SEF procede à apreciação preliminar do pedido no prazo máximo de 10 dias a contar da sua apresentação ou da data de apresentação dos elementos que, nos termos do n.º 2, tenham sido solicitados ao requerente.

5 - Quando da apreciação preliminar resultem indícios de que o requerente preenche as condições para beneficiar do direito de proteção internacional, o procedimento segue os termos previstos nos artigos 27.º e seguintes, podendo ser dispensada a realização de diligências de prova já produzidas no processo anterior que aproveitem ao requerente.

6 - Caso se conclua que não foram apresentados novos elementos de prova o diretor nacional do SEF profere decisão de inadmissibilidade do pedido, notificando de imediato o requerente, numa língua que este compreenda ou seja razoável presumir que compreenda, dos motivos da decisão atendendo ao resultado da apreciação preliminar, bem como da possibilidade de impugnação jurisdicional, perante os tribunais administrativos, no prazo de quatro dias, com efeito suspensivo.

7 - À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

8 - O recurso jurisdicional das decisões respeitantes à impugnação jurisdicional referida no n.º 1 tem efeito meramente devolutivo.

9 - Quando o requerente se encontre em território nacional, a notificação da decisão a que se refere o n.º 6 menciona ainda que deve abandonar o país no prazo de 20 dias, ficando sujeito ao regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional após o termo do referido prazo, salvo quando o requerente beneficie já de prazo mais favorável, por força do disposto na presente lei.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 34.º

Aplicação extensiva

REVOGADO

Alterações

Revogado pelo/a Artigo 5.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Secção V

Reinstalação de refugiados

Artigo 33.º-A

Apresentação de um pedido na sequência de uma decisão de afastamento

- 1 - Ao estrangeiro ou apátrida que, após ter sido sujeito a processo de afastamento coercivo ou de expulsão judicial, apresente pedido de proteção internacional são aplicáveis as regras do presente artigo.
- 2 - O pedido referido no número anterior é dirigido ao SEF e deve ser instruído com todos os elementos de prova que fundamentam a sua apresentação.
- 3 - O SEF informa o representante do ACNUR e o CPR enquanto organização não governamental que atue em seu nome, logo que seja apresentado o pedido.
- 4 - Antes de proferida qualquer decisão sobre o pedido, é garantido ao requerente o direito de prestar declarações, ao qual é aplicável o regime previsto no artigo 16.º, e que vale para todos os efeitos como audiência prévia do interessado.
- 5 - O SEF procede à apreciação do pedido nos termos do artigo 18.º, competindo ao diretor nacional daquele serviço proferir decisão no prazo máximo de 10 dias a contar da sua apresentação.
- 6 - A decisão proferida pelo diretor nacional do SEF deve ser notificada de imediato ao requerente, bem como a possibilidade de impugnação jurisdicional, perante os tribunais administrativos, no prazo de quatro dias, com efeito suspensivo.
- 7 - À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.
- 8 - O recurso jurisdicional das decisões respeitantes à impugnação referida no n.º 6 tem efeito meramente devolutivo.

Alterações

Aditado pelo/a Artigo 3.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Secção VI

Reinstalação de refugiados

Alterações

Aditado pelo/a Artigo 4.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 35.º

Pedido de reinstalação

- 1 - Os pedidos de reinstalação de refugiados sob o mandato do ACNUR são apresentados ao membro do Governo responsável pela área da administração interna.
- 2 - O SEF assegura as diligências necessárias à tramitação e decisão dos pedidos no prazo máximo de 60 dias.
- 3 - A organização não governamental designada no âmbito de protocolo estabelecido para o efeito é informada sobre os pedidos apresentados e pode emitir parecer sobre os mesmos, no prazo de 10 dias.
- 4 - O membro do Governo responsável pela área da administração interna decide sobre a aceitação do pedido de reinstalação

no prazo de 15 dias contados da apresentação do mesmo pelo SEF.

5 - A aceitação do pedido de reinstalação confere aos interessados estatuto idêntico ao previsto no capítulo VII.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Secção VII

Regime de colocação ou manutenção em centro de instalação temporária

Alterações

Aditado pelo/a Artigo 4.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 35.º-A

Colocação ou manutenção em centro de instalação temporária

1 - Os requerentes de proteção internacional não podem ser mantidos em regime de detenção pelo facto de terem requerido proteção.

2 - Os requerentes apenas podem ser colocados ou mantidos em centro de instalação temporária por motivos de segurança nacional, saúde pública ou quando exista risco de fuga, com base numa apreciação individual e se não for possível aplicar de forma eficaz outras medidas alternativas menos gravosas.

3 - Os requerentes podem ainda ser colocados ou mantidos em centro de instalação temporária, se não for possível aplicar de forma eficaz outras medidas alternativas menos gravosas:

- a) No âmbito dos pedidos apresentados nos postos de fronteira, conforme previstos na secção II do capítulo III;
- b) No âmbito dos pedidos apresentados na sequência de uma decisão de afastamento de território nacional, conforme previsto na secção V do capítulo III;
- c) No decurso do procedimento especial de determinação do Estado responsável pela análise do pedido de proteção internacional, previsto no artigo 28.º do Regulamento (UE) n.º 604/2013, do Parlamento Europeu e do Conselho, de 26 de junho, que estabelece os critérios e mecanismos de determinação do Estado membro responsável pela análise de um pedido de proteção internacional apresentado num dos Estados membros por um nacional de um país terceiro ou por um apátrida.

4 - Para efeitos da aplicação do número anterior, consideram-se medidas alternativas menos gravosas as seguintes:

- a) Apresentação periódica no SEF;
- b) Obrigação de permanência na habitação com utilização de meios de vigilância eletrónica, nos termos da lei.

5 - A colocação efetuada ao abrigo do presente artigo, bem como as medidas alternativas, são determinadas pelo juízo de pequena instância criminal na respetiva área de jurisdição ou pelo tribunal de comarca nas restantes áreas do país.

6 - No caso de pedidos de proteção internacional apresentados nos postos de fronteira, a permanência em centro de instalação temporária ou espaço equiparado é comunicada no prazo máximo de 48 horas ao juiz de pequena instância criminal da respetiva área de jurisdição, ou ao tribunal de comarca nas restantes áreas do país, para apreciação nos termos do presente artigo.

Alterações

Aditado pelo/a Artigo 3.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 35.º-B

Condições de colocação ou manutenção em centro de instalação temporária

1 - A colocação em centro de instalação temporária ou espaço equiparado a que se refere o artigo anterior não pode prolongar-se mais tempo do que o necessário, sem que possa exceder 60 dias, podendo a decisão ser reapreciada oficiosamente e ou a

pedido do requerente se sobrevierem circunstâncias relevantes ou novas informações passíveis de comprometer a legalidade da medida.

2 - Os requerentes são imediatamente informados por escrito, numa língua que compreendam ou seja razoável presumir que compreendam, dos motivos da sua instalação e dos meios de impugnação jurisdicional que lhes assistem, bem como da possibilidade de beneficiarem de apoio judiciário nos termos da legislação aplicável.

3 - Os requerentes são autorizados, a pedido, a contactar com os seus representantes legais, os seus familiares e representantes do ACNUR ou do CPR enquanto organização não governamental que atue em seu nome e de outras organizações que atuem nesta área.

4 - O acesso às instalações dos centros de instalação temporária só pode ser limitado por motivos de segurança, ordem pública ou gestão administrativa, desde que o acesso não seja fortemente limitado nem impossibilitado.

5 - Aos requerentes é fornecida informação sobre as regras em vigor nas instalações em que se encontram, bem como sobre os seus direitos e deveres, numa língua que compreendam ou seja razoável presumir que compreendam.

6 - Na medida do possível, os menores não acompanhados beneficiam de alojamento em instituições dotadas de pessoal e instalações que tenham em conta as necessidades pessoais da sua idade.

7 - As famílias devem receber alojamento separado que lhes garanta a privacidade necessária e, no caso de requerentes do sexo feminino, deve ser assegurado alojamento separado.

8 - Às pessoas vulneráveis deve ser assegurado o acompanhamento regular e apoio adequado, tendo em conta a situação concreta, incluindo o seu estado de saúde.

9 - Os requerentes instalados devem ter acesso a espaços ao ar livre.

Alterações

Aditado pelo/a Artigo 3.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Capítulo IV

Procedimento especial de determinação do Estado responsável pela análise do pedido de proteção internacional

Alterações

Alterado pelo/a Artigo 4.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 36.º

Determinação do Estado responsável

Quando haja lugar à determinação do Estado responsável pela análise de um pedido de proteção internacional é organizado um procedimento especial regulado no presente capítulo.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 37.º

Pedido de proteção internacional apresentado em Portugal

1 - Quando se considere que a responsabilidade pela análise do pedido de proteção internacional pertence a outro Estado membro, de acordo com o previsto no Regulamento (UE) n.º 604/2013, do Parlamento Europeu e do Conselho, de 26 de junho, o SEF solicita às respetivas autoridades a sua tomada ou retoma a cargo.

2 - Aceite a responsabilidade pelo Estado requerido, o diretor nacional do SEF profere, no prazo de cinco dias, decisão nos termos da alínea a) do n.º 1 do artigo 19.º-A e do artigo 20.º, que é notificada ao requerente, numa língua que compreenda ou seja razoável presumir que compreenda, e é comunicada ao representante do ACNUR e ao CPR enquanto organização não

governamental que atue em seu nome, mediante pedido apresentado, acompanhado do consentimento do requerente.

3 - A notificação prevista no número anterior é acompanhada da entrega ao requerente de um salvo-conduto, a emitir pelo SEF segundo modelo a aprovar por portaria do membro do Governo responsável pela área da administração interna.

4 - A decisão proferida pelo diretor nacional do SEF é suscetível de impugnação jurisdicional perante os tribunais administrativos no prazo de cinco dias, com efeito suspensivo.

5 - À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

6 - O recurso jurisdicional das decisões respeitantes à impugnação jurisdicional referida no n.º 4 tem efeito suspensivo.

7 - Em caso de resposta negativa do Estado requerido ao pedido formulado pelo SEF, nos termos do n.º 1, observar-se-á o disposto no capítulo III.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 38.º

Execução da decisão de transferência

Compete ao SEF assegurar a execução da transferência do requerente de proteção internacional.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 39.º

Suspensão do prazo para a decisão

A instrução do procedimento de determinação do Estado responsável pela análise do pedido de proteção internacional suspende, até decisão final, a contagem do prazo previsto no n.º 1 do artigo 20.º e no n.º 4 do artigo 24.º

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 40.º

Pedido de proteção internacional apresentado em outro Estado membro da União Europeia

1 - Compete ao diretor nacional do SEF decidir sobre a aceitação de responsabilidade do Estado português pela análise de pedido de proteção internacional apresentado em outros Estados membros da União Europeia.

2 - A decisão prevista no número anterior é proferida no prazo máximo de dois meses a contar da data do recebimento do pedido de aceitação formulado pelo Estado onde se encontra o requerente de proteção internacional ou foi apresentado o pedido.

3 - Nos casos qualificados como urgentes pelo Estado onde foi apresentado o pedido, o prazo referido no número anterior é reduzido para oito dias.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Capítulo V

Perda do direito de protecção internacional

Artigo 41.º

1 - O direito de asilo cessa quando o estrangeiro ou o apátrida:

- a) Decida voluntariamente valer-se de novo da proteção do país de que tem nacionalidade;
- b) Tendo perdido a sua nacionalidade, a recupere voluntariamente;
- c) Adquirir uma nova nacionalidade e goze da proteção do país cuja nacionalidade adquiriu;
- d) Regresse voluntariamente ao país que abandonou ou fora do qual permaneceu por receio de ser perseguido;
- e) Não possa continuar a recusar valer-se da proteção do país de que tem a nacionalidade, por terem deixado de existir as circunstâncias segundo as quais foi reconhecido como refugiado;
- f) Tratando-se de apátrida, esteja em condições de regressar ao país em que tinha a sua residência habitual, por terem deixado de existir as circunstâncias segundo as quais foi reconhecido como refugiado;
- g) Renuncie expressamente ao direito de asilo.

2 - A proteção subsidiária cessa quando as circunstâncias que levaram à sua concessão já não se verifiquem ou se tiverem alterado a tal ponto que a proteção já não seja necessária.

3 - Para efeitos do disposto nas alíneas e) e f) do n.º 1 e no n.º 2, e sem prejuízo do disposto no artigo 47.º, a cessação só pode ser declarada caso o SEF conclua que a alteração das circunstâncias no Estado da nacionalidade ou residência habitual do beneficiário do direito de asilo ou de proteção subsidiária é suficientemente significativa e duradoura para afastar o receio fundado de perseguição ou o risco de sofrer ofensa grave.

4 - As alíneas e) e f) do n.º 1 não se aplicam ao refugiado que possa invocar razões imperiosas relacionadas com perseguições anteriores para recusar valer-se da proteção do país da sua nacionalidade ou, na eventualidade de ser apátrida, do seu antigo país de residência habitual.

5 - É revogada, suprimida ou recusada a renovação do direito de asilo ou de proteção subsidiária quando se verifique que o estrangeiro ou apátrida:

- a) Deveria ter sido ou possa ser excluído do direito de beneficiar do direito de asilo ou de proteção subsidiária, nos termos do artigo 9.º;
- b) Tenha deturpado ou omitido factos, incluindo a utilização de documentos falsos, decisivos para beneficiar do direito de asilo ou de proteção subsidiária;
- c) Representa um perigo para a segurança interna;
- d) Tendo sido condenado por sentença transitada em julgado por crime doloso de direito comum punível com pena de prisão superior a três anos, represente um perigo para a segurança interna ou para a ordem pública.

6 - Para efeitos de audiência prévia, o SEF notifica o beneficiário do projeto de decisão, o qual se pode pronunciar no prazo de oito dias.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 42.º

Efeitos da perda do direito de protecção internacional

1 - (Revogado.)

2 - A perda do direito de proteção internacional nos termos do artigo anterior determina a aplicação do regime jurídico de entrada, permanência, saída e afastamento de estrangeiros de território nacional.

3 - (Revogado.)

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 43.º

Competência para declarar a perda do direito de proteção internacional e o afastamento do território nacional

- 1 - Compete ao membro do Governo responsável pela área da administração interna, sob proposta do diretor nacional do SEF, declarar a perda do direito de proteção internacional.
- 2 - A declaração prevista no número anterior deve ser notificada ao requerente, numa língua que compreenda ou seja razoável presumir que compreenda.
- 3 - O representante do ACNUR ou o CPR enquanto organização não governamental que atue em seu nome são informados da declaração de perda do direito de proteção internacional.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 44.º

Impugnação jurisdicional

- 1 - A decisão proferida ao abrigo do n.º 1 do artigo anterior é susceptível de impugnação judicial perante os tribunais administrativos, no prazo de oito dias, com efeito suspensivo.
- 2 - À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 45.º

Comunicações

REVOGADO

Alterações

Revogado pelo/a Artigo 5.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 46.º

Execução da ordem de expulsão

REVOGADO

Alterações

Revogado pelo/a Artigo 5.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 47.º

Proibição de expulsar ou repelir

- 1 - Quando a perda do direito de proteção internacional determina a abertura de processo tendente ao afastamento coercivo, este obedece ao princípio da não repulsão definido na alínea aa) do n.º 1 do artigo 2.º
- 2 - Ninguém será devolvido, afastado extraditado ou expulso para um país onde seja submetido a torturas ou a tratamentos cruéis ou degradantes.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Capítulo VI

Estatuto do requerente de asilo e de protecção subsidiária

Secção I

Disposições gerais

Artigo 48.º

Efeitos do asilo e da protecção subsidiária sobre a extradição

- 1 - A concessão de asilo ou de protecção subsidiária obsta ao seguimento de qualquer pedido de extradição do beneficiário, fundado nos factos com base nos quais a protecção internacional é concedida.
- 2 - A decisão final sobre qualquer processo de extradição do requerente que esteja pendente fica suspensa enquanto o pedido de protecção internacional se encontre em apreciação, quer na fase administrativa, quer na fase jurisdicional.
- 3 - Para efeito do cumprimento do disposto no número anterior, a apresentação do pedido de protecção internacional é comunicado pelo Serviço de Estrangeiros e Fronteiras à entidade onde corre o respectivo processo no prazo de dois dias úteis.

Artigo 49.º

Direitos dos requerentes

- 1 - Sem prejuízo do disposto nos artigos seguintes, os requerentes de asilo ou de protecção subsidiária beneficiam das seguintes garantias:
 - a) Serem informados de imediato ou, quando o pedido tenha sido entregue através de outra entidade, até cinco dias a contar do registo do pedido, numa língua que compreendam ou seja razoável presumir que compreendam, dos direitos que lhe assistem e das obrigações a que estão sujeitos em matéria de acolhimento, designadamente sobre:
 - i) Os prazos e meios ao dispor para cumprimento do dever de apresentação dos elementos pertinentes para apreciação do pedido;
 - ii) A tramitação procedimental;
 - iii) As organizações ou os grupos de pessoas que prestam assistência jurídica específica;
 - iv) As organizações que os podem apoiar ou informar relativamente às condições de acolhimento disponíveis, incluindo a assistência médica;
 - v) As consequências do eventual incumprimento dos deveres e falta de cooperação previstos no artigo 15.º;
 - b) Serem informados no momento da recolha dos seus dados dactiloscópicos, numa língua que compreendam ou seja razoável presumir que compreendam, sobre a finalidade a que se destina o tratamento dos seus dados pessoais, bem como de todos os outros direitos das pessoas titulares de dados previstos no Regulamento (UE) n.º 603/2013, do Parlamento Europeu e do Conselho, de 26 de junho, relativo à criação do sistema «Eurodac» de comparação de impressões digitais;
 - c) Serem informados quanto à decisão sobre a admissibilidade do pedido e respetivo teor, ainda que por intermédio de mandatário judicial, caso se tenham feito assistir por advogado;
 - d) Beneficiar, sempre que necessário, dos serviços de um intérprete para os assistirem na formalização do pedido e durante o respetivo procedimento;
 - e) Beneficiar de aconselhamento jurídico gratuito em todas as fases do procedimento, a prestar por entidade pública ou organização não governamental com a qual tenha sido celebrado protocolo;
 - f) Beneficiar de apoio judiciário nos termos da lei.
- 2 - Sem prejuízo do disposto na alínea a) do número anterior, o SEF fornece ao requerente de asilo ou de protecção subsidiária

um folheto informativo numa língua que este possa entender, sem prejuízo de a mesma informação poder ser também prestada oralmente.

3 - (Revogado.)

4 - (Revogado.)

5 - Os advogados que representem o requerente de asilo ou de proteção subsidiária têm acesso às informações constantes do seu processo.

6 - Os advogados do requerente, os representantes do ACNUR, o CPR enquanto organização não governamental que atue em seu nome e os representantes de outras organizações não governamentais que desenvolvam atividades nesta área têm ainda direito de acesso a zonas vedadas, como locais de detenção ou de trânsito, para poderem prestar àquele o devido aconselhamento.

7 - Na prestação de declarações a que se refere o artigo 16.º, os requerentes de asilo ou de proteção subsidiária podem fazer-se acompanhar de advogado, sem prejuízo de a respetiva ausência não obstar à realização desse ato processual.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 50.º

Obrigações do requerente de asilo ou de protecção subsidiária

REVOGADO

Alterações

Revogado pelo/a Artigo 5.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Secção II

Disposições relativas às condições de acolhimento

Artigo 51.º

Meios de subsistência

1 - Aos requerentes de asilo ou de protecção subsidiária em situação de carência económica e social e aos membros da sua família é concedido apoio social para alojamento e alimentação, nos termos da legislação em vigor.

2 - Para efeitos do disposto no número anterior, na concessão de alojamento devem ser tomadas, com o acordo dos requerentes, as medidas adequadas para manter tanto quanto possível a unidade da família que se encontre presente em território nacional, nomeadamente as previstas nas alíneas a) e b) do n.º 1 do artigo 59.º

Artigo 52.º

Assistência médica e medicamentosa

1 - É reconhecido aos requerentes de asilo ou de protecção subsidiária e respectivos membros da família o acesso ao Serviço Nacional de Saúde, nos termos a definir por portaria conjunta dos membros do Governo responsáveis pelas áreas da administração interna e da saúde.

2 - O documento comprovativo da apresentação do pedido de asilo ou de protecção subsidiária, emitido nos termos do artigo 14.º, considera-se bastante para comprovar a qualidade de requerente, para efeitos do disposto no número anterior.

3 - Para os efeitos do presente artigo, as autoridades sanitárias podem exigir, por razões de saúde pública, que os requerentes sejam submetidos a um exame médico, a fim de que seja atestado que não sofrem de nenhuma das doenças definidas nos

instrumentos aplicáveis da Organização Mundial de Saúde ou em outras doenças infecciosas ou parasitárias contagiosas objecto de medidas de protecção em território nacional, cujos resultados são confidenciais e não afectam o procedimento de asilo.

4 - Os exames médicos e as medidas a que se refere o número anterior não devem ter carácter sistemático.

5 - Aos requerentes particularmente vulneráveis é prestada assistência médica ou outra que se revele necessária.

Artigo 53.º

Acesso ao ensino

1 - Os filhos menores dos requerentes de asilo ou de protecção subsidiária e os requerentes de asilo ou de protecção subsidiária menores têm acesso ao sistema de ensino nas mesmas condições dos cidadãos nacionais e demais cidadãos para quem a língua portuguesa não constitua língua materna.

2 - A possibilidade de continuação dos estudos secundários não pode ser negada com fundamento no facto de o menor ter atingido a maioridade.

Artigo 54.º

Direito ao trabalho

1 - Aos requerentes de asilo ou de protecção subsidiária a quem já foi emitida autorização de residência provisória é assegurado o acesso ao mercado de trabalho, nos termos da lei geral, cessando, a partir do exercício de emprego remunerado, a aplicação do regime de apoio social previsto no artigo 56.º

2 - (Revogado.)

3 - (Revogado.)

4 - Nos casos de impugnação jurisdicional de decisão de recusa de protecção internacional, o direito de acesso ao mercado de trabalho mantém-se até à prolação da respetiva sentença que julgue improcedente o pedido.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 55.º

Programas e medidas de emprego e formação profissional

1 - Os requerentes de asilo ou de protecção subsidiária têm acesso a programas e medidas de emprego e formação profissional em condições a estabelecer pelos ministérios que tutelam a área em causa, desde que preencham os requisitos estabelecidos no artigo anterior.

2 - (Revogado.)

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Secção III

Condições materiais de acolhimento e cuidados de saúde

Artigo 56.º

Apoio social

1 - Aos requerentes de asilo ou de protecção subsidiária e respectivos membros da família, que não disponham de meios suficientes para permitir a sua subsistência, são asseguradas condições materiais de acolhimento, bem como os cuidados de saúde estabelecidos nesta secção, tendo em vista a garantia da satisfação das suas necessidades básicas em condições de dignidade humana.

2 - Aos requerentes de asilo ou de protecção subsidiária e membros da sua família particularmente vulneráveis e aos requerentes de asilo ou de protecção subsidiária que se encontrem nos postos de fronteira são igualmente asseguradas condições materiais de acolhimento adequadas, bem como cuidados de saúde apropriados.

3 - Para efeitos do n.º 1 considera-se não dispor de meios suficientes o requerente que careça de recursos de qualquer natureza ou de valor inferior ao subsídio de apoio social apurado nos termos da legislação aplicável.

4 - Caso se comprove que um requerente dispõe de recursos suficientes pode ser-lhe exigida uma contribuição, total ou parcial, para a cobertura das despesas decorrentes das condições materiais de acolhimento e dos cuidados de saúde.

5 - Caso se comprove que um requerente dispunha de meios suficientes para custear as condições materiais de acolhimento e os cuidados de saúde na altura em que estas necessidades básicas foram providas, a entidade competente pode exigir o respectivo reembolso.

Artigo 57.º

Modalidades de concessão

1 - As condições materiais de acolhimento podem revestir as seguintes modalidades:

- a) Alojamento em espécie;
- b) Alimentação em espécie;
- c) Prestação pecuniária de apoio social, com carácter mensal, para despesas de alimentação, vestuário, higiene e transportes;
- d) Subsídio complementar para alojamento, com carácter mensal;
- e) Subsídio complementar para despesas pessoais e transportes.

2 - O alojamento e a alimentação em espécie podem revestir uma das seguintes formas:

- a) Em instalações equiparadas a centros de acolhimento para requerentes de asilo, nos casos em que o pedido é apresentado nos postos de fronteira;
- b) Em centro de instalação para requerentes de asilo ou estabelecimento equiparado que proporcionem condições de vida adequadas;
- c) Em casas particulares, apartamentos, hotéis ou noutras instalações adaptadas para acolher requerentes de asilo.

3 - Podem ser cumuladas as seguintes modalidades de acolhimento:

- a) Alojamento e alimentação em espécie com o subsídio complementar para despesas pessoais e transportes;
- b) Alojamento em espécie ou subsídio complementar para alojamento com a prestação pecuniária de apoio social.

4 - A título excepcional e por um período determinado, podem ser estabelecidas condições materiais de acolhimento diferentes das previstas nos números anteriores, sempre que:

- a) Seja necessária uma avaliação inicial das necessidades específicas dos requerentes;
- b) Na área geográfica onde se encontra o requerente não estejam disponíveis condições materiais de acolhimento previstas no n.º 2;
- c) As capacidades de acolhimento disponíveis se encontrem temporariamente esgotadas; ou
- d) Os requerentes de asilo ou de protecção subsidiária se encontrem em regime de retenção em posto de fronteira que não disponha de instalações equiparadas a centros de acolhimento.

Artigo 58.º

Montantes dos subsídios

As prestações pecuniárias a que se referem as alíneas c) e d) do n.º 1 do artigo anterior são calculadas por referência ao subsídio de apoio social previsto na legislação aplicável, não devendo ultrapassar as seguintes percentagens:

- a) Prestação pecuniária de apoio social, com carácter mensal, para despesas de alimentação, vestuário, higiene e transportes, correspondente a 70 % do montante apurado;
- b) Subsídio complementar para alojamento, com carácter mensal, correspondente a 30 % do montante apurado;
- c) Subsídio mensal para despesas pessoais e transportes, correspondente a 30 % do montante apurado.

Artigo 59.º

Garantias suplementares em matéria de alojamento

1 - A entidade responsável pela concessão do alojamento em espécie, nas formas previstas no n.º 2 do artigo 57.º, deve:

- a) Proporcionar a proteção da vida familiar dos requerentes;
- b) Proporcionar, se for caso disso, que os filhos menores dos requerentes ou os requerentes menores sejam alojados com os pais ou com o membro adulto da família por eles responsável por força da lei;
- c) Assegurar, tanto quanto possível, que os requerentes adultos com necessidades especiais de acolhimento sejam alojados com familiares adultos próximos que já se encontrem no território nacional e que sejam por eles responsáveis por força da lei;
- d) Assegurar aos requerentes a possibilidade de comunicar com a sua família ou os seus representantes legais, assim como com os representantes do ACNUR ou do CPR enquanto organização não governamental que atue em seu nome;
- e) Tomar as medidas adequadas para prevenir agressões e violência, designadamente com base no género, incluindo assédio e agressões sexuais, no interior das instalações e dos centros de acolhimento a que se refere o n.º 2 do artigo 57.º

2 - A transferência de requerentes de asilo ou de proteção subsidiária de uma instalação de alojamento para outra só se pode realizar quando tal se revele necessário para a boa tramitação do processo ou para melhorar as condições de alojamento.

3 - Aos requerentes transferidos nos termos do número anterior é assegurada a possibilidade de informar os seus representantes legais da transferência e do seu novo endereço.

4 - Aos advogados dos requerentes, aos representantes do ACNUR ou do CPR enquanto organização não governamental que atue em seu nome e de outras organizações não governamentais que desenvolvam atividades nesta área, e como tal sejam reconhecidas pelo Estado, é assegurado o acesso aos centros de acolhimento e a outras instalações de alojamento de forma a assistir os requerentes de asilo ou de proteção subsidiária, só podendo ser fixadas restrições de acesso se devidamente fundamentadas e quando estejam em causa razões de segurança dos centros e instalações, bem como dos requerentes.

5 - Às pessoas que trabalham nos centros de acolhimento é ministrada formação adequada, estando as mesmas sujeitas ao dever de confidencialidade no que respeita às informações de que tomem conhecimento no exercício das suas funções.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Secção IV

Redução ou cessação do benefício das condições de acolhimento

Artigo 60.º

Redução e cessação do benefício das condições de acolhimento

1 - O apoio social cessa com a decisão de recusa do pedido de proteção internacional, tendo a impugnação desta perante o tribunal administrativo e o recurso jurisdicional da decisão que a confirme os efeitos previstos, respetivamente, nos n.os 1 e 2 do artigo 30.º

2 - A cessação do apoio nos termos do número anterior não se verifica quando, avaliada a situação económica e social do requerente, se concluir pela necessidade da sua manutenção.

3 - As condições de acolhimento podem ser total ou parcialmente retiradas se o requerente de asilo ou de proteção subsidiária, injustificadamente:

- a) Abandonar o local de residência estabelecido pela autoridade competente sem informar o SEF ou sem a autorização exigível;
- b) Abandonar o seu local de residência sem informar a entidade competente pelo alojamento;
- c) Não cumprir as obrigações de se apresentar;
- d) Não prestar as informações que lhe forem requeridas ou não comparecer nas entrevistas individuais, quando para tal for convocado;
- e) Tiver dissimulado os seus recursos financeiros e, portanto, beneficiar indevidamente das condições materiais de acolhimento;
- f) Apresentar um pedido subsequente.

4 - Se, posteriormente à cessação das condições de acolhimento por incumprimento do previsto nas alíneas a) a c) do número anterior, o requerente for encontrado ou se apresentar voluntariamente às autoridades competentes, deve ser tomada uma decisão fundamentada quanto ao restabelecimento do benefício de algumas ou de todas as condições de acolhimento.

5 - As decisões relativas à redução e à cessação do benefício das condições de acolhimento nas situações mencionadas no n.º 1 são tomadas de forma individual, objetiva, imparcial e devem ser fundamentadas.

6 - As decisões a que se refere o número anterior devem ter exclusivamente por base a situação particular da pessoa em causa, em especial no que se refere às pessoas particularmente vulneráveis, tendo em conta o princípio da proporcionalidade.

7 - A redução ou cessação dos benefícios não prejudica o acesso aos cuidados de saúde urgentes, ao tratamento básico de doenças e de perturbações mentais graves e aos cuidados médicos ou outro tipo de assistência necessária aos requerentes com necessidades de acolhimento especiais, incluindo assistência psicológica adequada, se necessário.

8 - Das decisões referidas no n.º 3 cabe impugnação nos termos do n.º 1 do artigo 63.º

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Secção V

Garantias de eficácia do sistema de acolhimento

Artigo 61.º

Competências

1 - Compete ao ministério responsável pela área da administração interna garantir aos requerentes de asilo ou de proteção subsidiária que se encontrem retidos nos postos de fronteira as condições de alojamento e acesso a cuidados de saúde, assim como a satisfação dos encargos inerentes à concessão das condições materiais de acolhimento, até decisão quanto à admissibilidade do pedido, podendo aquelas ser asseguradas por outras entidades públicas ou particulares sem fins lucrativos, nos termos definidos em protocolo.

2 - Compete ao ministério responsável pela área da solidariedade, emprego e segurança social suportar os encargos resultantes da atribuição das condições materiais de acolhimento aos requerentes de asilo ou de proteção subsidiária que entrem ou se encontrem em território nacional, desde a admissão do pedido até decisão final sobre o mesmo, as quais podem ser prestadas diretamente ou através de outras entidades públicas ou particulares sem fins lucrativos, com as quais seja celebrado protocolo.

3 - Compete às entidades responsáveis pelo Serviço Nacional de Saúde assegurar o acesso dos requerentes de asilo ou de proteção subsidiária e membros da sua família a cuidados de saúde, nos termos da legislação aplicável.

4 - O acesso de menores ao sistema de ensino é garantido pelas entidades competentes no âmbito do ministério responsável pela área da educação e ciência.

5 - As decisões a que se refere o artigo 60.º são da competência das entidades responsáveis pela concessão das condições materiais de acolhimento previstas na presente lei.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 62.º

Pessoal e recursos

As autoridades e outras organizações referidas no artigo anterior devem fornecer aos seus funcionários formação de base adequada às necessidades dos requerentes de proteção internacional.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 63.º

Garantias

1 - As decisões proferidas nos termos do artigo 60.º que afetem individualmente requerentes de asilo ou de proteção subsidiária são passíveis de exercício das garantias administrativas e jurisdicionais e, quando impugnadas perante os tribunais administrativos, têm os efeitos previstos, respetivamente, nos n.os 1 e 2 do artigo 30.º

2 - As modalidades de apoio judiciário são regidas pela legislação aplicável.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 64.º

Colaboração das organizações não governamentais com o Estado

1 - As organizações não governamentais podem colaborar com o Estado na realização das medidas previstas na presente lei.

2 - A colaboração das organizações não governamentais com o Estado na realização das medidas respeitantes aos requerentes de asilo ou de protecção subsidiária a que se refere o número anterior, pode traduzir-se na organização da informação e do trabalho voluntário, apoio jurídico, prestação de apoio no acolhimento e outras formas de apoio social, através de protocolos ou de outros meios de vinculação recíproca.

Capítulo VII

Estatuto do refugiado e da protecção subsidiária

Artigo 65.º

Direitos e obrigações

Os beneficiários do estatuto de refugiado e da protecção subsidiária gozam dos direitos e estão sujeitos aos deveres dos estrangeiros residentes em Portugal, na medida em que não contrariem o disposto nesta lei, na Convenção de Genebra de 1951 e no Protocolo de Nova Iorque de 1967, cabendo-lhes, designadamente, a obrigação de acatar as leis e os regulamentos, bem como as providências destinadas à manutenção da ordem pública.

Artigo 66.º

Informação

Na notificação de concessão do estatuto de refugiado ou de proteção subsidiária, o SEF informa o beneficiário dos direitos e deveres relativos ao respetivo estatuto, numa língua que este compreenda ou seja razoável presumir que compreenda.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 67.º

Título de residência

1 - Aos beneficiários do estatuto de refugiado é concedida uma autorização de residência válida pelo período inicial de cinco anos, renovável por iguais períodos, salvo se razões imperativas de segurança nacional ou ordem pública o impedirem e sem prejuízo do disposto no capítulo V.

2 - Aos beneficiários do estatuto de proteção subsidiária é concedida uma autorização de residência por proteção subsidiária válida pelo período inicial de três anos, renovável por iguais períodos, precedida de análise da evolução da situação no país de origem, salvo se razões imperativas de segurança nacional ou ordem pública o impedirem e sem prejuízo do disposto no capítulo V.

3 - Aos membros da família do beneficiário do estatuto de refugiado ou de proteção subsidiária é emitida uma autorização de residência extraordinária, de validade idêntica à do beneficiário de asilo ou de proteção subsidiária, com dispensa dos requisitos exigidos pelo regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional.

4 - Compete ao membro do Governo responsável pela área da administração interna, sob proposta do diretor nacional do SEF, conceder, com dispensa de qualquer taxa, a autorização de residência prevista no presente artigo, segundo modelo estabelecido por portaria do referido membro do Governo.

5 - Compete ao diretor nacional do SEF decidir da concessão da autorização de residência extraordinária prevista no n.º 3, bem como decidir da renovação das autorizações de residência previstas nos números anteriores, com dispensa de taxa.

6 - (Revogado.)

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 68.º

Preservação da unidade familiar

1 - Os beneficiários do estatuto de refugiado ou de proteção subsidiária têm direito ao reagrupamento familiar com os membros da sua família referidos na alínea k) do n.º 1 do artigo 2.º, nas condições previstas no regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional.

2 - Os efeitos do asilo ou da proteção subsidiária devem ser declarados extensivos aos membros da família referidos no número anterior.

3 - O disposto nos números anteriores não se aplica nos casos em que o membro da família seja excluído do estatuto de refugiado ou de proteção subsidiária ou o perca nos termos da presente lei.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 69.º

Documentos de viagem

1 - Aos beneficiários do estatuto de refugiado é emitido, mediante requerimento, documento de viagem em conformidade com o disposto no anexo da Convenção de Genebra, que lhes permita viajar fora do território nacional, a menos que motivos imperiosos de segurança nacional ou de ordem pública exijam o contrário.

2 - Aos beneficiários do estatuto de proteção subsidiária, que comprovadamente não possam obter um passaporte nacional, pode ser emitido, mediante requerimento dos interessados, passaporte português para estrangeiro que lhes permita viajar fora

do território nacional, a menos que motivos imperiosos de segurança nacional ou de ordem pública exijam o contrário.

3 - A taxa devida pela emissão desses documentos é fixada por portaria do membro do Governo responsável pela área da administração interna.

Artigo 70.º

Acesso à educação

1 - Aos menores a quem é concedido o estatuto de refugiado ou de protecção subsidiária é conferido o pleno acesso ao sistema de ensino, nas mesmas condições que aos cidadãos nacionais.

2 - Aos adultos aos quais tenha sido concedido o estatuto de refugiado ou de protecção subsidiária é permitido o acesso ao sistema de ensino em geral, bem como à formação, aperfeiçoamento ou reciclagem profissionais, nas mesmas condições que aos cidadãos nacionais.

3 - No que se refere aos procedimentos vigentes em matéria de reconhecimento dos diplomas, certificados e outras provas de qualificação oficial estrangeiras, é assegurada a igualdade de tratamento entre beneficiários do estatuto de refugiado ou de protecção subsidiária e os respectivos nacionais.

Artigo 71.º

Acesso ao emprego

1 - Aos beneficiários do estatuto de refugiado ou protecção subsidiária é assegurado o acesso ao mercado de emprego, nos termos da lei geral, cessando, a partir do exercício de emprego remunerado, a aplicação do regime de apoio social previsto no artigo 56.º

2 - São igualmente asseguradas aos beneficiários do estatuto de refugiado ou de protecção subsidiária oportunidades de formação ligadas ao emprego de adultos, formação profissional e experiência prática em local de trabalho, nas mesmas condições dos cidadãos nacionais.

3 - São aplicáveis as disposições legais em matéria de remuneração e outras condições relativas ao emprego.

Artigo 72.º

Segurança social

Aos beneficiários do estatuto de refugiado ou de protecção subsidiária são aplicáveis as disposições legais relativas ao sistema de segurança social.

Artigo 73.º

Cuidados de saúde

1 - Os beneficiários do estatuto de refugiado ou de protecção subsidiária e respectivos membros da família têm acesso ao Serviço Nacional de Saúde, nas mesmas condições que os cidadãos nacionais.

2 - São assegurados cuidados de saúde adequados, incluindo tratamento de perturbações mentais, quando necessários, aos beneficiários do estatuto de refugiado ou de protecção subsidiária que se integrem nos grupos de pessoas particularmente vulneráveis, nas mesmas condições que aos cidadãos nacionais.

3 - Considera-se que têm necessidades especiais para efeitos do disposto no número anterior, as grávidas, os deficientes, as vítimas de tortura, violação ou outras formas graves de violência física, psicológica ou sexual, como as vítimas de violência doméstica e as vítimas de mutilação genital feminina, os menores que sofreram qualquer forma de abuso, negligência, exploração, tortura, tratamentos cruéis, desumanos ou degradantes ou os efeitos de um conflito armado.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 74.º

Alojamento

Aos beneficiários do estatuto de refugiado ou de protecção subsidiária é assegurado acesso a alojamento, em condições equivalentes às dos estrangeiros que residam legalmente em Portugal.

Artigo 75.º

Liberdade de circulação em território nacional

É garantida a liberdade de circulação em território nacional aos beneficiários do estatuto de refugiado ou de protecção subsidiária, nas mesmas condições que as previstas para os estrangeiros que residam legalmente em Portugal.

Artigo 76.º

Programas de integração

A fim de facilitar a integração dos refugiados e dos beneficiários da protecção subsidiária na sociedade portuguesa, devem ser promovidos programas de integração pelas entidades competentes.

Capítulo VIII

Disposições comuns aos estatutos de requerentes e beneficiários de asilo e protecção subsidiária

Artigo 77.º

Disposições relativas a pessoas particularmente vulneráveis

- 1 - Tanto no procedimento de análise como na prestação das condições materiais de acolhimento, bem como dos cuidados de saúde, é tida em consideração a situação das pessoas particularmente vulneráveis, nos termos dos artigos seguintes.
- 2 - Aquando da apresentação do pedido de protecção internacional ou de protecção subsidiária ou em qualquer fase do procedimento, a entidade competente deve identificar as pessoas cujas necessidades especiais tenham de ser tomadas em consideração, bem como a natureza dessas necessidades, de acordo com o previsto no número anterior.
- 3 - A avaliação dos requerentes com necessidades de acolhimento especiais é realizada num prazo razoável logo após a apresentação do pedido de protecção internacional.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 78.º

Menores

- 1 - Na aplicação da presente lei, devem ser tomados em consideração os superiores interesses dos menores.
- 2 - Para efeitos do disposto no número anterior, considera-se ser do superior interesse do menor, designadamente:
 - a) A sua colocação junto dos respetivos progenitores idóneos ou, na falta destes, sucessivamente, junto de familiares adultos,

em famílias de acolhimento, em centros especializados de alojamento para menores ou em locais que disponham de condições para o efeito;

b) (Revogada.)

c) (Revogada.)

d) A não separação de fratrias;

e) A estabilidade de vida, com mudanças de local de residência limitadas ao mínimo;

f) O seu bem-estar e desenvolvimento social, atendendo às suas origens;

g) Os aspetos ligados à segurança e proteção, sobretudo se existir o risco de ser vítima de tráfico de seres humanos;

h) A sua opinião, atendendo à sua idade e maturidade.

3 - As entidades competentes da Administração Pública asseguram que os menores que tenham sido vítimas de qualquer forma de abuso, negligência, exploração, tortura, tratamentos cruéis, desumanos e degradantes ou de conflitos armados tenham acesso aos serviços de reabilitação, bem como a assistência psicológica adequada, providenciando, se necessário, apoio qualificado.

4 - Aplicam-se aos menores não acompanhados as regras constantes dos números anteriores.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 79.º

Menores não acompanhados

1 - Os menores que sejam requerentes ou beneficiários de proteção internacional devem ser representados por entidade ou organização não governamental, ou por qualquer outra forma de representação legalmente admitida, sem prejuízo das medidas tutelares aplicáveis ao abrigo da legislação tutelar de menores, sendo disso informado o menor.

2 - Incumbe ao SEF comunicar o pedido apresentado por menor ou incapaz ao tribunal competente, para efeito de representação, para que o requerente menor ou incapaz possa exercer os direitos e cumprir os deveres previstos na lei.

3 - O representante deve ser informado pelo SEF, atempadamente, do momento e da prestação de declarações a que se refere o artigo 16.º, para estar presente, podendo intervir na mesma.

4 - O SEF deve providenciar que o representante tenha a oportunidade de informar o menor não acompanhado do significado e das eventuais consequências da entrevista pessoal e, se adequado, da forma de se preparar para a mesma.

5 - O SEF pode exigir a presença do menor não acompanhado na entrevista pessoal mesmo que o representante esteja presente.

6 - Para determinar a idade do menor não acompanhado, o SEF pode recorrer a perícia médica, através de exame pericial não invasivo, presumindo-se que o requerente é menor se subsistirem fundadas dúvidas.

7 - Os menores não acompanhados devem ser informados de que a sua idade vai ser determinada através de um exame pericial, devendo o respetivo representante dar consentimento para esse efeito.

8 - A recusa em realizar exame pericial não determina o indeferimento do pedido de proteção internacional, nem obsta a que seja proferida decisão sobre o mesmo.

9 - Aos pedidos apresentados por menores não acompanhados é aplicável o disposto nas alíneas g) do n.º 1 do artigo 19.º e b), e) e f) do n.º 1 do artigo 19.º-A.

10 - Os menores não acompanhados com idade igual ou superior a 16 anos apenas podem ser colocados em centros de acolhimento de adultos requerentes de proteção internacional quando isso for do seu superior interesse.

11 - Nos casos em que a vida ou a integridade física de um menor ou dos seus parentes próximos esteja em risco, designadamente se estes se encontrarem no país de origem, a recolha, o tratamento e a divulgação de informações respeitantes a essas pessoas são realizados a título confidencial, para evitar comprometer a sua segurança.

12 - O pessoal envolvido na análise dos pedidos de proteção internacional abrangendo menores não acompanhados deve ter formação adequada às necessidades específicas dos menores e está sujeito ao dever de confidencialidade no que respeita às informações de que tome conhecimento no exercício das suas funções.

13 - As comissões de proteção de crianças e jovens em perigo com responsabilidades na proteção e salvaguarda dos menores não acompanhados que aguardam uma decisão sobre o repatriamento podem apresentar um pedido de proteção internacional em nome do menor não acompanhado, se em resultado da avaliação da respetiva situação pessoal considerarem que o menor pode necessitar dessa proteção.

14 - Com o objetivo de proteger os interesses superiores do menor não acompanhado, o SEF, em articulação com as outras entidades envolvidas no procedimento e com o ministério responsável pela área dos negócios estrangeiros, deve iniciar o processo para encontrar os membros da família.

15 - Caso já tenha sido concedida proteção internacional e a procura referida no número anterior ainda não tenha sido iniciada, deve dar-se início àquele processo o mais rapidamente possível.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 80.º

Vítimas de tortura ou violência

Às pessoas que tenham sido vítimas de actos de tortura, de violação ou de outros actos de violência grave é assegurado tratamento especial adequado aos danos causados pelos actos referidos, nomeadamente através da especial atenção e acompanhamento por parte do respectivo centro distrital do Instituto de Segurança Social, I. P., e serviços de saúde ou das entidades que com este tenham celebrado protocolos de apoio.

Artigo 81.º

Repatriamento voluntário

Pode ser prestada assistência aos requerentes e beneficiários de asilo ou proteção subsidiária que manifestem vontade de ser repatriados, designadamente através de programas de retorno voluntário e reintegração previstos na legislação aplicável.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Capítulo IX

Disposições finais

Artigo 82.º

Forma de notificação

1 - As notificações ao requerente são feitas pessoalmente ou através de carta registada, com aviso de recepção, a enviar para a sua última morada conhecida.

2 - No caso de a carta ser devolvida, deve tal facto ser de imediato comunicado ao representante do ACNUR e ao Conselho Português para os Refugiados, considerando-se a notificação feita se o requerente não comparecer no Serviço de Estrangeiros e Fronteiras no prazo de 20 dias a contar da data da referida devolução.

Artigo 83.º

Formação e confidencialidade

Os intervenientes no procedimento de asilo, bem como todos os que trabalhem com requerentes de asilo, beneficiários do estatuto de refugiado ou de protecção subsidiária, nomeadamente em centros de acolhimento e postos de fronteira, devem dispor de formação adequada, estando sujeitos ao dever de confidencialidade no que respeita às informações a que tenham acesso no exercício das suas funções.

Artigo 84.º

Gratuidade e urgência dos processos

Os processos de concessão ou de perda do direito de asilo ou de protecção subsidiária e de expulsão são gratuitos e têm carácter urgente, quer na fase administrativa quer na judicial.

Artigo 85.º

Simplificação, desmaterialização e identificação

São aplicáveis, com as devidas adaptações, as disposições do artigo 212.º da Lei n.º 23/2007, de 4 de julho, alterada pela Lei n.º 29/2012, de 9 de agosto, respeitantes à simplificação, desmaterialização e identificação de pessoas.

Alterações

Alterado pelo/a Artigo 2.º do/a Lei n.º 26/2014 - Diário da República n.º 85/2014, Série I de 2014-05-05, em vigor a partir de 2014-07-04

Artigo 86.º

Interpretação e integração

Os preceitos da presente lei devem ser interpretados e integrados de harmonia com a Declaração Universal dos Direitos do Homem, a Convenção Europeia dos Direitos do Homem, a Convenção de Genebra de 28 de Julho de 1951 e o Protocolo Adicional de 31 de Janeiro de 1967.

Artigo 87.º

Lei n.º 67/2003, de 23 de Agosto

O disposto na presente lei não prejudica o regime jurídico previsto na Lei n.º 67/2003, de 23 de Agosto (transpõe para a ordem jurídica nacional a Directiva n.º [2001/55/CE](#), do Conselho, de 20 de Julho).

Artigo 88.º

Norma revogatória

São revogadas as Leis n.os 15/98, de 26 de Março, e 20/2006, de 23 de Junho.

Artigo 89.º

Entrada em vigor

A presente lei entra em vigor 60 dias após a data da sua publicação e é aplicável aos pedidos de asilo pendentes.

Assinatura

Aprovada em 8 de Maio de 2008.

O Presidente da Assembleia da República, Jaime Gama.

Promulgada em 20 de Junho de 2008.

Publique-se.

O Presidente da República, Aníbal Cavaco Silva.

Referendada em 20 de Junho de 2008.

O Primeiro-Ministro, José Sócrates Carvalho Pinto de Sousa.

ASSEMBLEIA DA REPÚBLICA

Lei n.º 26/2014

de 5 de maio

Procede à primeira alteração à Lei n.º 27/2008, de 30 de junho, que estabelece as condições e procedimentos de concessão de asilo ou proteção subsidiária e os estatutos de requerente de asilo, de refugiado e de proteção subsidiária, transpondo as Diretivas n.ºs 2011/95/UE, do Parlamento Europeu e do Conselho, de 13 de dezembro, 2013/32/UE, do Parlamento Europeu e do Conselho, de 26 de junho, e 2013/33/UE, do Parlamento Europeu e do Conselho, de 26 de junho.

A Assembleia da República decreta, nos termos da alínea c) do artigo 161.º da Constituição, o seguinte:

Artigo 1.º

Objeto

A presente lei procede à primeira alteração à Lei n.º 27/2008, de 30 de junho, que estabelece as condições e os procedimentos de concessão de asilo ou proteção subsidiária e os estatutos de requerente de asilo, de refugiado e de proteção subsidiária, implementa a nível nacional o Regulamento (UE) n.º 603/2013, do Parlamento Europeu e do Conselho, de 26 de junho, relativo à criação do sistema «Eurodac» de comparação de impressões digitais para efeitos da aplicação efetiva do Regulamento (UE) n.º 604/2013, do Parlamento Europeu e do Conselho, de 26 de junho, que estabelece os critérios e mecanismos de determinação do Estado membro responsável pela análise de um pedido de proteção internacional apresentado num dos Estados membros por um nacional de um país terceiro ou um apátrida, e transpõe para a ordem jurídica interna as seguintes diretivas:

a) A Diretiva n.º 2011/95/UE, do Parlamento Europeu e do Conselho, de 13 de dezembro, que estabelece normas relativas às condições a preencher pelos nacionais de países terceiros ou por apátridas para poderem beneficiar de proteção internacional, a um estatuto uniforme para refugiados ou pessoas elegíveis para proteção subsidiária e ao conteúdo da proteção concedida;

b) Diretiva n.º 2013/32/UE, do Parlamento Europeu e do Conselho, de 26 de junho, relativa a procedimentos comuns de concessão e retirada do estatuto de proteção internacional;

c) Diretiva n.º 2013/33/UE, do Parlamento Europeu e do Conselho, de 26 de junho, que estabelece normas em matéria de acolhimento dos requerentes de proteção internacional.

Artigo 2.º

Alteração à Lei n.º 27/2008, de 30 de junho

Os artigos 1.º, 2.º, 5.º a 7.º, 9.º a 30.º, 32.º, 33.º, 35.º a 44.º, 47.º, 49.º, 54.º, 55.º, 59.º a 63.º, 66.º a 68.º, 73.º, 77.º a 79.º, 81.º e 85.º da Lei n.º 27/2008, de 30 de junho, passam a ter a seguinte redação:

“Artigo 1.º

[...]

1 —

a)

b)

c) Diretiva n.º 2011/95/UE, do Conselho, de 13 de dezembro, que estabelece normas relativas às condições a preencher pelos nacionais de países terceiros ou por apátridas para poderem beneficiar de proteção internacional, a um estatuto uniforme para refugiados ou pessoas elegíveis para proteção subsidiária e ao conteúdo da proteção concedida;

d) Diretiva n.º 2013/32/UE, do Parlamento Europeu e do Conselho, de 26 de junho, relativa a procedimentos comuns de concessão e retirada do estatuto de proteção internacional;

e) Diretiva n.º 2013/33/UE, do Parlamento Europeu e do Conselho, de 26 de junho, que estabelece normas em matéria de acolhimento dos requerentes de proteção internacional.

2 —

Artigo 2.º

[...]

1 —

a)

b) «Beneficiário de proteção internacional», uma pessoa a quem foi concedido o estatuto de refugiado ou o estatuto de proteção subsidiária, definidos nas alíneas i) e j);

c) [Anterior alínea b).]

d) «Condições de acolhimento», o conjunto de medidas adotadas a favor dos requerentes de proteção internacional em conformidade com a presente lei;

e) [Anterior alínea d).]

f) [Anterior alínea e).]

g) «Decisão definitiva», a decisão sobre o pedido de proteção internacional insuscetível de recurso;

h) «Detenção», medida de confinamento de requerente de proteção internacional em zona especial;

i) «Estatuto de proteção subsidiária», o reconhecimento, por parte das autoridades portuguesas competentes, de um estrangeiro ou de um apátrida como pessoa elegível para concessão de autorização de residência por proteção subsidiária;

j) [Anterior alínea g).]

k) «Membros da família», os familiares do beneficiário de proteção internacional:

i) Cônjuge ou membro da união de facto;

ii) Filhos menores ou incapazes a cargo do casal ou de um dos cônjuges ou de um dos membros da união de facto;

iii) Filhos menores adotados, por decisão da autoridade competente do país de origem, pelo requerente ou pelo seu cônjuge ou membro da união de facto;

iv) Ascendentes na linha reta e em primeiro grau do beneficiário de proteção internacional se este for menor;

v) Adulto responsável por menor não acompanhado;

l) «Menor», nacional de um país terceiro ou apátrida com menos de 18 anos de idade;

m) [Anterior alínea i).]

n) [Anterior alínea j).]

o) «Órgão de decisão», órgão administrativo responsável pela apreciação dos pedidos de proteção internacional e competente para proferir uma decisão, em primeira instância, sobre esses pedidos;

p) [Anterior alínea l).]

q) [Anterior alínea m).]

r) [Anterior alínea n).]

s) «Pedido de proteção internacional», pedido de proteção apresentado por estrangeiro ou apátrida que pretenda beneficiar do estatuto de refugiado ou de proteção subsidiária e não solicite expressamente outra forma de proteção suscetível de ser objeto de um pedido separado;

t) «Pedido subsequente», pedido de proteção internacional apresentado após ter sido proferida uma decisão definitiva sobre um pedido anterior, incluindo os casos em que o requerente tenha desistido expressamente do pedido e aqueles em que tenha havido uma decisão de indeferimento na sequência da sua desistência implícita;

u) (Revogada.)

v) [Anterior alínea p).]

w) «Permanência no país», a permanência em Portugal, onde foi apresentado o pedido de proteção internacional ou onde o mesmo está a ser apreciado, incluindo a fronteira e as zonas de trânsito;

x) «Pessoa elegível para proteção subsidiária», o nacional de um país terceiro ou um apátrida que não possa ser considerado refugiado, mas em relação ao qual se verificou existirem motivos significativos para acreditar que não pode voltar para o seu país de origem ou, no caso do apátrida, para o país em que tinha a sua residência habitual, quer atendendo à sistemática violação dos direitos humanos que aí se verifique, quer por correr um risco real de sofrer ofensa grave na aceção do artigo 7.º, e ao qual não se aplique o n.º 1 do artigo 9.º, e que não possa ou, em virtude das referidas situações, não queira pedir a proteção desse país;

y) [Anterior alínea r).]

z) [Anterior alínea s).]

aa) [Anterior alínea t).]

ab) «Proteção internacional», o estatuto de proteção subsidiária e o estatuto de refugiado, definidos nas alíneas i) e j);

ac) «Refugiado», o estrangeiro ou apátrida que, reaceando com razão ser perseguido em consequência de atividade exercida no Estado da sua nacionalidade ou da sua residência habitual em favor da democracia, da libertação social e nacional, da paz entre os povos, da liberdade e dos direitos da pessoa humana ou em virtude da sua raça, religião, nacionalidade, convicções políticas ou pertença a determinado grupo social, se encontre fora do país de que é nacional e não possa ou, em virtude daquele receio, não queira pedir a proteção desse país ou o apátrida que, estando fora do país em que tinha a sua residência habitual, pelas mesmas razões, não possa ou, em virtude do referido receio, a ele não queira voltar, e aos quais não se aplique o disposto no artigo 9.º;

ad) [Anterior alínea z).]

ae) «Requerente», um estrangeiro ou um apátrida que apresentou um pedido de proteção internacional que ainda não foi objeto de decisão definitiva;

af) «Requerente com necessidade de garantias processuais especiais», um requerente cuja capacidade de exercer os direitos e cumprir as obrigações previstos na presente lei é limitada por força de circunstâncias pessoais;

ag) «Requerente com necessidades de acolhimento especiais», uma pessoa vulnerável, designadamente menores, menores não acompanhados, deficientes, idosos, grávidas, famílias monoparentais com filhos menores, vítimas de tráfico de seres humanos, pessoas com doen-

ças graves, pessoas com perturbações mentais e pessoas que tenham sido sujeitas a atos de tortura, violação ou outras formas graves de violência psicológica, física ou sexual, como as vítimas de violência doméstica e as vítimas de mutilação genital feminina, que carece de garantias especiais a fim de usufruir dos direitos e cumprir as obrigações previstas na presente lei;

ah) «Retirada do estatuto de proteção internacional», a decisão proferida por autoridade competente que revoga, suprime ou recusa a renovação do estatuto de refugiado ou de proteção subsidiária a uma pessoa.

2 — Para efeitos do disposto na subalínea iv) da alínea n) do número anterior, dependendo das circunstâncias no país de origem, um grupo social específico pode incluir um grupo baseado na identidade de género ou numa característica comum de orientação sexual, não podendo esta ser entendida como incluindo atos tipificados como crime, de acordo com a lei, bem como considerar os aspetos relacionados com o género, embora este por si só não deva criar uma presunção para a qualificação como grupo.

Artigo 5.º

[...]

1 —

2 —

3 — As informações necessárias para a tomada de decisões sobre o estatuto de proteção internacional não podem ser obtidas de tal forma que os agentes de perseguição fiquem informados sobre o facto de o estatuto estar a ser considerado ou que coloque em perigo a integridade física do requerente ou da sua família em Portugal ou no Estado de origem.

4 — Para efeitos do reconhecimento do direito de asilo tem de existir um nexo entre os motivos da perseguição e os atos de perseguição referidos no n.º 1 ou a falta de proteção em relação a tais atos.

Artigo 6.º

[...]

1 —

2 — Para efeitos da alínea c) do número anterior, considera-se que existe proteção sempre que os agentes mencionados nas alíneas a) e b) do número anterior adotem medidas adequadas para impedir, de forma efetiva e não temporária, a prática de atos de perseguição por via, nomeadamente, da introdução de um sistema jurídico eficaz para detetar, proceder judicialmente e punir esses atos, desde que o requerente tenha acesso a proteção efetiva.

Artigo 7.º

[...]

1 — É concedida autorização de residência por proteção subsidiária aos estrangeiros e aos apátridas a quem não sejam aplicáveis as disposições do artigo 3.º e que sejam impedidos ou se sintam impossibilitados de regressar ao país da sua nacionalidade ou da sua residência habitual, quer atendendo à sistemática violação dos direitos humanos que aí se verifique, quer por correrem o risco de sofrer ofensa grave.

2 —

3 —

Artigo 9.º

Exclusão do asilo e proteção subsidiária

1 — Não pode beneficiar do estatuto de refugiado o estrangeiro ou apátrida quando:

- a)
- b)
- c) Existam suspeitas graves de que:

i) Praticou crime contra a paz, crime de guerra ou crime contra a humanidade, nos termos dos instrumentos internacionais que estabelecem disposições relativas a estes crimes;

ii) Praticou crime doloso de direito comum punível com pena de prisão superior a três anos fora do território português, antes de ter sido admitido como refugiado;

iii)

d) Represente perigo ou fundada ameaça para a segurança interna ou externa ou para a ordem pública.

2 — Não pode beneficiar do estatuto de proteção subsidiária o estrangeiro ou apátrida quando:

a) Se verifique alguma das situações a que se refere a alínea c) do número anterior;

b) Represente perigo ou fundada ameaça para a segurança interna ou externa ou para a ordem pública;

c) Tiver cometido um ou mais crimes não abrangidos pela alínea c) do n.º 1 que seriam puníveis com pena de prisão caso tivessem sido praticados no território português e tiver deixado o seu país de origem unicamente com o objetivo de evitar sanção decorrente desse crime ou crimes.

3 — (*Revogado.*)

4 — São ainda consideradas, para efeitos da aplicação da alínea c) do n.º 1 e das alíneas a) e c) do n.º 2, as pessoas às quais seja aplicável o disposto nos artigos 26.º e 27.º do Código Penal.

Artigo 10.º

Pedido de proteção internacional

1 — Presume-se que qualquer pedido de proteção, ainda que implícito, é um pedido de proteção internacional, conforme o disposto na alínea s) do n.º 1 do artigo 2.º

2 — Na apreciação dos pedidos de proteção internacional deve ser determinado, em primeiro lugar, se o requerente preenche as condições para beneficiar do estatuto de refugiado e, caso não preencha, se é elegível para proteção subsidiária.

3 — Os pedidos de proteção internacional apresentados às autoridades de outros Estados membros que procedam a controlos fronteiriços ou de imigração em território nacional são apreciados pelo Serviço de Estrangeiros e Fronteiras (SEF).

Artigo 11.º

[...]

1 — Os requerentes de proteção internacional são autorizados a permanecer em território nacional até à decisão sobre a admissibilidade do pedido.

2 —

Artigo 12.º

Efeitos do pedido de proteção internacional sobre infrações relativas à entrada no país

1 — A apresentação do pedido de proteção internacional obsta ao conhecimento de qualquer procedimento administrativo ou processo criminal por entrada irregular em território nacional instaurado contra o requerente e membros da família que o acompanhem.

2 — O procedimento ou o processo são arquivados caso seja concedida proteção internacional.

3 — Para efeitos do disposto nos números anteriores, o pedido de proteção internacional e a decisão sobre o mesmo são comunicados à entidade onde correr o procedimento administrativo ou processo criminal, no prazo de cinco dias úteis.

Artigo 13.º

[...]

1 — O estrangeiro ou apátrida que entre em território nacional a fim de obter proteção internacional deve apresentar sem demora o seu pedido ao SEF ou a qualquer outra autoridade policial, podendo fazê-lo por escrito ou oralmente, sendo neste caso lavrado auto.

2 —

3 — O SEF informa imediatamente o representante do ACNUR e o Conselho Português para os Refugiados (CPR) enquanto organização não governamental que atue em seu nome da apresentação do pedido de proteção internacional, podendo estes contactar o requerente logo após a receção de tal comunicação com o objetivo de o informar sobre o respetivo procedimento, bem como sobre a sua possível intervenção no mesmo, a qual depende de consentimento do requerente.

4 — O requerente pode solicitar, até à decisão do pedido de proteção internacional, a sua extensão aos membros da família que o acompanhem, quer sejam menores ou maiores, devendo, neste caso, o pedido ser precedido de consentimento prévio expresso das pessoas a cargo, sob pena de inadmissibilidade.

5 — Antes de ser solicitado o consentimento prévio a que se refere o número anterior, os membros da família devem ser informados, em privado, das consequências processuais relevantes da apresentação de um pedido em seu nome e do direito que lhes assiste de apresentar um pedido de proteção internacional separado.

6 — (*Anterior n.º 5.*)

7 — O SEF procede ao registo do pedido de proteção internacional no prazo de três dias úteis após a apresentação do mesmo.

Artigo 14.º

[...]

1 — Até três dias após registo, é entregue ao requerente declaração comprovativa de apresentação do pedido de proteção internacional que, simultaneamente, atesta que o seu titular está autorizado a permanecer em território nacional enquanto o mesmo estiver pendente.

2 — Ao requerente de proteção internacional é dado conhecimento dos seus direitos e deveres numa língua que este compreenda ou seja razoável presumir que compreenda.

Artigo 15.º

Deveres dos requerentes de proteção internacional

1 — O requerente deve apresentar todos os elementos necessários para justificar o pedido de proteção internacional, nomeadamente:

- a)
- b)
- c) Indicação de pedidos de proteção internacional anteriores;
- d) Relato das circunstâncias ou factos que fundamentam a necessidade de proteção internacional;
- e) Permitir a recolha das impressões digitais de todos os dedos, desde que tenha, pelo menos, 14 anos de idade, nos termos previstos no Regulamento (UE) n.º 603/2013, do Parlamento Europeu e do Conselho, de 26 de junho, relativo à criação do sistema «Eurodac» de comparação de impressões digitais;
- f) Manter o SEF informado sobre a sua residência, devendo imediatamente comunicar a este serviço qualquer alteração de morada;
- g) Comparecer perante o SEF quando para esse efeito for solicitado, relativamente a qualquer circunstância do seu pedido.

2 —

Artigo 16.º

[...]

1 — Antes de proferida qualquer decisão sobre o pedido de proteção internacional, é assegurado ao requerente o direito de prestar declarações na língua da sua preferência ou noutro idioma que possa compreender e através do qual comunique claramente, em condições que garantam a devida confidencialidade e que lhe permitam expor as circunstâncias que fundamentam a respetiva pretensão.

2 —

3 — Para os efeitos dos números anteriores, logo que receba o pedido de proteção internacional, o SEF notifica de imediato o requerente para prestar declarações no prazo de dois a cinco dias.

4 — (*Revogado.*)

5 —

a) Se já existirem condições para decidir favoravelmente sobre o estatuto de refugiado com base nos elementos de prova disponíveis;

b) Se o requerente for considerado inapto ou incapaz para o efeito devido a circunstâncias duradouras, alheias à sua vontade.

c) (*Revogada.*)

6 —

Artigo 17.º

[...]

1 —

2 — O relatório referido no número anterior é notificado ao requerente para que o mesmo se possa pronunciar sobre ele no prazo de cinco dias.

3 — O relatório referido no n.º 1 é comunicado ao representante do ACNUR e ao CPR enquanto organização não governamental que atue em seu nome, desde que

o requerente tenha dado o seu consentimento, para que aquela organização, querendo, se pronuncie no mesmo prazo concedido ao requerente.

4 — Os motivos da recusa de confirmação do relatório por parte do requerente são averbados no seu processo, não obstante à decisão sobre o pedido.

Artigo 18.º

[...]

1 — Na apreciação de cada pedido de proteção internacional, compete ao SEF analisar todos os elementos pertinentes, designadamente as declarações do requerente, proferidas nos termos dos artigos anteriores, e toda a informação disponível.

2 —

a) Os factos pertinentes respeitantes ao país de origem, obtidos junto de fontes como o Gabinete Europeu de Apoio em matéria de Asilo, o ACNUR e organizações de direitos humanos relevantes, à data da decisão sobre o pedido, incluindo a respetiva legislação e regulamentação e as garantias da sua aplicação;

b)

c)

d)

e) A possibilidade de proteção interna se, numa parte do país de origem, o requerente:

i) Não tiver receio fundado de ser perseguido ou não se encontrar perante um risco real de ofensa grave; ou

ii) Tiver acesso a proteção contra a perseguição ou ofensa grave, tal como definida no artigo 5.º e no n.º 2 do artigo 7.º, puder viajar e ser admitido de forma regular e com segurança nessa parte do país e tiver expectativas razoáveis de nela poder instalar-se.

3 —

4 —

Artigo 19.º

Tramitação acelerada

1 — A análise das condições a preencher para beneficiar do estatuto de proteção internacional é sujeita a tramitação acelerada e o pedido considerado infundado quando se verifique que:

a) O requerente induziu em erro as autoridades, apresentando informações ou documentos falsos ou ocultando informações ou documentos importantes a respeito da sua identidade ou nacionalidade suscetíveis de terem um impacto negativo na decisão;

b) É provável que, de má-fé, o requerente tenha destruído ou extraviado documentos de identidade ou de viagem suscetíveis de contribuir para a determinação da sua identidade ou nacionalidade;

c) O requerente fez declarações claramente incoerentes e contraditórias, manifestamente falsas ou obviamente inverosímeis que contradigam informações suficientemente verificadas sobre o país de origem, retirando credibilidade à alegação quanto aos motivos para preencher os requisitos para beneficiar de proteção;

d) O requerente entrou ou permaneceu ilegalmente em território nacional e não tenha apresentado o pedido de proteção internacional logo que possível, sem motivos válidos;

e) Ao apresentar o pedido e ao expor os factos, o requerente invoca apenas questões não pertinentes ou de relevância mínima para analisar o cumprimento das condições para ser considerado refugiado ou pessoa elegível para proteção subsidiária;

f) O requerente provém de um país de origem seguro;

g) O requerente apresentou um pedido subsequente que não foi considerado inadmissível nos termos do artigo 19.º-A;

h) O requerente apresentou o pedido apenas com o intuito de atrasar ou impedir a aplicação de uma decisão anterior ou iminente que se traduza no seu afastamento;

i) O requerente representa um perigo para a segurança interna ou para a ordem pública;

j) O requerente recusa sujeitar-se ao registo obrigatório das suas impressões digitais de acordo com o Regulamento (UE) n.º 603/2013, do Parlamento Europeu e do Conselho, de 26 de junho, relativo à criação do sistema “Eurodac” de comparação de impressões digitais.

2 — *(Revogado.)*

Artigo 20.º

[...]

1 — Compete ao diretor nacional do SEF proferir decisão fundamentada sobre os pedidos infundados e inadmissíveis no prazo de 30 dias a contar da data de apresentação do pedido de proteção internacional.

2 —

3 — A decisão sobre o pedido mencionado nos números anteriores é notificada ao requerente no prazo de dois dias.

4 — Relativamente aos pedidos fundamentados, é proferida pelo diretor nacional do SEF decisão de admissibilidade.

5 — A decisão referida no n.º 1 é comunicada ao representante do ACNUR ou ao CPR enquanto organização não governamental que atue em seu nome, desde que o requerente tenha dado o seu consentimento.

Artigo 21.º

[...]

1 — A decisão de admissibilidade do pedido de proteção internacional determina a instrução do procedimento nos termos do previsto na secção III do capítulo III.

2 — A decisão de não admissibilidade do pedido determina a notificação do requerente para abandono do país no prazo de 20 dias, caso se encontre em situação irregular.

3 — Caso o requerente não cumpra o disposto no número anterior, o SEF deve promover o processo com vista ao seu afastamento coercivo, nos termos previstos no regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional, aprovado pela Lei n.º 23/2007, de 4 de julho, alterada pela Lei n.º 29/2012, de 9 de agosto.

Artigo 22.º

Impugnação jurisdicional

1 —

2 — À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos

no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

Artigo 23.º

[...]

1 — A decisão dos pedidos de proteção internacional apresentados nos postos de fronteira por estrangeiros que não preencham os requisitos legais necessários para a entrada em território nacional está sujeita ao regime previsto nos artigos anteriores com as modificações constantes da presente secção.

2 — Os funcionários que recebam requerentes de proteção internacional nos postos de fronteira possuem formação apropriada e conhecimento adequado das normas pertinentes aplicáveis no domínio do direito da proteção internacional.

Artigo 24.º

[...]

1 — O SEF comunica a apresentação do pedido de proteção internacional a que se refere o artigo anterior ao representante do ACNUR e ao CPR enquanto organização não governamental que atue em seu nome, que podem entrevistar o requerente se o desejarem.

2 — O requerente é informado por escrito, numa língua que compreenda ou seja razoável presumir que compreenda, dos seus direitos e obrigações e presta declarações que valem, para todos os efeitos, como audiência prévia do interessado.

3 —

4 — O diretor nacional do SEF profere decisão fundamentada sobre os pedidos no prazo máximo de sete dias.

5 — A decisão prevista no número anterior é notificada, por escrito, ao requerente com informação dos direitos de impugnação jurisdicional que lhe assistem, numa língua que compreenda ou seja razoável presumir que compreenda, e é comunicada ao representante do ACNUR e ao CPR enquanto organização não governamental que atue em seu nome, desde que o requerente tenha dado o seu consentimento.

Artigo 25.º

Impugnação jurisdicional

1 — A decisão proferida pelo diretor nacional do SEF é suscetível de impugnação jurisdicional perante os tribunais administrativos, no prazo de quatro dias, com efeito suspensivo.

2 — À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

3 — O recurso jurisdicional das decisões respeitantes à impugnação jurisdicional referida no n.º 1 tem efeito suspensivo.

4 — O interessado goza do benefício de proteção jurídica aplicando-se, com as devidas adaptações, o regime legal previsto para a nomeação de defensor de arguido para diligências urgentes, podendo igualmente solicitar a nomeação célere de mandatário forense, em condições a fixar por protocolo entre o membro do Governo responsável pela área da administração interna e a Ordem dos Advogados.

Artigo 26.º

[...]

1 — O requerente permanece na zona internacional do porto ou aeroporto, enquanto aguarda a notificação da decisão do diretor nacional do SEF, aplicando-se os procedimentos e demais garantias previstos na lei.

2 —

3 — Sem prejuízo do disposto no artigo anterior, a decisão de inadmissibilidade do pedido determina a aplicação do regime jurídico de entrada, permanência saída e afastamento de estrangeiros do território nacional.

4 — A decisão de admissão do pedido ou o decurso do prazo previsto no n.º 4 do artigo 24.º sem que lhe tenha sido notificada a decisão determina a entrada do requerente em território nacional, seguindo-se a instrução do procedimento, nos termos dos artigos seguintes.

Artigo 27.º

[...]

1 — Nas situações em que o pedido de proteção internacional tenha sido admitido, o SEF emite uma autorização de residência provisória, válida pelo período de seis meses contados da data de decisão de admissão do mesmo, renovável até decisão final, ou, na situação prevista no artigo 31.º, até expirar o prazo ali estabelecido.

2 —

3 — Aos membros da família do requerente a quem tenham sido declarados extensivos os efeitos da proteção internacional é emitida uma autorização de residência, nos termos do n.º 1.

4 — Na pendência do procedimento de proteção internacional, é aplicável ao requerente o disposto na presente lei e, supletivamente, o regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional.

Artigo 28.º

[...]

1 — O SEF procede às diligências requeridas e averigua todos os factos cujo conhecimento seja conveniente para uma justa e rápida decisão, competindo-lhe a instrução dos procedimentos de proteção internacional.

2 — O prazo de instrução é de seis meses, podendo, em casos de especial complexidade, ser prorrogado até nove meses, devendo o requerente ser informado desta situação e, a pedido, sobre os motivos da dilação, bem como do prazo previsto para a decisão.

3 — No âmbito da instrução dos procedimentos de proteção internacional, o SEF pode, se necessário, solicitar o parecer de peritos sobre questões específicas, nomeadamente de ordem médica ou cultural.

4 — Durante a instrução, o representante do ACNUR ou o CPR enquanto organização não governamental que atue em seu nome pode juntar ao processo relatórios ou informações sobre o respetivo país de origem e obter informações sobre o pedido de proteção internacional e sobre o andamento do processo, desde que o requerente tenha dado o seu consentimento.

5 — Em qualquer fase do processo, o representante do ACNUR ou o CPR enquanto organização não go-

vernamental que atue em seu nome pode apresentar as suas observações ao SEF, no exercício das funções que lhe incumbem por força do artigo 35.º da Convenção de Genebra.

Artigo 29.º

[...]

1 — Finda a instrução, o SEF elabora proposta fundamentada de concessão ou recusa de proteção internacional.

2 — O requerente é notificado do teor da proposta a que se refere o número anterior, podendo pronunciar-se sobre a mesma no prazo de 10 dias.

3 — *(Revogado.)*

4 — Após o decurso do prazo a que se refere o n.º 2, a proposta devidamente fundamentada é remetida ao diretor nacional do SEF, que a apresenta ao membro do Governo responsável pela área da administração interna no prazo de 10 dias.

5 —

6 — O SEF notifica a decisão proferida ao requerente, numa língua que este compreenda ou seja razoável presumir que compreenda, com menção do direito que lhe assiste nos termos do artigo seguinte, e comunica-a ao representante do ACNUR ou ao CPR enquanto organização não governamental que atue em seu nome, desde que o requerente tenha dado o seu consentimento.

Artigo 30.º

Impugnação jurisdicional

1 —

2 — À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

Artigo 32.º

[...]

1 — O procedimento é declarado extinto sempre que o requerente de proteção internacional desista expressamente do pedido ou se verifique desistência implícita do mesmo e o procedimento se encontrar parado por mais de 90 dias, designadamente quando o requerente:

a) Notificado para o efeito, não fornecer informação essencial para o seu pedido;

b) Não comparecer na entrevista pessoal;

c) Desaparecer ou se ausentar sem ter contactado o SEF;

d) Não cumprir a obrigação de se apresentar ou outra obrigação de comunicar.

2 — A declaração de extinção do procedimento compete ao diretor nacional do SEF, com faculdade de subdelegar.

3 — Sem prejuízo de declaração de extinção proferida nos termos do número anterior, o requerente de proteção internacional que se apresente novamente às autoridades tem o direito de requerer a reabertura do procedimento, o qual, neste caso, é retomado na fase em que foi interrompido.

Artigo 33.º

[...]

1 — O requerente ao qual tenha sido negado o direito de proteção internacional pode, sem prejuízo do decurso dos prazos previstos para a respetiva impugnação jurisdicional, apresentar um pedido subsequente, sempre que disponha de novos elementos de prova que lhe permitam beneficiar daquele direito ou quando entenda que cessaram os motivos que fundamentaram a decisão de inadmissibilidade ou de recusa do pedido de proteção internacional.

2 —

3 — O SEF informa o representante do ACNUR e o CPR enquanto organização não governamental que atue em seu nome da apresentação de pedido subsequente.

4 —

5 — Quando da apreciação preliminar resultem indícios de que o requerente preenche as condições para beneficiar do direito de proteção internacional, o procedimento segue os termos previstos nos artigos 27.º e seguintes, podendo ser dispensada a realização de diligências de prova já produzidas no processo anterior que aproveitem ao requerente.

6 — Caso se conclua que não foram apresentados novos elementos de prova o diretor nacional do SEF profere decisão de inadmissibilidade do pedido, notificando de imediato o requerente, numa língua que este compreenda ou seja razoável presumir que compreenda, dos motivos da decisão atendendo ao resultado da apreciação preliminar, bem como da possibilidade de impugnação jurisdicional, perante os tribunais administrativos, no prazo de quatro dias, com efeito suspensivo.

7 — À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

8 — O recurso jurisdicional das decisões respeitantes à impugnação jurisdicional referida no n.º 1 tem efeito meramente devolutivo.

9 — Quando o requerente se encontre em território nacional, a notificação da decisão a que se refere o n.º 6 menciona ainda que deve abandonar o país no prazo de 20 dias, ficando sujeito ao regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional após o termo do referido prazo, salvo quando o requerente beneficie já de prazo mais favorável, por força do disposto na presente lei.

Artigo 35.º

[...]

1 —

2 — O SEF assegura as diligências necessárias à tramitação e decisão dos pedidos no prazo máximo de 60 dias.

3 — A organização não governamental designada no âmbito de protocolo estabelecido para o efeito é informada sobre os pedidos apresentados e pode emitir parecer sobre os mesmos, no prazo de 10 dias.

4 — O membro do Governo responsável pela área da administração interna decide sobre a aceitação do pedido de reinstalação no prazo de 15 dias contados da apresentação do mesmo pelo SEF.

5 —

Artigo 36.º

[...]

Quando haja lugar à determinação do Estado responsável pela análise de um pedido de proteção internacional é organizado um procedimento especial regulado no presente capítulo.

Artigo 37.º

Pedido de proteção internacional apresentado em Portugal

1 — Quando se considere que a responsabilidade pela análise do pedido de proteção internacional pertence a outro Estado membro, de acordo com o previsto no Regulamento (UE) n.º 604/2013, do Parlamento Europeu e do Conselho, de 26 de junho, o SEF solicita às respetivas autoridades a sua tomada ou retoma a cargo.

2 — Aceite a responsabilidade pelo Estado requerido, o diretor nacional do SEF profere, no prazo de cinco dias, decisão nos termos da alínea a) do n.º 1 do artigo 19.º-A e do artigo 20.º, que é notificada ao requerente, numa língua que compreenda ou seja razoável presumir que compreenda, e é comunicada ao representante do ACNUR e ao CPR enquanto organização não governamental que atue em seu nome, mediante pedido apresentado, acompanhado do consentimento do requerente.

3 —

4 — A decisão proferida pelo diretor nacional do SEF é suscetível de impugnação jurisdicional perante os tribunais administrativos no prazo de cinco dias, com efeito suspensivo.

5 — À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

6 — O recurso jurisdicional das decisões respeitantes à impugnação jurisdicional referida no n.º 4 tem efeito suspensivo.

7 — (*Anterior n.º 6.*)

Artigo 38.º

[...]

Compete ao SEF assegurar a execução da transferência do requerente de proteção internacional.

Artigo 39.º

[...]

A instrução do procedimento de determinação do Estado responsável pela análise do pedido de proteção internacional suspende, até decisão final, a contagem do prazo previsto no n.º 1 do artigo 20.º e no n.º 4 do artigo 24.º

Artigo 40.º

Pedido de proteção internacional apresentado em outro Estado membro da União Europeia

1 — Compete ao diretor nacional do SEF decidir sobre a aceitação de responsabilidade do Estado português pela análise de pedido de proteção internacional apresentado em outros Estados membros da União Europeia.

2 — A decisão prevista no número anterior é proferida no prazo máximo de dois meses a contar da data do recebimento do pedido de aceitação formulado pelo

Estado onde se encontra o requerente de proteção internacional ou foi apresentado o pedido.

3 —

Artigo 41.º

[...]

1 —

a)

b)

c)

d)

e)

f) Tratando-se de apátrida, esteja em condições de regressar ao país em que tinha a sua residência habitual, por terem deixado de existir as circunstâncias segundo as quais foi reconhecido como refugiado;

g)

2 — A proteção subsidiária cessa quando as circunstâncias que levaram à sua concessão já não se verifiquem ou se tiverem alterado a tal ponto que a proteção já não seja necessária.

3 —

4 — As alíneas e) e f) do n.º 1 não se aplicam ao refugiado que possa invocar razões imperiosas relacionadas com perseguições anteriores para recusar valer-se da proteção do país da sua nacionalidade ou, na eventualidade de ser apátrida, do seu antigo país de residência habitual.

5 — (*Anterior n.º 4.*)

6 — Para efeitos de audiência prévia, o SEF notifica o beneficiário do projeto de decisão, o qual se pode pronunciar no prazo de oito dias.

Artigo 42.º

[...]

1 — (*Revogado.*)

2 — A perda do direito de proteção internacional nos termos do artigo anterior determina a aplicação do regime jurídico de entrada, permanência, saída e afastamento de estrangeiros de território nacional.

3 — (*Revogado.*)

Artigo 43.º

Competência para declarar a perda do direito de proteção internacional e o afastamento do território nacional

1 — Compete ao membro do Governo responsável pela área da administração interna, sob proposta do diretor nacional do SEF, declarar a perda do direito de proteção internacional.

2 — A declaração prevista no número anterior deve ser notificada ao requerente, numa língua que compreenda ou seja razoável presumir que compreenda.

3 — O representante do ACNUR ou o CPR enquanto organização não governamental que atue em seu nome são informados da declaração de perda do direito de proteção internacional.

Artigo 44.º

Impugnação jurisdicional

1 — (*Anterior corpo do artigo.*)

2 — À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

Artigo 47.º

[...]

1 — Quando a perda do direito de proteção internacional determina a abertura de processo tendente ao afastamento coercivo, este obedece ao princípio da não repulsão definido na alínea aa) do n.º 1 do artigo 2.º

2 —

Artigo 49.º

[...]

1 —

a) Serem informados de imediato ou, quando o pedido tenha sido entregue através de outra entidade, até cinco dias a contar do registo do pedido, numa língua que compreendam ou seja razoável presumir que compreendam, dos direitos que lhe assistem e das obrigações a que estão sujeitos em matéria de acolhimento, designadamente sobre:

i)

ii)

iii)

iv)

v) As consequências do eventual incumprimento dos deveres e falta de cooperação previstos no artigo 15.º;

b) Serem informados no momento da recolha dos seus dados dactiloscópicos, numa língua que compreendam ou seja razoável presumir que compreendam, sobre a finalidade a que se destina o tratamento dos seus dados pessoais, bem como de todos os outros direitos das pessoas titulares de dados previstos no Regulamento (UE) n.º 603/2013, do Parlamento Europeu e do Conselho, de 26 de junho, relativo à criação do sistema «Eurodac» de comparação de impressões digitais;

c) [*Anterior alínea b).*]

d) [*Anterior alínea c).*]

e) Beneficiar de aconselhamento jurídico gratuito em todas as fases do procedimento, a prestar por entidade pública ou organização não governamental com a qual tenha sido celebrado protocolo;

f) [*Anterior alínea d).*]

2 —

3 — (*Revogado.*)

4 — (*Revogado.*)

5 — Os advogados que representem o requerente de asilo ou de proteção subsidiária têm acesso às informações constantes do seu processo.

6 — Os advogados do requerente, os representantes do ACNUR, o CPR enquanto organização não governamental que atue em seu nome e os representantes de outras organizações não governamentais que desenvolvam atividades nesta área têm ainda direito de acesso a zonas vedadas, como locais de detenção ou de trânsito, para poderem prestar àquele o devido aconselhamento.

7 — Na prestação de declarações a que se refere o artigo 16.º, os requerentes de asilo ou de proteção subsidiária podem fazer-se acompanhar de advogado, sem

prejuízo de a respetiva ausência não obstar à realização desse ato processual.

Artigo 54.º

[...]

- 1 —
- 2 — *(Revogado.)*
- 3 — *(Revogado.)*
- 4 — Nos casos de impugnação jurisdicional de decisão de recusa de proteção internacional, o direito de acesso ao mercado de trabalho mantém-se até à prolação da respetiva sentença que julgue improcedente o pedido.

Artigo 55.º

[...]

1 — Os requerentes de asilo ou de proteção subsidiária têm acesso a programas e medidas de emprego e formação profissional em condições a estabelecer pelos ministérios que tutelam a área em causa, desde que preencham os requisitos estabelecidos no artigo anterior.

- 2 — *(Revogado.)*

Artigo 59.º

[...]

- 1 —
- a)
- b)
- c) Assegurar, tanto quanto possível, que os requerentes adultos com necessidades especiais de acolhimento sejam alojados com familiares adultos próximos que já se encontrem no território nacional e que sejam por eles responsáveis por força da lei;
- d) Assegurar aos requerentes a possibilidade de comunicar com a sua família ou os seus representantes legais, assim como com os representantes do ACNUR ou do CPR enquanto organização não governamental que atue em seu nome;
- e) Tomar as medidas adequadas para prevenir agressões e violência, designadamente com base no género, incluindo assédio e agressões sexuais, no interior das instalações e dos centros de acolhimento a que se refere o n.º 2 do artigo 57.º
- 2 —
- 3 —
- 4 — Aos advogados dos requerentes, aos representantes do ACNUR ou do CPR enquanto organização não governamental que atue em seu nome e de outras organizações não governamentais que desenvolvam atividades nesta área, e como tal sejam reconhecidas pelo Estado, é assegurado o acesso aos centros de acolhimento e a outras instalações de alojamento de forma a assistir os requerentes de asilo ou de proteção subsidiária, só podendo ser fixadas restrições de acesso se devidamente fundamentadas e quando estejam em causa razões de segurança dos centros e instalações, bem como dos requerentes.
- 5 —

Artigo 60.º

[...]

1 — O apoio social cessa com a decisão de recusa do pedido de proteção internacional, tendo a impugnação desta perante o tribunal administrativo e o recurso jurisdicional da decisão que a confirme os efeitos previstos, respetivamente, nos n.ºs 1 e 2 do artigo 30.º

- 2 —
- 3 —

- a)
- b)
- c)
- d)
- e)
- f) Apresentar um pedido subsequente.

4 — Se, posteriormente à cessação das condições de acolhimento por incumprimento do previsto nas alíneas a) a c) do número anterior, o requerente for encontrado ou se apresentar voluntariamente às autoridades competentes, deve ser tomada uma decisão fundamentada quanto ao restabelecimento do benefício de algumas ou de todas as condições de acolhimento.

- 5 —
- 6 —

7 — A redução ou cessação dos benefícios não prejudica o acesso aos cuidados de saúde urgentes, ao tratamento básico de doenças e de perturbações mentais graves e aos cuidados médicos ou outro tipo de assistência necessária aos requerentes com necessidades de acolhimento especiais, incluindo assistência psicológica adequada, se necessário.

- 8 —

Artigo 61.º

[...]

1 — Compete ao ministério responsável pela área da administração interna garantir aos requerentes de asilo ou de proteção subsidiária que se encontrem retidos nos postos de fronteira as condições de alojamento e acesso a cuidados de saúde, assim como a satisfação dos encargos inerentes à concessão das condições materiais de acolhimento, até decisão quanto à admissibilidade do pedido, podendo aquelas ser asseguradas por outras entidades públicas ou particulares sem fins lucrativos, nos termos definidos em protocolo.

2 — Compete ao ministério responsável pela área da solidariedade, emprego e segurança social suportar os encargos resultantes da atribuição das condições materiais de acolhimento aos requerentes de asilo ou de proteção subsidiária que entrem ou se encontrem em território nacional, desde a admissão do pedido até decisão final sobre o mesmo, as quais podem ser prestadas diretamente ou através de outras entidades públicas ou particulares sem fins lucrativos, com as quais seja celebrado protocolo.

- 3 —

4 — O acesso de menores ao sistema de ensino é garantido pelas entidades competentes no âmbito do ministério responsável pela área da educação e ciência.

- 5 —

Artigo 62.º

[...]

As autoridades e outras organizações referidas no artigo anterior devem fornecer aos seus funcionários formação de base adequada às necessidades dos requerentes de proteção internacional.

Artigo 63.º

[...]

1 — As decisões proferidas nos termos do artigo 60.º que afetem individualmente requerentes de asilo ou de proteção subsidiária são passíveis de exercício das garantias administrativas e jurisdicionais e, quando impugnadas perante os tribunais administrativos, têm os efeitos previstos, respetivamente, nos n.ºs 1 e 2 do artigo 30.º

2 — As modalidades de apoio judiciário são regidas pela legislação aplicável.

Artigo 66.º

[...]

Na notificação de concessão do estatuto de refugiado ou de proteção subsidiária, o SEF informa o beneficiário dos direitos e deveres relativos ao respetivo estatuto, numa língua que este compreenda ou seja razoável presumir que compreenda.

Artigo 67.º

[...]

1 — Aos beneficiários do estatuto de refugiado é concedida uma autorização de residência válida pelo período inicial de cinco anos, renovável por iguais períodos, salvo se razões imperativas de segurança nacional ou ordem pública o impedirem e sem prejuízo do disposto no capítulo V.

2 — Aos beneficiários do estatuto de proteção subsidiária é concedida uma autorização de residência por proteção subsidiária válida pelo período inicial de três anos, renovável por iguais períodos, precedida de análise da evolução da situação no país de origem, salvo se razões imperativas de segurança nacional ou ordem pública o impedirem e sem prejuízo do disposto no capítulo V.

3 — Aos membros da família do beneficiário do estatuto de refugiado ou de proteção subsidiária é emitida uma autorização de residência extraordinária, de validade idêntica à do beneficiário de asilo ou de proteção subsidiária, com dispensa dos requisitos exigidos pelo regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional.

4 — (*Anterior n.º 5.*)

5 — Compete ao diretor nacional do SEF decidir da concessão da autorização de residência extraordinária prevista no n.º 3, bem como decidir da renovação das autorizações de residência previstas nos números anteriores, com dispensa de taxa.

6 — (*Revogada.*)

Artigo 68.º

[...]

1 — Os beneficiários do estatuto de refugiado ou de proteção subsidiária têm direito ao reagrupamento

familiar com os membros da sua família referidos na alínea k) do n.º 1 do artigo 2.º, nas condições previstas no regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional.

2 —

3 —

Artigo 73.º

[...]

1 —

2 — São assegurados cuidados de saúde adequados, incluindo tratamento de perturbações mentais, quando necessários, aos beneficiários do estatuto de refugiado ou de proteção subsidiária que se integrem nos grupos de pessoas particularmente vulneráveis, nas mesmas condições que aos cidadãos nacionais.

3 — Considera-se que têm necessidades especiais para efeitos do disposto no número anterior, as grávidas, os deficientes, as vítimas de tortura, violação ou outras formas graves de violência física, psicológica ou sexual, como as vítimas de violência doméstica e as vítimas de mutilação genital feminina, os menores que sofreram qualquer forma de abuso, negligência, exploração, tortura, tratamentos cruéis, desumanos ou degradantes ou os efeitos de um conflito armado.

Artigo 77.º

[...]

1 — Tanto no procedimento de análise como na prestação das condições materiais de acolhimento, bem como dos cuidados de saúde, é tida em consideração a situação das pessoas particularmente vulneráveis, nos termos dos artigos seguintes.

2 — Aquando da apresentação do pedido de proteção internacional ou de proteção subsidiária ou em qualquer fase do procedimento, a entidade competente deve identificar as pessoas cujas necessidades especiais tenham de ser tomadas em consideração, bem como a natureza dessas necessidades, de acordo com o previsto no número anterior.

3 — A avaliação dos requerentes com necessidades de acolhimento especiais é realizada num prazo razoável logo após a apresentação do pedido de proteção internacional.

Artigo 78.º

[...]

1 —

2 —

a) A sua colocação junto dos respetivos progenitores idóneos ou, na falta destes, sucessivamente, junto de familiares adultos, em famílias de acolhimento, em centros especializados de alojamento para menores ou em locais que disponham de condições para o efeito;

b) (*Revogada.*)

c) (*Revogada.*)

d)

e)

f) O seu bem-estar e desenvolvimento social, atendendo às suas origens;

g) Os aspetos ligados à segurança e proteção, sobretudo se existir o risco de ser vítima de tráfico de seres humanos;

h) A sua opinião, atendendo à sua idade e maturidade.

3 —

4 — Aplicam-se aos menores não acompanhados as regras constantes dos números anteriores.

Artigo 79.º

[...]

1 — Os menores que sejam requerentes ou beneficiários de proteção internacional devem ser representados por entidade ou organização não governamental, ou por qualquer outra forma de representação legalmente admitida, sem prejuízo das medidas tutelares aplicáveis ao abrigo da legislação tutelar de menores, sendo disso informado o menor.

2 — Incumbe ao SEF comunicar o pedido apresentado por menor ou incapaz ao tribunal competente, para efeito de representação, para que o requerente menor ou incapaz possa exercer os direitos e cumprir os deveres previstos na lei.

3 — O representante deve ser informado pelo SEF, atempadamente, do momento e da prestação de declarações a que se refere o artigo 16.º, para estar presente, podendo intervir na mesma.

4 — O SEF deve providenciar que o representante tenha a oportunidade de informar o menor não acompanhado do significado e das eventuais consequências da entrevista pessoal e, se adequado, da forma de se preparar para a mesma.

5 — O SEF pode exigir a presença do menor não acompanhado na entrevista pessoal mesmo que o representante esteja presente.

6 — Para determinar a idade do menor não acompanhado, o SEF pode recorrer a perícia médica, através de exame pericial não invasivo, presumindo-se que o requerente é menor se subsistirem fundadas dúvidas.

7 — Os menores não acompanhados devem ser informados de que a sua idade vai ser determinada através de um exame pericial, devendo o respetivo representante dar consentimento para esse efeito.

8 — A recusa em realizar exame pericial não determina o indeferimento do pedido de proteção internacional, nem obsta a que seja proferida decisão sobre o mesmo.

9 — Aos pedidos apresentados por menores não acompanhados é aplicável o disposto nas alíneas g) do n.º 1 do artigo 19.º e b), e) e f) do n.º 1 do artigo 19.º-A.

10 — Os menores não acompanhados com idade igual ou superior a 16 anos apenas podem ser colocados em centros de acolhimento de adultos requerentes de proteção internacional quando isso for do seu superior interesse.

11 — Nos casos em que a vida ou a integridade física de um menor ou dos seus parentes próximos esteja em risco, designadamente se estes se encontrarem no país de origem, a recolha, o tratamento e a divulgação de informações respeitantes a essas pessoas são realizados a título confidencial, para evitar comprometer a sua segurança.

12 — O pessoal envolvido na análise dos pedidos de proteção internacional abrangendo menores não acompanhados deve ter formação adequada às necessidades específicas dos menores e está sujeito ao dever de con-

fidencialidade no que respeita às informações de que tome conhecimento no exercício das suas funções.

13 — As comissões de proteção de crianças e jovens em perigo com responsabilidades na proteção e salvaguarda dos menores não acompanhados que aguardam uma decisão sobre o repatriamento podem apresentar um pedido de proteção internacional em nome do menor não acompanhado, se em resultado da avaliação da respetiva situação pessoal considerarem que o menor pode necessitar dessa proteção.

14 — Com o objetivo de proteger os interesses superiores do menor não acompanhado, o SEF, em articulação com as outras entidades envolvidas no procedimento e com o ministério responsável pela área dos negócios estrangeiros, deve iniciar o processo para encontrar os membros da família.

15 — Caso já tenha sido concedida proteção internacional e a procura referida no número anterior ainda não tenha sido iniciada, deve dar-se início àquele processo o mais rapidamente possível.

Artigo 81.º

[...]

Pode ser prestada assistência aos requerentes e beneficiários de asilo ou proteção subsidiária que manifestem vontade de ser repatriados, designadamente através de programas de retorno voluntário e reintegração previstos na legislação aplicável.

Artigo 85.º

[...]

São aplicáveis, com as devidas adaptações, as disposições do artigo 212.º da Lei n.º 23/2007, de 4 de julho, alterada pela Lei n.º 29/2012, de 9 de agosto, respeitantes à simplificação, desmaterialização e identificação de pessoas.”

Artigo 3.º

Aditamento à Lei n.º 27/2008, de 30 de junho

São aditados à Lei n.º 27/2008, de 30 de junho, os artigos 15.º-A, 17.º-A, 19.º-A, 33.º-A, 35.º-A e 35.º-B, com a seguinte redação:

“Artigo 15.º-A

Tradução de documentos

1 — Ao apresentar os elementos de prova referidos no n.º 2 do artigo anterior, o requerente deve providenciar pela sua tradução para língua portuguesa.

2 — A pedido do requerente, quando este comprovadamente não disponha de meios suficientes, o SEF providencia a tradução dos documentos.

3 — Para efeitos do disposto no número anterior, o requerente deve comprovar a relevância dos documentos a traduzir para a apreciação do pedido, competindo ao SEF avaliar a pertinência daquela tradução.

4 — A tradução dos documentos referida nos números anteriores deve ser efetuada antes do decurso dos prazos previstos para decisão do pedido de proteção.

Artigo 17.º-A

Garantias processuais especiais

1 — Após a apresentação do pedido de proteção e antes da decisão prevista nos artigos 20.º e 24.º, deve ser avaliada a necessidade de promoção de garantias processuais especiais para os requerentes cuja capacidade de exercer direitos e cumprir obrigações se encontre limitada por força das circunstâncias pessoais, designadamente em virtude da sua idade, sexo, identidade sexual, orientação sexual, deficiência ou doença grave, perturbação mental, por terem sido vítimas de tortura, violação ou outras formas graves de violência psicológica, física ou sexual.

2 — Nos casos em que se identifiquem requerentes nas circunstâncias referidas no n.º 1, deve ser proporcionado apoio e condições necessárias ao exercício dos direitos e deveres inerentes ao procedimento de proteção internacional.

3 — No âmbito das condições especiais a proporcionar podem ser dilatados os prazos para a realização de entrevista ou apresentação de elementos de prova e para a realização de entrevistas com o apoio de peritos nas áreas identificadas.

4 — Nos casos em que não seja possível proporcionar apoio e condições aos requerentes identificados com necessidade de garantias processuais especiais em virtude de tortura, violação ou outras formas graves de violência psicológica, física ou sexual não é aplicado o regime especial dos pedidos apresentados em posto de fronteira.

5 — As medidas previstas no presente artigo são concretizadas pelo centro distrital do Instituto de Segurança Social, I. P., e entidades que com este tenham celebrado protocolos.

Artigo 19.º-A

Pedidos inadmissíveis

1 — O pedido é considerado inadmissível, quando se verifique que:

a) Está sujeito ao procedimento especial de determinação do Estado responsável pela análise do pedido de proteção internacional, previsto no Capítulo IV;

b) Beneficia do estatuto de proteção internacional noutro Estado membro;

c) Um país que não um Estado membro é considerado primeiro país de asilo;

d) Um país que não um Estado membro é considerado país terceiro seguro;

e) Foi apresentado um pedido subsequente em que não surgiram nem foram apresentados novos elementos ou dados relacionados com a análise do cumprimento das condições para beneficiar de proteção internacional;

f) Foi apresentado um pedido por uma pessoa a cargo do requerente, depois de ter consentido que um anterior pedido fosse apresentado em seu nome e não existam elementos que justifiquem um pedido separado.

2 — Nos casos previstos no número anterior, prescinde-se da análise das condições a preencher para beneficiar do estatuto de proteção internacional.

Artigo 33.º-A

Apresentação de um pedido na sequência de uma decisão de afastamento

1 — Ao estrangeiro ou apátrida que, após ter sido sujeito a processo de afastamento coercivo ou de expulsão judicial, apresente pedido de proteção internacional são aplicáveis as regras do presente artigo.

2 — O pedido referido no número anterior é dirigido ao SEF e deve ser instruído com todos os elementos de prova que fundamentam a sua apresentação.

3 — O SEF informa o representante do ACNUR e o CPR enquanto organização não governamental que atue em seu nome, logo que seja apresentado o pedido.

4 — Antes de proferida qualquer decisão sobre o pedido, é garantido ao requerente o direito de prestar declarações, ao qual é aplicável o regime previsto no artigo 16.º, e que vale para todos os efeitos como audiência prévia do interessado.

5 — O SEF procede à apreciação do pedido nos termos do artigo 18.º, competindo ao diretor nacional daquele serviço proferir decisão no prazo máximo de 10 dias a contar da sua apresentação.

6 — A decisão proferida pelo diretor nacional do SEF deve ser notificada de imediato ao requerente, bem como a possibilidade de impugnação jurisdicional, perante os tribunais administrativos, no prazo de quatro dias, com efeito suspensivo.

7 — À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

8 — O recurso jurisdicional das decisões respeitantes à impugnação referida no n.º 6 tem efeito meramente devolutivo.

Artigo 35.º-A

Colocação ou manutenção em centro de instalação temporária

1 — Os requerentes de proteção internacional não podem ser mantidos em regime de detenção pelo facto de terem requerido proteção.

2 — Os requerentes apenas podem ser colocados ou mantidos em centro de instalação temporária por motivos de segurança nacional, saúde pública ou quando exista risco de fuga, com base numa apreciação individual e se não for possível aplicar de forma eficaz outras medidas alternativas menos gravosas.

3 — Os requerentes podem ainda ser colocados ou mantidos em centro de instalação temporária, se não for possível aplicar de forma eficaz outras medidas alternativas menos gravosas:

a) No âmbito dos pedidos apresentados nos postos de fronteira, conforme previstos na secção II do capítulo III;

b) No âmbito dos pedidos apresentados na sequência de uma decisão de afastamento de território nacional, conforme previsto na secção V do capítulo III;

c) No decurso do procedimento especial de determinação do Estado responsável pela análise do pedido de proteção internacional, previsto no artigo 28.º do Regulamento (UE) n.º 604/2013, do Parlamento Europeu e do Conselho, de 26 de junho, que estabelece os critérios e mecanismos de determinação do Estado membro responsável pela análise de um pedido de proteção interna-

cional apresentado num dos Estados membros por um nacional de um país terceiro ou por um apátrida.

4 — Para efeitos da aplicação do número anterior, consideram-se medidas alternativas menos gravosas as seguintes:

- a) Apresentação periódica no SEF;
- b) Obrigação de permanência na habitação com utilização de meios de vigilância eletrónica, nos termos da lei.

5 — A colocação efetuada ao abrigo do presente artigo, bem como as medidas alternativas, são determinadas pelo juízo de pequena instância criminal na respetiva área de jurisdição ou pelo tribunal de comarca nas restantes áreas do país.

6 — No caso de pedidos de proteção internacional apresentados nos postos de fronteira, a permanência em centro de instalação temporária ou espaço equiparado é comunicada no prazo máximo de 48 horas ao juiz de pequena instância criminal da respetiva área de jurisdição, ou ao tribunal de comarca nas restantes áreas do país, para apreciação nos termos do presente artigo.

Artigo 35.º-B

Condições de colocação ou manutenção em centro de instalação temporária

1 — A colocação em centro de instalação temporária ou espaço equiparado a que se refere o artigo anterior não pode prolongar-se mais tempo do que o necessário, sem que possa exceder 60 dias, podendo a decisão ser reapreciada oficiosamente e ou a pedido do requerente se sobrevierem circunstâncias relevantes ou novas informações passíveis de comprometer a legalidade da medida.

2 — Os requerentes são imediatamente informados por escrito, numa língua que compreendam ou seja razoável presumir que compreendam, dos motivos da sua instalação e dos meios de impugnação jurisdicional que lhes assistem, bem como da possibilidade de beneficiarem de apoio judiciário nos termos da legislação aplicável.

3 — Os requerentes são autorizados, a pedido, a contactar com os seus representantes legais, os seus familiares e representantes do ACNUR ou do CPR enquanto organização não governamental que atue em seu nome e de outras organizações que atuem nesta área.

4 — O acesso às instalações dos centros de instalação temporária só pode ser limitado por motivos de segurança, ordem pública ou gestão administrativa, desde que o acesso não seja fortemente limitado nem impossibilitado.

5 — Aos requerentes é fornecida informação sobre as regras em vigor nas instalações em que se encontram, bem como sobre os seus direitos e deveres, numa língua que compreendam ou seja razoável presumir que compreendam.

6 — Na medida do possível, os menores não acompanhados beneficiam de alojamento em instituições dotadas de pessoal e instalações que tenham em conta as necessidades pessoais da sua idade.

7 — As famílias devem receber alojamento separado que lhes garanta a privacidade necessária e, no caso de requerentes do sexo feminino, deve ser assegurado alojamento separado.

8 — Às pessoas vulneráveis deve ser assegurado o acompanhamento regular e apoio adequado, tendo em conta a situação concreta, incluindo o seu estado de saúde.

9 — Os requerentes instalados devem ter acesso a espaços ao ar livre.”

Artigo 4.º

Alterações sistemáticas à Lei n.º 27/2008, de 30 de junho

1 — A epígrafe da secção III do capítulo III passa a ter a seguinte redação: «Instrução do procedimento».

2 — É aditada a secção V ao capítulo III com a epígrafe «Pedido na sequência de uma decisão de afastamento do território nacional», compreendendo o artigo 33.º-A, sendo a atual secção V renumerada como secção VI.

3 — É aditada a secção VII ao capítulo III com a epígrafe «Regime de colocação ou manutenção em centro de instalação temporária», compreendendo os artigos 35.º-A e 35.º-B.

4 — A epígrafe do capítulo IV passa a ter a seguinte redação: «Procedimento especial de determinação do Estado responsável pela análise do pedido de proteção internacional».

Artigo 5.º

Norma revogatória

São revogados a alínea *u*) do n.º 1 do artigo 2.º, o n.º 3 do artigo 9.º, o n.º 4 e a alínea *c*) do n.º 5 do artigo 16.º, o n.º 2 do artigo 19.º, o n.º 3 do artigo 29.º, o artigo 34.º, os n.ºs 1 e 3 do artigo 42.º, os artigos 45.º e 46.º, os n.ºs 3 e 4 do artigo 49.º, o artigo 50.º, os n.ºs 2 e 3 do artigo 54.º, o n.º 2 do artigo 55.º, o n.º 6 do artigo 67.º e as alíneas *b*) e *c*) do n.º 2 do artigo 78.º da Lei n.º 27/2008, de 30 de junho.

Artigo 6.º

Republicação

1 — É republicada em anexo à presente lei, da qual faz parte integrante, a Lei n.º 27/2008, de 30 de junho, com a redação atual e demais correções materiais.

2 — Para efeitos de republicação, onde se lê: «Impugnação judicial», «pedidos de asilo» e «portaria conjunta» deve ler-se, respetivamente, «Impugnação jurisdicional», «pedidos de proteção internacional» e «portaria».

Artigo 7.º

Entrada em vigor e produção de efeitos

A presente lei entra em vigor 60 dias após a data da sua publicação e é aplicável aos pedidos de proteção internacional pendentes, com exceção do previsto no n.º 1 do artigo 20.º da Lei n.º 27/2008, de 30 de junho, com a redação dada pela presente lei.

Aprovada em 20 de fevereiro de 2014.

A Presidente da Assembleia da República, *Maria da Assunção A. Esteves*.

Promulgada em 16 de abril de 2014.

Publique-se.

O Presidente da República, ANÍBAL CAVACO SILVA.

Referendada em 17 de abril de 2014.

O Primeiro-Ministro, *Pedro Passos Coelho*.

ANEXO

(a que se refere o artigo 6.º)

Republicação da Lei n.º 27/2008, de 30 de junho

CAPÍTULO I

Disposições gerais

Artigo 1.º

Objeto

1 — A presente lei estabelece as condições e procedimentos de concessão de asilo ou proteção subsidiária e os estatutos de requerente de asilo, de refugiado e de proteção subsidiária, transpondo para a ordem jurídica interna as seguintes diretivas comunitárias:

a) Diretiva n.º 2004/83/CE, do Conselho, de 29 de abril, que estabelece normas mínimas relativas às condições a preencher por nacionais de países terceiros ou apátridas para poderem beneficiar do estatuto de refugiado ou de pessoa que, por outros motivos, necessite de proteção internacional, bem como relativas ao respetivo estatuto e ao conteúdo da proteção concedida;

b) Diretiva n.º 2005/85/CE, do Conselho, de 1 de dezembro, relativa a normas mínimas aplicáveis ao procedimento de concessão e perda do estatuto de refugiado;

c) Diretiva n.º 2011/95/UE, do Conselho, de 13 de dezembro, que estabelece normas relativas às condições a preencher pelos nacionais de países terceiros ou por apátridas para poderem beneficiar de proteção internacional, a um estatuto uniforme para refugiados ou pessoas elegíveis para proteção subsidiária e ao conteúdo da proteção concedida;

d) Diretiva n.º 2013/32/UE, do Parlamento Europeu e do Conselho, de 26 de junho, relativa a procedimentos comuns de concessão e retirada do estatuto de proteção internacional;

e) Diretiva n.º 2013/33/UE, do Parlamento Europeu e do Conselho, de 26 de junho, que estabelece normas em matéria de acolhimento dos requerentes de proteção internacional.

2 — Simultaneamente, procede-se à consolidação no direito nacional da transposição da Diretiva n.º 2003/9/CE, do Conselho, de 27 de janeiro, efetuada pela Lei n.º 20/2006, de 23 de junho, que estabelece as normas mínimas em matéria de acolhimento de requerentes de asilo nos Estados membros.

Artigo 2.º

Definições

1 — Para efeitos do disposto na presente lei entende-se por:

a) «Autorização de residência», a autorização emitida pelas autoridades portuguesas nos termos legais que permite a um estrangeiro ou a um apátrida residir no território nacional;

b) «Beneficiário de proteção internacional», uma pessoa a quem foi concedido o estatuto de refugiado ou o estatuto de proteção subsidiária, definidos nas alíneas i) e j);

c) «Centro de acolhimento», qualquer local utilizado para o alojamento coletivo dos requerentes de asilo;

d) «Condições de acolhimento», o conjunto de medidas adotadas a favor dos requerentes de proteção internacional em conformidade com a presente lei;

e) «Condições materiais de acolhimento», as condições de acolhimento que compreendem o alojamento, a alimentação, o vestuário e despesas de transporte, fornecidos em espécie ou sob a forma de subsídios ou de cupões ou de subsídios para despesas diárias;

f) «Convenção de Genebra» a convenção relativa ao estatuto dos refugiados, celebrada em Genebra em 28 de julho de 1951, alterada pelo Protocolo de Nova Iorque de 31 de janeiro de 1967;

g) «Decisão definitiva», a decisão sobre o pedido de proteção internacional insuscetível de recurso;

h) «Detenção», medida de confinamento de requerente de proteção internacional em zona especial;

i) «Estatuto de proteção subsidiária», o reconhecimento, por parte das autoridades portuguesas competentes, de um estrangeiro ou de um apátrida como pessoa elegível para concessão de autorização de residência por proteção subsidiária;

j) «Estatuto de refugiado», o reconhecimento, por parte das autoridades portuguesas competentes, de um estrangeiro ou de um apátrida como refugiado que nessa qualidade seja autorizado a permanecer em território nacional;

k) «Membros da família», os familiares do beneficiário de proteção internacional:

i) Cônjuge ou membro da união de facto;

ii) Filhos menores ou incapazes a cargo do casal ou de um dos cônjuges ou de um dos membros da união de facto;

iii) Filhos menores adotados, por decisão da autoridade competente do país de origem, pelo requerente ou pelo seu cônjuge ou membro da união de facto;

iv) Ascendentes na linha reta e em primeiro grau do beneficiário de proteção internacional se este for menor;

v) Adulto responsável por menor não acompanhado;

l) «Menor», nacional de um país terceiro ou apátrida com menos de 18 anos de idade;

m) «Menores não acompanhados», quaisquer pessoas nacionais de países terceiros ou apátridas com idade inferior a 18 anos que entrem em território nacional não acompanhadas por um adulto que, por força da lei ou do costume, se responsabilize por elas, enquanto não são efetivamente tomadas a cargo por essa pessoa, ou que tenham sido abandonados após a entrada em território nacional;

n) «Motivos da perseguição», os que fundamentam o receio fundado de o requerente ser perseguido, que devem ser apreciados tendo em conta as noções de:

i) «Raça», que inclui, nomeadamente, considerações associadas à cor, à ascendência ou à pertença a determinado grupo étnico;

ii) «Religião», que abrange, designadamente, o facto de se ter convicções teístas, não teístas e ateias, a participação ou a abstenção de participação em cerimónias de culto privadas ou públicas, quer a título individual, quer em conjunto com outras pessoas, noutros atos religiosos ou expressões de convicções, ou formas de comportamento pessoal ou comunitário fundadas em credos religiosos ou por estes impostas;

iii) «Nacionalidade», que não se limita à cidadania ou à sua ausência, mas abrange também, designadamente, a pertença a um grupo determinado pela sua identidade cul-

tural, étnica ou linguística, pelas suas origens geográficas ou políticas comuns ou pela sua relação com a população de outro Estado;

iv) «Grupo», um grupo social específico nos casos concretos em que:

Os membros desse grupo partilham de uma característica inata ou de uma história comum que não pode ser alterada, ou partilham de uma característica ou crença considerada tão fundamental para a identidade ou consciência dos membros do grupo que não se pode exigir que a ela renunciem; e

Esse grupo tenha uma identidade distinta no país em questão, porque é encarado como diferente pela sociedade que o rodeia;

v) «Opinião política», que inclui, designadamente, o facto de se possuir uma opinião, ideia ou ideal em matéria relacionada com os potenciais agentes da perseguição às suas políticas ou métodos, quer essa opinião, ideia ou ideal sejam ou não manifestados por atos do requerente;

o) «Órgão de decisão», órgão administrativo responsável pela apreciação dos pedidos de proteção internacional e competente para proferir uma decisão, em primeira instância, sobre esses pedidos;

p) «País de origem», o país ou países de nacionalidade ou, para os apátridas, o país em que tinham a sua residência habitual;

q) «País de origem seguro», o país de que o requerente é nacional ou, sendo apátrida, residente habitual, em relação ao qual o requerente não tenha invocado nenhum motivo grave para considerar que o mesmo não é seguro, tendo em conta as circunstâncias pessoais do requerente no que respeita ao preenchimento das condições para ser considerado refugiado e avaliado com base num conjunto de fontes de informação, incluindo, em especial, informações de outros Estados membros, do Alto-Comissário das Nações Unidas para os Refugiados (ACNUR), do Conselho da Europa e de outras organizações internacionais pertinentes;

r) «País terceiro seguro», o país onde o requerente de asilo tenha permanecido ou transitado antes de chegar a Portugal e onde, comprovadamente, não seja objeto de ameaças à sua vida e liberdade, onde sejam respeitados o princípio de não repulsão e o direito de não ser objeto de tortura ou tratamento cruel, desumano ou degradante, e onde possa requerer o estatuto de refugiado e, sendo-lhe concedido, receber proteção, nos termos da Convenção de Genebra, observadas as seguintes regras:

i) Uma ligação entre o requerente de asilo e o país terceiro em causa que permita, em princípio, que essa pessoa se dirija para esse país;

ii) Certificação de que o conceito de país terceiro seguro pode ser aplicado a determinado país ou a determinado requerente, incluindo a análise casuística da segurança do país para determinado requerente e a designação nacional de países considerados geralmente seguros;

iii) Avaliação individual, nos termos do direito internacional, da segurança do país terceiro em questão para determinado requerente e que, no mínimo, autorize o requerente a contestar a aplicação do conceito de país terceiro seguro, com o fundamento de que seria submetido a tortura, tratamento ou pena cruel, desumano ou degradante;

s) «Pedido de proteção internacional», pedido de proteção apresentado por estrangeiro ou apátrida que pretenda beneficiar do estatuto de refugiado ou de proteção

subsidiária e não solicite expressamente outra forma de proteção suscetível de ser objeto de um pedido separado;

t) «Pedido subsequente», pedido de proteção internacional apresentado após ter sido proferida uma decisão definitiva sobre um pedido anterior, incluindo os casos em que o requerente tenha desistido expressamente do pedido e aqueles em que tenha havido uma decisão de indeferimento na sequência da sua desistência implícita;

u) (Revogada.)

v) «Perda de proteção internacional», o efeito decorrente da cessação, revogação, supressão ou recusa de renovação do direito de asilo ou de proteção subsidiária;

w) «Permanência no país», a permanência em Portugal, onde foi apresentado o pedido de proteção internacional ou onde o mesmo está a ser apreciado, incluindo a fronteira e as zonas de trânsito;

x) «Pessoa elegível para proteção subsidiária», o nacional de um país terceiro ou um apátrida que não possa ser considerado refugiado, mas em relação ao qual se verificou existirem motivos significativos para acreditar que não pode voltar para o seu país de origem ou, no caso do apátrida, para o país em que tinha a sua residência habitual, quer atendendo à sistemática violação dos direitos humanos que aí se verifique, quer por correr um risco real de sofrer ofensa grave na aceção do artigo 7.º, e ao qual não se aplique o n.º 1 do artigo 9.º, e que não possa ou, em virtude das referidas situações, não queira pedir a proteção desse país;

y) «Pessoas particularmente vulneráveis», pessoas com necessidades especiais, designadamente os menores, os menores não acompanhados, os deficientes, os idosos, as grávidas, os membros de famílias monoparentais com filhos menores e as pessoas que tenham sido sujeitas a atos de tortura, violação ou outras formas graves de violência psicológica, física ou sexual;

z) «Primeiro país de asilo», o país no qual o requerente tenha sido reconhecido como refugiado e possa ainda beneficiar dessa proteção ou usufruir nesse país de proteção efetiva, nos termos da Convenção de Genebra, e onde, comprovadamente, não seja objeto de ameaças à sua vida e liberdade, onde sejam respeitados o princípio de não repulsão e o direito de não ser objeto de tortura ou tratamento cruel, desumano ou degradante, desde que seja readmitido nesse país;

aa) «Proibição de repelir (‘princípio de não repulsão ou *non-refoulement*’)', o princípio de direito de asilo internacional, consagrado no artigo 33.º da Convenção de Genebra, nos termos do qual os requerentes de asilo devem ser protegidos contra a expulsão ou repulsão, direta ou indireta, para um local onde a sua vida ou liberdade estejam ameaçadas em virtude da sua raça, religião, nacionalidade, filiação em certo grupo social ou opiniões políticas, não se aplicando esta proteção a quem constitua uma ameaça para a segurança nacional ou tenha sido objeto de uma condenação definitiva por um crime ou delito particularmente grave;

ab) «Proteção internacional», o estatuto de proteção subsidiária e o estatuto de refugiado, definidos nas alíneas i) e j);

ac) «Refugiado», o estrangeiro ou apátrida que, receando com razão ser perseguido em consequência de atividade exercida no Estado da sua nacionalidade ou da sua residência habitual em favor da democracia, da libertação social e nacional, da paz entre os povos, da liberdade e dos direitos da pessoa humana ou em virtude da sua raça,

religião, nacionalidade, convicções políticas ou pertença a determinado grupo social, se encontre fora do país de que é nacional e não possa ou, em virtude daquele receio, não queira pedir a proteção desse país ou o apátrida que, estando fora do país em que tinha a sua residência habitual, pelas mesmas razões, não possa ou, em virtude do referido receio, a ele não queira voltar, e aos quais não se aplique o disposto no artigo 9.º;

ad) «Representante», a pessoa que age em nome de uma organização que representa um menor não acompanhado, na qualidade de tutor legal, a pessoa que age em nome de uma organização nacional que, nos termos da lei, seja responsável pela assistência e bem-estar dos menores, ou qualquer outro representante adequado designado, de acordo com a lei, para defender os interesses do menor não acompanhado;

ae) «Requerente», um estrangeiro ou um apátrida que apresentou um pedido de proteção internacional que ainda não foi objeto de decisão definitiva;

af) «Requerente com necessidade de garantias processuais especiais», um requerente cuja capacidade de exercer os direitos e cumprir as obrigações previstos na presente lei é limitada por força de circunstâncias pessoais;

ag) «Requerente com necessidades de acolhimento especiais», uma pessoa vulnerável, designadamente menores, menores não acompanhados, deficientes, idosos, grávidas, famílias monoparentais com filhos menores, vítimas de tráfico de seres humanos, pessoas com doenças graves, pessoas com perturbações mentais e pessoas que tenham sido sujeitas a atos de tortura, violação ou outras formas graves de violência psicológica, física ou sexual, como as vítimas de violência doméstica e as vítimas de mutilação genital feminina, que carece de garantias especiais a fim de usufruir dos direitos e cumprir as obrigações previstas na presente lei;

ah) «Retirada do estatuto de proteção internacional», a decisão proferida por autoridade competente que revoga, suprime ou recusa a renovação do estatuto de refugiado ou de proteção subsidiária a uma pessoa.

2 — Para efeitos do disposto na subalínea *iv*) da alínea *n*) do número anterior, dependendo das circunstâncias no país de origem, um grupo social específico pode incluir um grupo baseado na identidade de género ou numa característica comum de orientação sexual, não podendo esta ser entendida como incluindo atos tipificados como crime, de acordo com a lei, bem como considerar os aspetos relacionados com o género, embora este por si só não deva criar uma presunção para a qualificação como grupo.

CAPÍTULO II

Beneficiários de proteção internacional

Artigo 3.º

Concessão do direito de asilo

1 — É garantido o direito de asilo aos estrangeiros e aos apátridas perseguidos ou gravemente ameaçados de perseguição, em consequência de atividade exercida no Estado da sua nacionalidade ou da sua residência habitual em favor da democracia, da libertação social e nacional, da paz entre os povos, da liberdade e dos direitos da pessoa humana.

2 — Têm ainda direito à concessão de asilo os estrangeiros e os apátridas que, receando com fundamento ser perseguidos em virtude da sua raça, religião, nacionalidade, opiniões políticas ou integração em certo grupo social, não possam ou, por esse receio, não queiram voltar ao Estado da sua nacionalidade ou da sua residência habitual.

3 — O asilo só pode ser concedido ao estrangeiro que tiver mais de uma nacionalidade quando os motivos de perseguição referidos nos números anteriores se verifiquem relativamente a todos os Estados de que seja nacional.

4 — Para efeitos do n.º 2, é irrelevante que o requerente possua efetivamente a característica associada à raça, religião, nacionalidade, grupo social ou político que induz a perseguição, desde que tal característica lhe seja atribuída pelo agente da perseguição.

Artigo 4.º

Efeitos da concessão do direito de asilo

A concessão do direito de asilo nos termos do artigo anterior confere ao beneficiário o estatuto de refugiado, nos termos da presente lei, sem prejuízo do disposto em tratados ou convenções internacionais de que Portugal seja parte ou a que adira.

Artigo 5.º

Atos de perseguição

1 — Para efeitos do artigo 3.º, os atos de perseguição suscetíveis de fundamentar o direito de asilo devem constituir, pela sua natureza ou reiteração, grave violação de direitos fundamentais, ou traduzir-se num conjunto de medidas que, pelo seu cúmulo, natureza ou repetição, afetem o estrangeiro ou apátrida de forma semelhante à que resulta de uma grave violação de direitos fundamentais.

2 — Os atos de perseguição referidos no número anterior podem, nomeadamente, assumir as seguintes formas:

a) Atos de violência física ou mental, inclusive de natureza sexual;

b) Medidas legais, administrativas, policiais ou judiciais, quando forem discriminatórias ou aplicadas de forma discriminatória;

c) Ações judiciais ou sanções desproporcionadas ou discriminatórias;

d) Recusa de acesso a recurso judicial que se traduza em sanção desproporcionada ou discriminatória;

e) Ações judiciais ou sanções por recusa de cumprir o serviço militar numa situação de conflito na qual o cumprimento do serviço militar implicasse a prática de crime ou ato suscetível de provocar a exclusão do estatuto de refugiado, nos termos da alínea *c*) do n.º 1 do artigo 9.º;

f) Atos cometidos especificamente em razão do género ou contra menores.

3 — As informações necessárias para a tomada de decisões sobre o estatuto de proteção internacional não podem ser obtidas de tal forma que os agentes de perseguição fiquem informados sobre o facto de o estatuto estar a ser considerado ou que coloque em perigo a integridade física do requerente ou da sua família em Portugal ou no Estado de origem.

4 — Para efeitos do reconhecimento do direito de asilo tem de existir um nexo entre os motivos da perseguição e os atos de perseguição referidos no n.º 1 ou a falta de proteção em relação a tais atos.

Artigo 6.º

Agentes de perseguição

1 — São agentes de perseguição:

- a) O Estado;
- b) Os partidos ou organizações que controlem o Estado ou uma parcela significativa do respetivo território;
- c) Os agentes não estatais, se ficar provado que os agentes mencionados nas alíneas a) e b) são incapazes ou não querem proporcionar proteção contra a perseguição, nos termos do número seguinte.

2 — Para efeitos da alínea c) do número anterior, considera-se que existe proteção sempre que os agentes mencionados nas alíneas a) e b) do número anterior adotem medidas adequadas para impedir, de forma efetiva e não temporária, a prática de atos de perseguição por via, nomeadamente, da introdução de um sistema jurídico eficaz para detetar, proceder judicialmente e punir esses atos, desde que o requerente tenha acesso a proteção efetiva.

Artigo 7.º

Proteção subsidiária

1 — É concedida autorização de residência por proteção subsidiária aos estrangeiros e aos apátridas a quem não sejam aplicáveis as disposições do artigo 3.º e que sejam impedidos ou se sintam impossibilitados de regressar ao país da sua nacionalidade ou da sua residência habitual, quer atendendo à sistemática violação dos direitos humanos que aí se verifique, quer por correrem o risco de sofrer ofensa grave.

2 — Para efeitos do número anterior, considera-se ofensa grave, nomeadamente:

- a) A pena de morte ou execução;
- b) A tortura ou pena ou tratamento desumano ou degradante do requerente no seu País de origem; ou
- c) A ameaça grave contra a vida ou a integridade física do requerente, resultante de violência indiscriminada em situações de conflito armado internacional ou interno ou de violação generalizada e indiscriminada de direitos humanos.

3 — É correspondentemente aplicável o disposto no artigo anterior.

Artigo 8.º

Proteção *sur place*

1 — O receio fundado de ser perseguido, nos termos do artigo 3.º, ou o risco de sofrer ofensa grave, nos termos do artigo anterior, podem ter por base acontecimentos ocorridos ou atividades exercidas após a saída do Estado da nacionalidade ou da residência habitual, especialmente se for demonstrado que as atividades que baseiam o pedido de proteção internacional constituem a expressão e a continuação de convicções ou orientações já manifestadas naquele Estado.

2 — O disposto no número anterior não é aplicável quando o receio ou o risco tiverem origem em circunstâncias criadas pelo estrangeiro ou apátrida após a sua saída do Estado da nacionalidade ou da residência habitual, exclusivamente com o fim de beneficiar, sem fundamento bastante, do estatuto de refugiado ou de proteção subsidiária.

Artigo 9.º

Exclusão do asilo e proteção subsidiária

1 — Não pode beneficiar do estatuto de refugiado o estrangeiro ou apátrida quando:

a) Esteja abrangido pelo âmbito do ponto D do artigo 1.º da Convenção de Genebra, relativa à proteção ou assistência por parte de órgãos ou agências das Nações Unidas, que não seja o ACNUR, desde que essa proteção ou assistência não tenha cessado por qualquer razão sem que a situação da pessoa em causa tenha sido definitivamente resolvida em conformidade com as resoluções aplicáveis da Assembleia Geral das Nações Unidas;

b) As autoridades competentes do país em que tiver estabelecido a sua residência considerarem que tem os direitos e os deveres de quem possui a nacionalidade desse país ou direitos e deveres equivalentes;

c) Existam suspeitas graves de que:

i) Praticou crime contra a paz, crime de guerra ou crime contra a humanidade, nos termos dos instrumentos internacionais que estabelecem disposições relativas a estes crimes;

ii) Praticou crime doloso de direito comum punível com pena de prisão superior a três anos fora do território português, antes de ter sido admitido como refugiado;

iii) Praticou atos contrários aos objetivos e princípios das Nações Unidas enunciados no preâmbulo e nos artigos 1.º e 2.º da Carta das Nações Unidas.

d) Represente perigo ou fundada ameaça para a segurança interna ou externa ou para a ordem pública.

2 — Não pode beneficiar do estatuto de proteção subsidiária o estrangeiro ou apátrida quando:

a) Se verifique alguma das situações a que se refere a alínea c) do número anterior;

b) Represente perigo ou fundada ameaça para a segurança interna ou externa ou para a ordem pública;

c) Tiver cometido um ou mais crimes não abrangidos pela alínea c) do n.º 1 que seriam puníveis com pena de prisão caso tivessem sido praticados no território português e tiver deixado o seu país de origem unicamente com o objetivo de evitar sanção decorrente desse crime ou crimes.

3 — (*Revogado.*)

4 — São ainda consideradas, para efeitos da aplicação da alínea c) do n.º 1 e das alíneas a) e c) do n.º 2, as pessoas às quais seja aplicável o disposto nos artigos 26.º e 27.º do Código Penal.

CAPÍTULO III

Procedimento

SECÇÃO I

Disposições comuns

Artigo 10.º

Pedido de proteção internacional

1 — Presume-se que qualquer pedido de proteção, ainda que implícito, é um pedido de proteção internacional, conforme o disposto na alínea s) do n.º 1 do artigo 2.º

2 — Na apreciação dos pedidos de proteção internacional deve ser determinado, em primeiro lugar, se o requerente preenche as condições para beneficiar do estatuto de refugiado e, caso não preencha, se é elegível para proteção subsidiária.

3 — Os pedidos de proteção internacional apresentados às autoridades de outros Estados membros que procedam a controlos fronteiriços ou de imigração em território nacional são apreciados pelo Serviço de Estrangeiros e Fronteiras (SEF).

Artigo 11.º

Direito de permanência no território nacional

1 — Os requerentes de proteção internacional são autorizados a permanecer em território nacional até à decisão sobre a admissibilidade do pedido.

2 — Este direito de permanência não habilita o requerente à emissão de uma autorização de residência.

Artigo 12.º

Efeitos do pedido de proteção internacional sobre infrações relativas à entrada no país

1 — A apresentação do pedido de proteção internacional obsta ao conhecimento de qualquer procedimento administrativo ou processo criminal por entrada irregular em território nacional instaurado contra o requerente e membros da família que o acompanhem.

2 — O procedimento ou o processo são arquivados caso seja concedida proteção internacional.

3 — Para efeitos do disposto nos números anteriores, o pedido de proteção internacional e a decisão sobre o mesmo são comunicados à entidade onde correr o procedimento administrativo ou processo criminal, no prazo de cinco dias úteis.

Artigo 13.º

Apresentação do pedido

1 — O estrangeiro ou apátrida que entre em território nacional a fim de obter proteção internacional deve apresentar sem demora o seu pedido ao SEF ou a qualquer outra autoridade policial, podendo fazê-lo por escrito ou oralmente, sendo neste caso lavrado auto.

2 — Qualquer autoridade policial que receba o pedido referido no n.º 1 remete-o ao SEF no prazo de quarenta e oito horas.

3 — O SEF informa imediatamente o representante do ACNUR e o Conselho Português para os Refugiados (CPR) enquanto organização não governamental que atue em seu nome da apresentação do pedido de proteção internacional, podendo estes contactar o requerente logo após a receção de tal comunicação com o objetivo de o informar sobre o respetivo procedimento, bem como sobre a sua possível intervenção no mesmo, a qual depende de consentimento do requerente.

4 — O requerente pode solicitar, até à decisão do pedido de proteção internacional, a sua extensão aos membros da família que o acompanhem, quer sejam menores ou maiores, devendo, neste caso, o pedido ser precedido de consentimento prévio expresso das pessoas a cargo, sob pena de inadmissibilidade.

5 — Antes de ser solicitado o consentimento prévio a que se refere o número anterior, os membros da família devem ser informados, em privado, das consequências processuais relevantes da apresentação de um pedido em

seu nome e do direito que lhes assiste de apresentar um pedido de proteção internacional separado.

6 — O requerente menor pode apresentar um pedido em seu nome.

7 — O SEF procede ao registo do pedido de proteção internacional no prazo de três dias úteis após a apresentação do mesmo.

Artigo 14.º

Comprovativo de apresentação do pedido e informações

1 — Até três dias após registo, é entregue ao requerente declaração comprovativa de apresentação do pedido de proteção internacional que, simultaneamente, atesta que o seu titular está autorizado a permanecer em território nacional enquanto o mesmo estiver pendente.

2 — Ao requerente de proteção internacional é dado conhecimento dos seus direitos e deveres numa língua que este compreenda ou seja razoável presumir que compreenda.

Artigo 15.º

Deveres dos requerentes de proteção internacional

1 — O requerente deve apresentar todos os elementos necessários para justificar o pedido de proteção internacional, nomeadamente:

a) Identificação do requerente e dos membros da sua família;

b) Indicação da sua nacionalidade, país ou países e local ou locais de residência anteriores;

c) Indicação de pedidos de proteção internacional anteriores;

d) Relato das circunstâncias ou factos que fundamentam a necessidade de proteção internacional;

e) Permitir a recolha das impressões digitais de todos os dedos, desde que tenha, pelo menos, 14 anos de idade, nos termos previstos no Regulamento (UE) n.º 603/2013, do Parlamento Europeu e do Conselho, de 26 de junho, relativo à criação do sistema “Eurodac” de comparação de impressões digitais;

f) Manter o SEF informado sobre a sua residência, devendo imediatamente comunicar a este serviço qualquer alteração de morada;

g) Comparecer perante o SEF quando para esse efeito for solicitado, relativamente a qualquer circunstância do seu pedido.

2 — Para efeitos do disposto no número anterior, deve ainda o requerente, juntamente com o pedido de proteção internacional, apresentar os documentos de identificação e de viagem de que disponha, bem como elementos de prova, podendo apresentar testemunhas em número não superior a 10.

Artigo 15.º-A

Tradução de documentos

1 — Ao apresentar os elementos de prova referidos no n.º 2 do artigo anterior, o requerente deve providenciar pela sua tradução para língua portuguesa.

2 — A pedido do requerente, quando este comprovadamente não disponha de meios suficientes, o SEF providencia a tradução dos documentos.

3 — Para efeitos do disposto no número anterior, o requerente deve comprovar a relevância dos documentos

a traduzir para a apreciação do pedido, competindo ao SEF avaliar da pertinência daquela tradução.

4 — A tradução dos documentos referida nos números anteriores deve ser efetuada antes do decurso dos prazos previstos para decisão do pedido de proteção.

Artigo 16.º

Declarações

1 — Antes de proferida qualquer decisão sobre o pedido de proteção internacional, é assegurado ao requerente o direito de prestar declarações na língua da sua preferência ou noutro idioma que possa compreender e através do qual comunique claramente, em condições que garantam a devida confidencialidade e que lhe permitam expor as circunstâncias que fundamentam a respetiva pretensão.

2 — A prestação de declarações assume carácter individual, exceto se a presença dos membros da família for considerada necessária para uma apreciação adequada da situação.

3 — Para os efeitos dos números anteriores, logo que receba o pedido de proteção internacional, o SEF notifica de imediato o requerente para prestar declarações no prazo de dois a cinco dias.

4 — (*Revogado.*)

5 — A prestação de declarações só pode ser dispensada:

a) Se já existirem condições para decidir favoravelmente sobre o estatuto de refugiado com base nos elementos de prova disponíveis;

b) Se o requerente for considerado inapto ou incapaz para o efeito devido a circunstâncias duradouras, alheias à sua vontade;

c) (*Revogada.*)

6 — Quando não houver lugar à prestação de declarações nos termos do número anterior, o SEF providencia para que o requerente ou a pessoa a cargo comuniquem, por qualquer meio, outras informações.

Artigo 17.º

Relatório

1 — Após a realização das diligências referidas nos artigos anteriores, o SEF elabora um relatório escrito do qual constam as informações essenciais relativas ao pedido.

2 — O relatório referido no número anterior é notificado ao requerente para que o mesmo se possa pronunciar sobre ele no prazo de cinco dias.

3 — O relatório referido no n.º 1 é comunicado ao representante do ACNUR e ao CPR enquanto organização não governamental que atue em seu nome, desde que o requerente tenha dado o seu consentimento, para que aquela organização, querendo, se pronuncie no mesmo prazo concedido ao requerente.

4 — Os motivos da recusa de confirmação do relatório por parte do requerente são averbados no seu processo, não obstante à decisão sobre o pedido.

Artigo 17.º-A

Garantias processuais especiais

1 — Após a apresentação do pedido de proteção e antes da decisão prevista nos artigos 20.º e 24.º, deve ser avaliada a necessidade de promoção de garantias processuais

especiais para os requerentes cuja capacidade de exercer direitos e cumprir obrigações se encontre limitada por força das circunstâncias pessoais, designadamente em virtude da sua idade, sexo, identidade sexual, orientação sexual, deficiência ou doença grave, perturbação mental, por terem sido vítimas de tortura, violação ou outras formas graves de violência psicológica, física ou sexual.

2 — Nos casos em que se identifiquem requerentes nas circunstâncias referidas no n.º 1, deve ser proporcionado apoio e condições necessárias ao exercício dos direitos e deveres inerentes ao procedimento de proteção internacional.

3 — No âmbito das condições especiais a proporcionar podem ser dilatados os prazos para a realização de entrevista ou apresentação de elementos de prova e para a realização de entrevistas com o apoio de peritos nas áreas identificadas.

4 — Nos casos em que não seja possível proporcionar apoio e condições aos requerentes identificados com necessidade de garantias processuais especiais em virtude de tortura, violação ou outras formas graves de violência psicológica, física ou sexual, não é aplicado o regime especial dos pedidos apresentados em posto de fronteira.

5 — As medidas previstas no presente artigo são concretizadas pelo centro distrital do Instituto de Segurança Social, I. P., e entidades que com este tenham celebrado protocolos.

Artigo 18.º

Apreciação do pedido

1 — Na apreciação de cada pedido de proteção internacional, compete ao SEF analisar todos os elementos pertinentes, designadamente as declarações do requerente, proferidas nos termos dos artigos anteriores, e toda a informação disponível.

2 — Na apreciação do pedido, o SEF tem em conta especialmente:

a) Os factos pertinentes respeitantes ao país de origem, obtidos junto de fontes como o Gabinete Europeu de Apoio em matéria de Asilo, o ACNUR e organizações de direitos humanos relevantes, à data da decisão sobre o pedido, incluindo a respetiva legislação e regulamentação e as garantias da sua aplicação;

b) A situação e circunstâncias pessoais do requerente, por forma a apreciar, com base nessa situação pessoal, se este sofreu ou pode sofrer perseguição ou ofensa grave;

c) Se as atividades do requerente, desde que deixou o seu país de origem, tinham por fim único ou principal criar as condições necessárias para requerer proteção internacional, por forma a apreciar se essas atividades o podem expor a perseguição ou ofensa grave, em caso de regresso àquele país;

d) Se é razoável prever que o requerente se pode valer da proteção de outro país do qual possa reivindicar a cidadania;

e) A possibilidade de proteção interna se, numa parte do país de origem, o requerente:

i) Não tiver receio fundado de ser perseguido ou não se encontrar perante um risco real de ofensa grave; ou

ii) Tiver acesso a proteção contra a perseguição ou ofensa grave, tal como definida no artigo 5.º e no n.º 2 do artigo 7.º, puder viajar e ser admitido de forma regular

e com segurança nessa parte do país e tiver expectativas razoáveis de nela poder instalar-se.

3 — Constitui um indício sério do receio fundado de ser perseguido ou do risco de sofrer ofensa grave, o facto de o requerente já ter sido perseguido ou diretamente ameaçado de perseguição ou ter sofrido ou sido diretamente ameaçado de ofensa grave, exceto se existirem motivos fundados para considerar que os fundamentos dessa perseguição ou ofensa grave cessaram e não se repetirão.

4 — As declarações do requerente devem ser confirmadas mediante prova documental ou outros meios de prova admitidos em direito, a não ser que estejam reunidas cumulativamente as seguintes condições:

- a) O requerente tenha feito um esforço autêntico para fundamentar o seu pedido;
- b) O requerente apresente todos os elementos ao seu dispor e explicação satisfatória para a eventual falta de outros considerados pertinentes;
- c) As declarações prestadas pelo requerente forem consideradas coerentes, plausíveis, e não contraditórias face às informações disponíveis;
- d) O pedido tiver sido apresentado com a maior brevidade possível, a menos que o requerente apresente justificação suficiente para que tal não tenha acontecido;
- e) Tenha sido apurada a credibilidade geral do requerente.

Artigo 19.º

Tramitação acelerada

1 — A análise das condições a preencher para beneficiar do estatuto de proteção internacional é sujeita a tramitação acelerada e o pedido considerado infundado quando se verifique que:

- a) O requerente induziu em erro as autoridades, apresentando informações ou documentos falsos ou ocultando informações ou documentos importantes a respeito da sua identidade ou nacionalidade suscetíveis de terem um impacto negativo na decisão;
- b) É provável que, de má-fé, o requerente tenha destruído ou extraviado documentos de identidade ou de viagem suscetíveis de contribuir para a determinação da sua identidade ou nacionalidade;
- c) O requerente fez declarações claramente incoerentes e contraditórias, manifestamente falsas ou obviamente inverosímeis que contradigam informações suficientemente verificadas sobre o país de origem, retirando credibilidade à alegação quanto aos motivos para preencher os requisitos para beneficiar de proteção;
- d) O requerente entrou ou permaneceu ilegalmente em território nacional e não tenha apresentado o pedido de proteção internacional logo que possível, sem motivos válidos;
- e) Ao apresentar o pedido e ao expor os factos, o requerente invoca apenas questões não pertinentes ou de relevância mínima para analisar o cumprimento das condições para ser considerado refugiado ou pessoa elegível para proteção subsidiária;
- f) O requerente provém de um país de origem seguro;
- g) O requerente apresentou um pedido subsequente que não foi considerado inadmissível nos termos do artigo 19.º-A;
- h) O requerente apresentou o pedido apenas com o intuito de atrasar ou impedir a aplicação de uma decisão anterior ou iminente que se traduza no seu afastamento;

i) O requerente representa um perigo para a segurança interna ou para a ordem pública;

j) O requerente recusa sujeitar-se ao registo obrigatório das suas impressões digitais de acordo com o Regulamento (UE) n.º 603/2013, do Parlamento Europeu e do Conselho, de 26 de junho, relativo à criação do sistema «Eurodac» de comparação de impressões digitais.

2 — (Revogado.)

Artigo 19.º-A

Pedidos inadmissíveis

1 — O pedido é considerado inadmissível, quando se verifique que:

- a) Está sujeito ao procedimento especial de determinação do Estado responsável pela análise do pedido de proteção internacional, previsto no capítulo IV;
- b) Beneficia do estatuto de proteção internacional noutro Estado membro;
- c) Um país que não um Estado membro é considerado primeiro país de asilo;
- d) Um país que não um Estado membro é considerado país terceiro seguro;
- e) Foi apresentado um pedido subsequente em que não surgiram nem foram apresentados novos elementos ou dados relacionados com a análise do cumprimento das condições para beneficiar de proteção internacional;
- f) Foi apresentado um pedido por uma pessoa a cargo do requerente, depois de ter consentido que um anterior pedido fosse apresentado em seu nome e não existam elementos que justifiquem um pedido separado.

2 — Nos casos previstos no número anterior, prescinde-se da análise das condições a preencher para beneficiar do estatuto de proteção internacional.

Artigo 20.º

Competência para apreciar e decidir

- 1 — Compete ao diretor nacional do SEF proferir decisão fundamentada sobre os pedidos infundados e inadmissíveis no prazo de 30 dias a contar da data de apresentação do pedido de proteção internacional.
- 2 — Na falta de decisão dentro do prazo previsto no número anterior, considera-se admitido o pedido.
- 3 — A decisão sobre o pedido mencionado nos números anteriores é notificada ao requerente no prazo de dois dias.
- 4 — Relativamente aos pedidos fundamentados, é proferida pelo diretor nacional do SEF a decisão de admissibilidade.
- 5 — A decisão referida no n.º 1 é comunicada ao representante do ACNUR e ao CPR enquanto organização não governamental que atue em seu nome, desde que o requerente tenha dado o seu consentimento.

Artigo 21.º

Efeitos da decisão

- 1 — A decisão de admissibilidade do pedido de proteção internacional determina a instrução do procedimento nos termos do previsto na secção III do capítulo III.
- 2 — A decisão de não admissibilidade do pedido determina a notificação do requerente para abandono do país no prazo de 20 dias, caso se encontre em situação irregular.

3 — Caso o requerente não cumpra o disposto no número anterior, o SEF deve promover o processo com vista ao seu afastamento coercivo, nos termos previstos no regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional, aprovado pela Lei n.º 23/2007, de 4 de julho, alterada pela Lei n.º 29/2012, de 9 de agosto.

Artigo 22.º

Impugnação jurisdicional

1 — A decisão proferida pelo diretor nacional do SEF é suscetível de impugnação jurisdicional perante os tribunais administrativos, no prazo de oito dias, com efeito suspensivo.

2 — À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

SECÇÃO II

Pedidos apresentados nos postos de fronteira

Artigo 23.º

Regime especial

1 — A decisão dos pedidos de proteção internacional apresentados nos postos de fronteira por estrangeiros que não preencham os requisitos legais necessários para a entrada em território nacional está sujeita ao regime previsto nos artigos anteriores com as modificações constantes da presente secção.

2 — Os funcionários que recebam requerentes de proteção internacional nos postos de fronteira possuem formação apropriada e conhecimento adequado das normas pertinentes aplicáveis no domínio do direito da proteção internacional.

Artigo 24.º

Apreciação do pedido e decisão

1 — O SEF comunica a apresentação do pedido de proteção internacional a que se refere o artigo anterior ao representante do ACNUR e ao CPR enquanto organização não governamental que atue em seu nome, que podem entrevistar o requerente se o desejarem.

2 — O requerente é informado por escrito, numa língua que compreenda ou seja razoável presumir que compreenda, dos seus direitos e obrigações e presta declarações que valem, para todos os efeitos, como audiência prévia do interessado.

3 — À prestação de declarações referida no número anterior é aplicável o disposto no artigo 16.º

4 — O diretor nacional do SEF profere decisão fundamentada sobre os pedidos no prazo máximo de sete dias.

5 — A decisão prevista no número anterior é notificada, por escrito, ao requerente com informação dos direitos de impugnação jurisdicional que lhe assistem, numa língua que compreenda ou seja razoável presumir que compreenda, e é comunicada ao representante do ACNUR e ao CPR enquanto organização não governamental que atue em seu nome, desde que o requerente tenha dado o seu consentimento.

Artigo 25.º

Impugnação jurisdicional

1 — A decisão proferida pelo diretor nacional do SEF é suscetível de impugnação jurisdicional perante os tribunais administrativos, no prazo de quatro dias, com efeito suspensivo.

2 — À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

3 — O recurso jurisdicional das decisões respeitantes à impugnação jurisdicional referida no n.º 1 tem efeito suspensivo.

4 — O interessado goza do benefício de proteção jurídica aplicando-se, com as devidas adaptações, o regime legal previsto para a nomeação de defensor de arguido para diligências urgentes, podendo igualmente solicitar a nomeação célere de mandatário forense, em condições a fixar por protocolo entre o membro do Governo responsável pela área da administração interna e a Ordem dos Advogados.

Artigo 26.º

Efeitos do pedido e da decisão

1 — O requerente permanece na zona internacional do porto ou aeroporto, enquanto aguarda a notificação da decisão do diretor nacional do SEF, aplicando-se os procedimentos e demais garantias previstos na lei.

2 — A instalação temporária de menores não acompanhados ou separados obedece a condições especiais, nos termos internacionalmente recomendados, designadamente pelo ACNUR, UNICEF e Comité Internacional da Cruz Vermelha.

3 — Sem prejuízo do disposto no artigo anterior, a decisão de inadmissibilidade do pedido determina a aplicação do regime jurídico de entrada, permanência saída e afastamento de estrangeiros do território nacional.

4 — A decisão de admissão do pedido ou o decurso do prazo previsto no n.º 4 do artigo 24.º sem que lhe tenha sido notificada a decisão determina a entrada do requerente em território nacional, seguindo-se a instrução do procedimento, nos termos dos artigos seguintes.

SECÇÃO III

Instrução do procedimento

Artigo 27.º

Autorização de residência provisória

1 — Nas situações em que o pedido de proteção internacional tenha sido admitido, o SEF emite uma autorização de residência provisória, válida pelo período de seis meses contados da data de decisão de admissão do mesmo, renovável até decisão final, ou, na situação prevista no artigo 31.º, até expirar o prazo ali estabelecido.

2 — O modelo da autorização de residência referida no número anterior é fixado por portaria do membro do Governo responsável pela área da administração interna.

3 — Aos membros da família do requerente a quem tenham sido declarados extensivos os efeitos da proteção internacional é emitida uma autorização de residência, nos termos do n.º 1.

4 — Na pendência do procedimento de proteção internacional, é aplicável ao requerente o disposto na presente

lei e, supletivamente, o regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional.

Artigo 28.º

Instrução

1 — O SEF procede às diligências requeridas e averigua todos os factos cujo conhecimento seja conveniente para uma justa e rápida decisão, competindo-lhe a instrução dos procedimentos de proteção internacional.

2 — O prazo de instrução é de seis meses, podendo, em casos de especial complexidade, ser prorrogado até nove meses, devendo o requerente ser informado desta situação e, a pedido, sobre os motivos da dilação, bem como do prazo previsto para a decisão.

3 — No âmbito da instrução dos procedimentos de proteção internacional, o SEF pode, se necessário, solicitar o parecer de peritos sobre questões específicas, nomeadamente de ordem médica ou cultural.

4 — Durante a instrução, o representante do ACNUR ou o CPR enquanto organização não governamental que atue em seu nome pode juntar ao processo relatórios ou informações sobre o respetivo país de origem e obter informações sobre o pedido de proteção internacional e sobre o andamento do processo, desde que o requerente tenha dado o seu consentimento.

5 — Em qualquer fase do processo, o representante do ACNUR ou o CPR enquanto organização não governamental que atue em seu nome pode apresentar as suas observações ao SEF, no exercício das funções que lhe incumbem por força do artigo 35.º da Convenção de Genebra.

Artigo 29.º

Decisão

1 — Finda a instrução, o SEF elabora proposta fundamentada de concessão ou recusa de proteção internacional.

2 — O requerente é notificado do teor da proposta a que se refere o número anterior, podendo pronunciar-se sobre a mesma no prazo de 10 dias.

3 — (*Revogado.*)

4 — Após o decurso do prazo a que se refere o n.º 2, a proposta devidamente fundamentada é remetida ao diretor nacional do SEF, que a apresenta ao membro do Governo responsável pela área da administração interna no prazo de 10 dias.

5 — O membro do Governo responsável pela área da administração interna decide no prazo de oito dias a contar da data da apresentação da proposta referida no número anterior.

6 — O SEF notifica a decisão proferida ao requerente, numa língua que este compreenda ou seja razoável presumir que compreenda, com menção do direito que lhe assiste nos termos do artigo seguinte, e comunica-a ao representante do ACNUR ou ao CPR enquanto organização não governamental que atue em seu nome, desde que o requerente tenha dado o seu consentimento.

Artigo 30.º

Impugnação jurisdicional

1 — A decisão proferida nos termos do artigo anterior é suscetível de impugnação jurisdicional perante os tri-

bunais administrativos, no prazo de 15 dias, com efeito suspensivo.

2 — À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

Artigo 31.º

Efeitos da decisão de recusa

1 — Em caso de decisão de recusa de proteção internacional, o requerente pode permanecer em território nacional durante um período transitório, que não exceda 30 dias.

2 — O requerente fica sujeito ao regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional a partir do termo do prazo previsto no número anterior.

Artigo 32.º

Extinção do procedimento

1 — O procedimento é declarado extinto sempre que o requerente de proteção internacional desista expressamente do pedido ou se verifique desistência implícita do mesmo e o procedimento se encontrar parado por mais de 90 dias, designadamente quando o requerente:

- a) Notificado para o efeito, não fornecer informação essencial para o seu pedido;
- b) Não comparecer na entrevista pessoal;
- c) Desaparecer ou se ausentar sem ter contactado o SEF;
- d) Não cumprir a obrigação de se apresentar ou outra obrigação de comunicar.

2 — A declaração de extinção do procedimento compete ao diretor nacional do SEF, com faculdade de subdelegar.

3 — Sem prejuízo de declaração de extinção proferida nos termos do número anterior, o requerente de proteção internacional que se apresente novamente às autoridades tem o direito de requerer a reabertura do procedimento, o qual, neste caso, é retomado na fase em que foi interrompido.

SECÇÃO IV

Pedido subsequente

Artigo 33.º

Apresentação de um pedido subsequente

1 — O requerente ao qual tenha sido negado o direito de proteção internacional pode, sem prejuízo do decurso dos prazos previstos para a respetiva impugnação jurisdicional, apresentar um pedido subsequente, sempre que disponha de novos elementos de prova que lhe permitam beneficiar daquele direito ou quando entenda que cessaram os motivos que fundamentaram a decisão de inadmissibilidade ou de recusa do pedido de proteção internacional.

2 — O pedido subsequente é dirigido ao SEF e deve ser instruído com todos os documentos de prova que fundamentam a sua apresentação, podendo o SEF conceder ao requerente um prazo razoável para apresentar novos factos, informações ou elementos de prova.

3 — O SEF informa o representante do ACNUR e o CPR enquanto organização não governamental que atue em seu nome da apresentação de pedido subsequente.

4 — O SEF procede à apreciação preliminar do pedido no prazo máximo de 10 dias a contar da sua apresentação ou da data de apresentação dos elementos que, nos termos do n.º 2, tenham sido solicitados ao requerente.

5 — Quando da apreciação preliminar resultem indícios de que o requerente preenche as condições para beneficiar do direito de proteção internacional, o procedimento segue os termos previstos nos artigos 27.º e seguintes, podendo ser dispensada a realização de diligências de prova já produzidas no processo anterior que aproveitem ao requerente.

6 — Caso se conclua que não foram apresentados novos elementos de prova o diretor nacional do SEF profere decisão de inadmissibilidade do pedido, notificando de imediato o requerente, numa língua que este compreenda ou seja razoável presumir que compreenda, dos motivos da decisão atendendo ao resultado da apreciação preliminar, bem como da possibilidade de impugnação jurisdicional, perante os tribunais administrativos, no prazo de quatro dias, com efeito suspensivo.

7 — À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

8 — O recurso jurisdicional das decisões respeitantes à impugnação jurisdicional referida no n.º 1 tem efeito meramente devolutivo.

9 — Quando o requerente se encontre em território nacional, a notificação da decisão a que se refere o n.º 6 menciona ainda que deve abandonar o país no prazo de 20 dias, ficando sujeito ao regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional após o termo do referido prazo, salvo quando o requerente beneficie já de prazo mais favorável, por força do disposto na presente lei.

SECÇÃO V

Pedido na sequência de uma decisão de afastamento do território nacional

Artigo 33.º-A

Apresentação de um pedido na sequência de uma decisão de afastamento

1 — Ao estrangeiro ou apátrida que, após ter sido sujeito a processo de afastamento coercivo ou de expulsão judicial, apresente pedido de proteção internacional são aplicáveis as regras do presente artigo.

2 — O pedido referido no número anterior é dirigido ao SEF e deve ser instruído com todos os elementos de prova que fundamentam a sua apresentação.

3 — O SEF informa o representante do ACNUR e o CPR enquanto organização não governamental que atue em seu nome, logo que seja apresentado o pedido.

4 — Antes de proferida qualquer decisão sobre o pedido, é garantido ao requerente o direito de prestar declarações, ao qual é aplicável o regime previsto no artigo 16.º, e que vale para todos os efeitos como audiência prévia do interessado.

5 — O SEF procede à apreciação do pedido nos termos do artigo 18.º, competindo ao diretor nacional daquele serviço proferir decisão no prazo máximo de 10 dias a contar da sua apresentação.

6 — A decisão proferida pelo diretor nacional do SEF deve ser notificada de imediato ao requerente, bem como

a possibilidade de impugnação jurisdicional, perante os tribunais administrativos, no prazo de quatro dias, com efeito suspensivo.

7 — À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

8 — O recurso jurisdicional das decisões respeitantes à impugnação referida no n.º 6 tem efeito meramente devolutivo.

Artigo 34.º

(Revogado.)

SECÇÃO VI

Reinstalação de refugiados

Artigo 35.º

Pedido de reinstalação

1 — Os pedidos de reinstalação de refugiados sob o mandato do ACNUR são apresentados ao membro do Governo responsável pela área da administração interna.

2 — O SEF assegura as diligências necessárias à tramitação e decisão dos pedidos no prazo máximo de 60 dias.

3 — A organização não governamental designada no âmbito de protocolo estabelecido para o efeito é informada sobre os pedidos apresentados e pode emitir parecer sobre os mesmos, no prazo de 10 dias.

4 — O membro do Governo responsável pela área da administração interna decide sobre a aceitação do pedido de reinstalação no prazo de 15 dias contados da apresentação do mesmo pelo SEF.

5 — A aceitação do pedido de reinstalação confere aos interessados estatuto idêntico ao previsto no capítulo VII.

SECÇÃO VII

Regime de colocação ou manutenção em centro de instalação temporária

Artigo 35.º-A

Colocação ou manutenção em centro de instalação temporária

1 — Os requerentes de proteção internacional não podem ser mantidos em regime de detenção pelo facto de terem requerido proteção.

2 — Os requerentes apenas podem ser colocados ou mantidos em centro de instalação temporária, por motivos de segurança nacional, ordem pública, saúde pública ou quando exista risco de fuga, com base numa apreciação individual e se não for possível aplicar de forma eficaz outras medidas alternativas menos gravosas.

3 — Os requerentes podem ainda ser colocados ou mantidos em centro de instalação temporária, se não for possível aplicar de forma eficaz outras medidas alternativas menos gravosas:

a) No âmbito dos pedidos apresentados nos postos de fronteira, conforme previstos na secção II do capítulo III;

b) No âmbito dos pedidos apresentados na sequência de uma decisão de afastamento de território nacional, conforme previsto na secção V do capítulo III;

c) No decurso do procedimento especial de determinação do Estado responsável pela análise do pedido de proteção internacional, previsto no artigo 28.º do Regulamento (UE)

n.º 604/2013, do Parlamento Europeu e do Conselho, de 26 de junho, que estabelece os critérios e mecanismos de determinação do Estado membro responsável pela análise de um pedido de proteção internacional apresentado num dos Estados membros por um nacional de um país terceiro ou por um apátrida.

4 — Para efeitos da aplicação do número anterior, consideram-se medidas alternativas menos gravosas as seguintes:

- a) Apresentação periódica no SEF;
- b) Obrigação de permanência na habitação com utilização de meios de vigilância eletrónica, nos termos da lei.

5 — A colocação efetuada ao abrigo do presente artigo, bem como as medidas alternativas, são determinadas pelo juízo de pequena instância criminal na respetiva área de jurisdição ou pelo tribunal de comarca nas restantes áreas do país.

6 — No caso de pedidos de proteção internacional apresentados nos postos de fronteira, a permanência em centro de instalação temporária ou espaço equiparado é comunicada no prazo máximo de 48 horas ao juiz de pequena instância criminal da respetiva área de jurisdição, ou ao tribunal de comarca nas restantes áreas do país, para apreciação nos termos do presente artigo.

Artigo 35.º-B

Condições de colocação ou manutenção em centro de instalação temporária

1 — A colocação em centro de instalação temporária ou espaço equiparado a que se refere o artigo anterior não pode prolongar-se mais tempo do que o necessário, sem que possa exceder 60 dias, podendo a decisão ser reapreciada oficiosamente e ou a pedido do requerente se sobrevierem circunstâncias relevantes ou novas informações passíveis de comprometer a legalidade da medida.

2 — Os requerentes são imediatamente informados por escrito, numa língua que compreendam ou seja razoável presumir que compreendam, dos motivos da sua instalação e dos meios de impugnação jurisdicional que lhes assistem, bem como da possibilidade de beneficiarem de apoio judiciário nos termos da legislação aplicável.

3 — Os requerentes são autorizados, a pedido, a contactar com os seus representantes legais, os seus familiares e representantes do ACNUR ou do CPR enquanto organização não governamental que atue em seu nome e de outras organizações que atuem nesta área.

4 — O acesso às instalações dos centros de instalação temporária só pode ser limitado por motivos de segurança, ordem pública ou gestão administrativa, desde que o acesso não seja fortemente limitado nem impossibilitado.

5 — Aos requerentes é fornecida informação sobre as regras em vigor nas instalações em que se encontram, bem como sobre os seus direitos e deveres, numa língua que compreendam ou seja razoável presumir que compreendam.

6 — Na medida do possível, os menores não acompanhados beneficiam de alojamento em instituições dotadas de pessoal e instalações que tenham em conta as necessidades pessoais da sua idade.

7 — As famílias devem receber alojamento separado que lhes garanta a privacidade necessária e, no caso de

requerentes do sexo feminino, deve ser assegurado alojamento separado.

8 — As pessoas vulneráveis deve ser assegurado o acompanhamento regular e apoio adequado, tendo em conta a situação concreta, incluindo o seu estado de saúde.

9 — Os requerentes instalados devem ter acesso a espaços ao ar livre.

CAPÍTULO IV

Procedimento especial de determinação do Estado responsável pela análise do pedido de proteção internacional

Artigo 36.º

Determinação do Estado responsável

Quando haja lugar à determinação do Estado responsável pela análise de um pedido de proteção internacional é organizado um procedimento especial regulado no presente capítulo.

Artigo 37.º

Pedido de proteção internacional apresentado em Portugal

1 — Quando se considere que a responsabilidade pela análise do pedido de proteção internacional pertence a outro Estado membro, de acordo com o previsto no Regulamento (UE) n.º 604/2013, do Parlamento Europeu e do Conselho, de 26 de junho, o SEF solicita às respetivas autoridades a sua tomada ou retoma a cargo.

2 — Aceite a responsabilidade pelo Estado requerido, o diretor nacional do SEF profere, no prazo de cinco dias, decisão nos termos da alínea a) do n.º 1 do artigo 19.º-A e do artigo 20.º, que é notificada ao requerente, numa língua que compreenda ou seja razoável presumir que compreenda, e é comunicada ao representante do ACNUR e ao CPR enquanto organização não governamental que atue em seu nome, mediante pedido apresentado, acompanhado do consentimento do requerente.

3 — A notificação prevista no número anterior é acompanhada da entrega ao requerente de um salvo-conduto, a emitir pelo SEF segundo modelo a aprovar por portaria do membro do Governo responsável pela área da administração interna.

4 — A decisão proferida pelo diretor nacional do SEF é suscetível de impugnação jurisdicional perante os tribunais administrativos no prazo de cinco dias, com efeito suspensivo.

5 — À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

6 — O recurso jurisdicional das decisões respeitantes à impugnação jurisdicional referida no n.º 4 tem efeito suspensivo.

7 — Em caso de resposta negativa do Estado requerido ao pedido formulado pelo SEF, nos termos do n.º 1, observar-se-á o disposto no capítulo III.

Artigo 38.º

Execução da decisão de transferência

Compete ao SEF assegurar a execução da transferência do requerente de proteção internacional.

Artigo 39.º

Suspensão do prazo para a decisão

A instrução do procedimento de determinação do Estado responsável pela análise do pedido de proteção internacional suspende, até decisão final, a contagem do prazo previsto no n.º 1 do artigo 20.º e no n.º 4 do artigo 24.º

Artigo 40.º

Pedido de proteção internacional apresentado em outro Estado membro da União Europeia

1 — Compete ao diretor nacional do SEF decidir sobre a aceitação de responsabilidade do Estado português pela análise de pedido de proteção internacional apresentado em outros Estados membros da União Europeia.

2 — A decisão prevista no número anterior é proferida no prazo máximo de dois meses a contar da data do recebimento do pedido de aceitação formulado pelo Estado onde se encontra o requerente de proteção internacional ou foi apresentado o pedido.

3 — Nos casos qualificados como urgentes pelo Estado onde foi apresentado o pedido, o prazo referido no número anterior é reduzido para oito dias.

CAPÍTULO V

Perda do direito de proteção internacional

Artigo 41.º

Causas de cessação, revogação, supressão ou recusa de renovação do direito de proteção internacional

1 — O direito de asilo cessa quando o estrangeiro ou o apátrida:

- a) Decida voluntariamente valer-se de novo da proteção do país de que tem nacionalidade;
- b) Tendo perdido a sua nacionalidade, a recupere voluntariamente;
- c) Adquirir uma nova nacionalidade e goze da proteção do país cuja nacionalidade adquiriu;
- d) Regresse voluntariamente ao país que abandonou ou fora do qual permaneceu por receio de ser perseguido;
- e) Não possa continuar a recusar valer-se da proteção do país de que tem a nacionalidade, por terem deixado de existir as circunstâncias segundo as quais foi reconhecido como refugiado;
- f) Tratando-se de apátrida, esteja em condições de regressar ao país em que tinha a sua residência habitual, por terem deixado de existir as circunstâncias segundo as quais foi reconhecido como refugiado;
- g) Renuncie expressamente ao direito de asilo.

2 — A proteção subsidiária cessa quando as circunstâncias que levaram à sua concessão já não se verifiquem ou se tiverem alterado a tal ponto que a proteção já não seja necessária.

3 — Para efeitos do disposto nas alíneas e) e f) do n.º 1 e no n.º 2, e sem prejuízo do disposto no artigo 47.º, a cessação só pode ser declarada caso o SEF conclua que a alteração das circunstâncias no Estado da nacionalidade ou residência habitual do beneficiário do direito de asilo ou de proteção subsidiária é suficientemente significativa e duradoura para afastar o receio fundado de perseguição ou o risco de sofrer ofensa grave.

4 — As alíneas e) e f) do n.º 1 não se aplicam ao refugiado que possa invocar razões imperiosas relacionadas com perseguições anteriores para recusar valer-se da proteção do país da sua nacionalidade ou, na eventualidade de ser apátrida, do seu antigo país de residência habitual.

5 — É revogada, suprimida ou recusada a renovação do direito de asilo ou de proteção subsidiária quando se verifique que o estrangeiro ou apátrida:

a) Deveria ter sido ou possa ser excluído do direito de beneficiar do direito de asilo ou de proteção subsidiária, nos termos do artigo 9.º;

b) Tenha deturpado ou omitido factos, incluindo a utilização de documentos falsos, decisivos para beneficiar do direito de asilo ou de proteção subsidiária;

c) Representa um perigo para a segurança interna;

d) Tendo sido condenado por sentença transitada em julgado por crime doloso de direito comum punível com pena de prisão superior a três anos, represente um perigo para a segurança interna ou para a ordem pública.

6 — Para efeitos de audiência prévia, o SEF notifica o beneficiário do projeto de decisão, o qual se pode pronunciar no prazo de oito dias.

Artigo 42.º

Efeitos da perda do direito de proteção internacional

1 — *(Revogado.)*

2 — A perda do direito de proteção internacional nos termos do artigo anterior determina a aplicação do regime jurídico de entrada, permanência, saída e afastamento de estrangeiros de território nacional.

3 — *(Revogado.)*

Artigo 43.º

Competência para declarar a perda do direito de proteção internacional e o afastamento do território nacional

1 — Compete ao membro do Governo responsável pela área da administração interna, sob proposta do diretor nacional do SEF, declarar a perda do direito de proteção internacional.

2 — A declaração prevista no número anterior deve ser notificada ao requerente, numa língua que compreenda ou seja razoável presumir que compreenda.

3 — O representante do ACNUR ou o CPR enquanto organização não governamental que atue em seu nome são informados da declaração de perda do direito de proteção internacional.

Artigo 44.º

Impugnação jurisdicional

1 — A decisão proferida ao abrigo do n.º 1 artigo anterior é suscetível de impugnação jurisdicional perante os tribunais administrativos, no prazo de oito dias, com efeito suspensivo.

2 — À impugnação jurisdicional referida no número anterior são aplicáveis a tramitação e os prazos previstos no artigo 110.º do Código de Processo nos Tribunais Administrativos, com exceção do disposto no respetivo n.º 3.

Artigo 45.º

(Revogado.)

Artigo 46.º

(Revogado.)

Artigo 47.º

Proibição de expulsar ou repelir

1 — Quando a perda do direito de proteção internacional determina a abertura de processo tendente ao afastamento coercivo, este obedece ao princípio da não repulsão definido na alínea *aa*) do n.º 1 do artigo 2.º

2 — Ninguém será devolvido, afastado, extraditado ou expulso para um país onde seja submetido a torturas ou a tratamentos cruéis ou degradantes.

CAPÍTULO VI

Estatuto do requerente de asilo e de proteção subsidiária

SECÇÃO I

Disposições gerais

Artigo 48.º

Efeitos do asilo e da proteção subsidiária sobre a extradição

1 — A concessão de asilo ou de proteção subsidiária obsta ao prosseguimento de qualquer pedido de extradição do beneficiário, fundado nos factos com base nos quais a proteção internacional é concedida.

2 — A decisão final sobre qualquer processo de extradição do requerente que esteja pendente fica suspensa enquanto o pedido de proteção internacional se encontre em apreciação, quer na fase administrativa, quer na fase jurisdicional.

3 — Para efeito do cumprimento do disposto no número anterior, a apresentação do pedido de proteção internacional é comunicada pelo SEF à entidade onde corre o respetivo processo no prazo de dois dias úteis.

Artigo 49.º

Direitos dos requerentes

1 — Sem prejuízo do disposto nos artigos seguintes, os requerentes de asilo ou de proteção subsidiária beneficiam das seguintes garantias:

a) Serem informados de imediato ou, quando o pedido tenha sido entregue através de outra entidade, até cinco dias a contar do registo do pedido, numa língua que compreendam ou seja razoável presumir que compreendam, dos direitos que lhe assistem e das obrigações a que estão sujeitos em matéria de acolhimento, designadamente sobre:

i) Os prazos e meios ao dispor para cumprimento do dever de apresentação dos elementos pertinentes para apreciação do pedido;

ii) A tramitação procedimental;

iii) As organizações ou os grupos de pessoas que prestam assistência jurídica específica;

iv) As organizações que os podem apoiar ou informar relativamente às condições de acolhimento disponíveis, incluindo a assistência médica;

v) As consequências do eventual incumprimento dos deveres e falta de cooperação previstos no artigo 15.º;

b) Serem informados no momento da recolha dos seus dados dactiloscópicos, numa língua que compreendam ou seja razoável presumir que compreendam, sobre a finalidade a que se destina o tratamento dos seus dados pessoais, bem como de todos os outros direitos das pessoas titulares de dados previstos no Regulamento (UE) n.º 603/2013, do Parlamento Europeu e do Conselho, de 26 de junho, relativo à criação do sistema «Eurodac» de comparação de impressões digitais;

c) Serem informados quanto à decisão sobre a admissibilidade do pedido e respetivo teor, ainda que por intermédio de mandatário judicial, caso se tenham feito assistir por advogado;

d) Beneficiar, sempre que necessário, dos serviços de um intérprete para os assistirem na formalização do pedido e durante o respetivo procedimento;

e) Beneficiar de aconselhamento jurídico gratuito em todas as fases do procedimento, a prestar por entidade pública ou organização não governamental com a qual tenha sido celebrado protocolo;

f) Beneficiar de apoio judiciário nos termos da lei.

2 — Sem prejuízo do disposto na alínea *a*) do número anterior, o SEF fornece ao requerente de asilo ou de proteção subsidiária um folheto informativo numa língua que este possa entender, sem prejuízo de a mesma informação poder ser também prestada oralmente.

3 — (Revogado.)

4 — (Revogado.)

5 — Os advogados que representem o requerente de asilo ou de proteção subsidiária têm acesso às informações constantes do seu processo.

6 — Os advogados do requerente, os representantes do ACNUR, o CPR enquanto organização não governamental que atue em seu nome e os representantes de outras organizações não governamentais que desenvolvam atividades nesta área têm ainda direito de acesso a zonas vedadas, como locais de detenção ou de trânsito, para poderem prestar àquele o devido aconselhamento.

7 — Na prestação de declarações a que se refere o artigo 16.º, os requerentes de asilo ou de proteção subsidiária podem fazer-se acompanhar de advogado, sem prejuízo de a respetiva ausência não obstar à realização desse ato processual.

Artigo 50.º

(Revogado.)

SECÇÃO II

Disposições relativas às condições de acolhimento

Artigo 51.º

Meios de subsistência

1 — Aos requerentes de asilo ou de proteção subsidiária em situação de carência económica e social e aos membros da sua família é concedido apoio social para alojamento e alimentação, nos termos da legislação em vigor.

2 — Para efeitos do disposto no número anterior, na concessão de alojamento devem ser tomadas, com o acordo dos requerentes, as medidas adequadas para manter tanto quanto possível a unidade da família que se encontre presente em território nacional, nomeadamente as previstas nas alíneas *a*) e *b*) do n.º 1 do artigo 59.º

Artigo 52.º

Assistência médica e medicamentosa

1 — É reconhecido aos requerentes de asilo ou de proteção subsidiária e respetivos membros da família o acesso ao Serviço Nacional de Saúde, nos termos a definir por portaria dos membros do Governo responsáveis pelas áreas da administração interna e da saúde.

2 — O documento comprovativo da apresentação do pedido de proteção internacional ou de proteção subsidiária, emitido nos termos do artigo 14.º, considera-se bastante para comprovar a qualidade de requerente, para efeitos do disposto no número anterior.

3 — Para os efeitos do presente artigo, as autoridades sanitárias podem exigir, por razões de saúde pública, que os requerentes sejam submetidos a um exame médico, a fim de que seja atestado que não sofrem de nenhuma das doenças definidas nos instrumentos aplicáveis da Organização Mundial de Saúde ou de outras doenças infecciosas ou parasitárias contagiosas objeto de medidas de proteção em território nacional, cujos resultados são confidenciais e não afetam o procedimento de proteção internacional.

4 — Os exames médicos e as medidas a que se refere o número anterior não devem ter carácter sistemático.

5 — Aos requerentes particularmente vulneráveis é prestada assistência médica ou outra que se revele necessária.

Artigo 53.º

Acesso ao ensino

1 — Os filhos menores dos requerentes de asilo ou de proteção subsidiária e os requerentes de asilo ou de proteção subsidiária menores têm acesso ao sistema de ensino nas mesmas condições dos cidadãos nacionais e demais cidadãos para quem a língua portuguesa não constitua língua materna.

2 — A possibilidade de continuação dos estudos secundários não pode ser negada com fundamento no facto de o menor ter atingido a maioridade.

Artigo 54.º

Direito ao trabalho

1 — Aos requerentes de asilo ou de proteção subsidiária a quem já foi emitida autorização de residência provisória é assegurado o acesso ao mercado de trabalho, nos termos da lei geral, cessando, a partir do exercício de emprego remunerado, a aplicação do regime de apoio social previsto no artigo 56.º

2 — *(Revogado.)*

3 — *(Revogado.)*

4 — Nos casos de impugnação jurisdicional de decisão de recusa de proteção internacional, o direito de acesso ao mercado de trabalho mantém-se até à prolação da respetiva sentença que julgue improcedente o pedido.

Artigo 55.º

Programas e medidas de emprego e formação profissional

1 — Os requerentes de asilo ou de proteção subsidiária têm acesso a programas e medidas de emprego e formação profissional em condições a estabelecer pelos ministérios que tutelam a área em causa, desde que preencham os requisitos estabelecidos no artigo anterior.

2 — *(Revogado.)*

SECÇÃO III

Condições materiais de acolhimento e cuidados de saúde

Artigo 56.º

Apoio social

1 — Aos requerentes de asilo ou de proteção subsidiária e respetivos membros da família, que não disponham de meios suficientes para permitir a sua subsistência, são asseguradas condições materiais de acolhimento, bem como os cuidados de saúde estabelecidos nesta secção, tendo em vista a garantia da satisfação das suas necessidades básicas em condições de dignidade humana.

2 — Aos requerentes de asilo ou de proteção subsidiária e membros da sua família particularmente vulneráveis e aos requerentes de asilo ou de proteção subsidiária que se encontrem nos postos de fronteira são igualmente asseguradas condições materiais de acolhimento adequadas, bem como cuidados de saúde apropriados.

3 — Para efeitos do n.º 1 considera-se não dispor de meios suficientes o requerente que careça de recursos de qualquer natureza ou de valor inferior ao subsídio de apoio social apurado nos termos da legislação aplicável.

4 — Caso se comprove que um requerente dispõe de recursos suficientes pode ser-lhe exigida uma contribuição, total ou parcial, para a cobertura das despesas decorrentes das condições materiais de acolhimento e dos cuidados de saúde.

5 — Caso se comprove que um requerente dispunha de meios suficientes para custear as condições materiais de acolhimento e os cuidados de saúde na altura em que estas necessidades básicas foram providas, a entidade competente pode exigir o respetivo reembolso.

Artigo 57.º

Modalidades de concessão

1 — As condições materiais de acolhimento podem revestir as seguintes modalidades:

- a) Alojamento em espécie;
- b) Alimentação em espécie;
- c) Prestação pecuniária de apoio social, com carácter mensal, para despesas de alimentação, vestuário, higiene e transportes;
- d) Subsídio complementar para alojamento, com carácter mensal;
- e) Subsídio complementar para despesas pessoais e transportes.

2 — O alojamento e a alimentação em espécie podem revestir uma das seguintes formas:

- a) Em instalações equiparadas a centros de acolhimento para requerentes de asilo, nos casos em que o pedido é apresentado nos postos de fronteira;
- b) Em centro de instalação para requerentes de asilo ou estabelecimento equiparado que proporcionem condições de vida adequadas;
- c) Em casas particulares, apartamentos, hotéis ou noutras instalações adaptadas para acolher requerentes de asilo.

3 — Podem ser cumuladas as seguintes modalidades de acolhimento:

- a) Alojamento e alimentação em espécie com o subsídio complementar para despesas pessoais e transportes;

b) Alojamento em espécie ou subsídio complementar para alojamento com a prestação pecuniária de apoio social.

4 — A título excecional e por um período determinado, podem ser estabelecidas condições materiais de acolhimento diferentes das previstas nos números anteriores, sempre que:

a) Seja necessária uma avaliação inicial das necessidades específicas dos requerentes;

b) Na área geográfica onde se encontra o requerente não estejam disponíveis condições materiais de acolhimento previstas no n.º 2;

c) As capacidades de acolhimento disponíveis se encontrem temporariamente esgotadas; ou

d) Os requerentes de asilo ou de proteção subsidiária se encontrem em regime de retenção em posto de fronteira que não disponha de instalações equiparadas a centros de acolhimento.

Artigo 58.º

Montantes dos subsídios

As prestações pecuniárias a que se referem as alíneas c) e d) do n.º 1 do artigo anterior são calculadas por referência ao subsídio de apoio social previsto na legislação aplicável, não devendo ultrapassar as seguintes percentagens:

a) Prestação pecuniária de apoio social, com carácter mensal, para despesas de alimentação, vestuário, higiene e transportes, correspondente a 70 % do montante apurado;

b) Subsídio complementar para alojamento, com carácter mensal, correspondente a 30 % do montante apurado;

c) Subsídio mensal para despesas pessoais e transportes, correspondente a 30 % do montante apurado.

Artigo 59.º

Garantias suplementares em matéria de alojamento

1 — A entidade responsável pela concessão do alojamento em espécie, nas formas previstas no n.º 2 do artigo 57.º, deve:

a) Proporcionar a proteção da vida familiar dos requerentes;

b) Proporcionar, se for caso disso, que os filhos menores dos requerentes ou os requerentes menores sejam alojados com os pais ou com o membro adulto da família por eles responsável por força da lei;

c) Assegurar, tanto quanto possível, que os requerentes adultos com necessidades especiais de acolhimento sejam alojados com familiares adultos próximos que já se encontrem no território nacional e que sejam por eles responsáveis por força da lei;

d) Assegurar aos requerentes a possibilidade de comunicar com a sua família ou os seus representantes legais, assim como com os representantes do ACNUR ou do CPR enquanto organização não governamental que atue em seu nome;

e) Tomar as medidas adequadas para prevenir agressões e violência, designadamente com base no género, incluindo assédio e agressões sexuais, no interior das instalações e dos centros de acolhimento a que se refere o n.º 2 do artigo 57.º

2 — A transferência de requerentes de asilo ou de proteção subsidiária de uma instalação de alojamento para outra só se pode realizar quando tal se revele necessário para a boa tramitação do processo ou para melhorar as condições de alojamento.

3 — Aos requerentes transferidos nos termos do número anterior é assegurada a possibilidade de informar os seus representantes legais da transferência e do seu novo endereço.

4 — Aos advogados dos requerentes, aos representantes do ACNUR ou do CPR enquanto organização não governamental que atue em seu nome e de outras organizações não governamentais que desenvolvam atividades nesta área, e como tal sejam reconhecidas pelo Estado, é assegurado o acesso aos centros de acolhimento e a outras instalações de alojamento de forma a assistir os requerentes de asilo ou de proteção subsidiária, só podendo ser fixadas restrições de acesso se devidamente fundamentadas e quando estejam em causa razões de segurança dos centros e instalações, bem como dos requerentes.

5 — Às pessoas que trabalham nos centros de acolhimento é ministrada formação adequada, estando as mesmas sujeitas ao dever de confidencialidade no que respeita às informações de que tomem conhecimento no exercício das suas funções.

SECÇÃO IV

Redução ou cessação do benefício das condições de acolhimento

Artigo 60.º

Redução e cessação do benefício das condições de acolhimento

1 — O apoio social cessa com a decisão de recusa do pedido de proteção internacional, tendo a impugnação desta perante o tribunal administrativo e o recurso jurisdicional da decisão que a confirme os efeitos previstos, respetivamente, nos n.ºs 1 e 2 do artigo 30.º

2 — A cessação do apoio nos termos do número anterior não se verifica quando, avaliada a situação económica e social do requerente, se concluir pela necessidade da sua manutenção.

3 — As condições de acolhimento podem ser total ou parcialmente retiradas se o requerente de asilo ou de proteção subsidiária, injustificadamente:

a) Abandonar o local de residência estabelecido pela autoridade competente sem informar o SEF ou sem a autorização exigível;

b) Abandonar o seu local de residência sem informar a entidade competente pelo alojamento;

c) Não cumprir as obrigações de se apresentar;

d) Não prestar as informações que lhe forem requeridas ou não comparecer nas entrevistas individuais, quando para tal for convocado;

e) Tiver dissimulado os seus recursos financeiros e, portanto, beneficiar indevidamente das condições materiais de acolhimento;

f) Apresentar um pedido subsequente.

4 — Se, posteriormente à cessação das condições de acolhimento por incumprimento do previsto nas alíneas a) a c) do número anterior, o requerente for encontrado ou se apresentar voluntariamente às autoridades competentes, deve ser tomada uma decisão fundamentada quanto ao

restabelecimento do benefício de algumas ou de todas as condições de acolhimento.

5 — As decisões relativas à redução e à cessação do benefício das condições de acolhimento nas situações mencionadas no n.º 1 são tomadas de forma individual, objetiva, imparcial e devem ser fundamentadas.

6 — As decisões a que se refere o número anterior devem ter exclusivamente por base a situação particular da pessoa em causa, em especial no que se refere às pessoas particularmente vulneráveis, tendo em conta o princípio da proporcionalidade.

7 — A redução ou cessação dos benefícios não prejudica o acesso aos cuidados de saúde urgentes, ao tratamento básico de doenças e de perturbações mentais graves e aos cuidados médicos ou outro tipo de assistência necessária aos requerentes com necessidades de acolhimento especiais, incluindo assistência psicológica adequada, se necessário.

8 — Das decisões referidas no n.º 3 cabe impugnação nos termos do n.º 1 do artigo 63.º

SECÇÃO V

Garantias de eficácia do sistema de acolhimento

Artigo 61.º

Competências

1 — Compete ao ministério responsável pela área da administração interna garantir aos requerentes de asilo ou de proteção subsidiária que se encontrem retidos nos postos de fronteira as condições de alojamento e acesso a cuidados de saúde, assim como a satisfação dos encargos inerentes à concessão das condições materiais de acolhimento, até decisão quanto à admissibilidade do pedido, podendo aquelas ser asseguradas por outras entidades públicas ou particulares sem fins lucrativos, nos termos definidos em protocolo.

2 — Compete ao ministério responsável pela área da solidariedade, emprego e segurança social suportar os encargos resultantes da atribuição das condições materiais de acolhimento aos requerentes de asilo ou de proteção subsidiária que entrem ou se encontrem em território nacional, desde a admissão do pedido até decisão final sobre o mesmo, as quais podem ser prestadas diretamente ou através de outras entidades públicas ou particulares sem fins lucrativos, com as quais seja celebrado protocolo.

3 — Compete às entidades responsáveis pelo Serviço Nacional de Saúde assegurar o acesso dos requerentes de asilo ou de proteção subsidiária e membros da sua família a cuidados de saúde, nos termos da legislação aplicável.

4 — O acesso de menores ao sistema de ensino é garantido pelas entidades competentes no âmbito do ministério responsável pela área da educação e ciência.

5 — As decisões a que se refere o artigo 60.º são da competência das entidades responsáveis pela concessão das condições materiais de acolhimento previstas na presente lei.

Artigo 62.º

Pessoal e recursos

As autoridades e outras organizações referidas no artigo anterior devem fornecer aos seus funcionários formação de base adequada às necessidades dos requerentes de proteção internacional.

Artigo 63.º

Garantias

1 — As decisões proferidas nos termos do artigo 60.º que afetem individualmente requerentes de asilo ou de proteção subsidiária são passíveis de exercício das garantias administrativas e jurisdicionais e, quando impugnadas perante os tribunais administrativos, têm os efeitos previstos, respetivamente, nos n.ºs 1 e 2 do artigo 30.º

2 — As modalidades de apoio judiciário são regidas pela legislação aplicável.

Artigo 64.º

Colaboração das organizações não governamentais com o Estado

1 — As organizações não governamentais podem colaborar com o Estado na realização das medidas previstas na presente lei.

2 — A colaboração das organizações não governamentais com o Estado na realização das medidas respeitantes ao requerentes de asilo ou de proteção subsidiária a que se refere o número anterior, pode traduzir-se na organização da informação e do trabalho voluntário, apoio jurídico, prestação de apoio no acolhimento e outras formas de apoio social, através de protocolos ou de outros meios de vinculação recíproca.

CAPÍTULO VII

Estatuto do refugiado e da proteção subsidiária

Artigo 65.º

Direitos e obrigações

Os beneficiários do estatuto de refugiado e da proteção subsidiária gozam dos direitos e estão sujeitos aos deveres dos estrangeiros residentes em Portugal, na medida em que não contrariem o disposto nesta lei, na Convenção de Genebra de 1951 e no Protocolo de Nova Iorque de 1967, cabendo-lhes, designadamente, a obrigação de acatar as leis e os regulamentos, bem como as providências destinadas à manutenção da ordem pública.

Artigo 66.º

Informação

Na notificação de concessão do estatuto de refugiado ou de proteção subsidiária, o SEF informa o beneficiário dos direitos e deveres relativos ao respetivo estatuto, numa língua que este compreenda ou seja razoável presumir que compreenda.

Artigo 67.º

Título de residência

1 — Aos beneficiários do estatuto de refugiado é concedida uma autorização de residência válida pelo período inicial de cinco anos, renovável por iguais períodos, salvo se razões imperativas de segurança nacional ou ordem pública o impedirem e sem prejuízo do disposto no capítulo V.

2 — Aos beneficiários do estatuto de proteção subsidiária é concedida uma autorização de residência por proteção subsidiária válida pelo período inicial de três anos, renovável por iguais períodos, precedida de análise da evolução

da situação no país de origem, salvo se razões imperativas de segurança nacional ou ordem pública o impedirem e sem prejuízo do disposto no capítulo V.

3 — Aos membros da família do beneficiário do estatuto de refugiado ou de proteção subsidiária é emitida uma autorização de residência extraordinária, de validade idêntica à do beneficiário de asilo ou de proteção subsidiária, com dispensa dos requisitos exigidos pelo regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional.

4 — Compete ao membro do Governo responsável pela área da administração interna, sob proposta do diretor nacional do SEF, conceder, com dispensa de qualquer taxa, a autorização de residência prevista no presente artigo, segundo modelo estabelecido por portaria do referido membro do Governo.

5 — Compete ao diretor nacional do SEF decidir da concessão da autorização de residência extraordinária prevista no n.º 3, bem como decidir da renovação das autorizações de residência previstas nos números anteriores, com dispensa de taxa.

6 — *(Revogado.)*

Artigo 68.º

Preservação da unidade familiar

1 — Os beneficiários do estatuto de refugiado ou de proteção subsidiária têm direito ao reagrupamento familiar com os membros da sua família referidos na alínea *k*) do n.º 1 do artigo 2.º, nas condições previstas no regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional.

2 — Os efeitos do asilo ou da proteção subsidiária devem ser declarados extensivos aos membros da família referidos no número anterior.

3 — O disposto nos números anteriores não se aplica nos casos em que o membro da família seja excluído do estatuto de refugiado ou de proteção subsidiária ou o perca nos termos da presente lei.

Artigo 69.º

Documentos de viagem

1 — Aos beneficiários do estatuto de refugiado é emitido, mediante requerimento, documento de viagem em conformidade com o disposto no anexo da Convenção de Genebra, que lhes permita viajar fora do território nacional, a menos que motivos imperiosos de segurança nacional ou de ordem pública exijam o contrário.

2 — Aos beneficiários do estatuto de proteção subsidiária, que comprovadamente não possam obter um passaporte nacional, pode ser emitido, mediante requerimento dos interessados, passaporte português para estrangeiro que lhes permita viajar fora do território nacional, a menos que motivos imperiosos de segurança nacional ou de ordem pública exijam o contrário.

3 — A taxa devida pela emissão desses documentos é fixada por portaria do membro do Governo responsável pela área da administração interna.

Artigo 70.º

Acesso à educação

1 — Aos menores a quem é concedido o estatuto de refugiado ou de proteção subsidiária é conferido o pleno

acesso ao sistema de ensino, nas mesmas condições que aos cidadãos nacionais.

2 — Aos adultos aos quais tenha sido concedido o estatuto de refugiado ou de proteção subsidiária é permitido o acesso ao sistema de ensino em geral, bem como à formação, aperfeiçoamento ou reciclagem profissionais, nas mesmas condições que aos cidadãos nacionais.

3 — No que se refere aos procedimentos vigentes em matéria de reconhecimento dos diplomas, certificados e outras provas de qualificação oficial estrangeiras, é assegurada a igualdade de tratamento entre beneficiários do estatuto de refugiado ou de proteção subsidiária e os respetivos nacionais.

Artigo 71.º

Acesso ao emprego

1 — Aos beneficiários do estatuto de refugiado ou proteção subsidiária é assegurado o acesso ao mercado de emprego, nos termos da lei geral, cessando, a partir do exercício de emprego remunerado, a aplicação do regime de apoio social previsto no artigo 56.º

2 — São igualmente asseguradas aos beneficiários do estatuto de refugiado ou de proteção subsidiária oportunidades de formação ligadas ao emprego de adultos, formação profissional e experiência prática em local de trabalho, nas mesmas condições dos cidadãos nacionais.

3 — São aplicáveis as disposições legais em matéria de remuneração e outras condições relativas ao emprego.

Artigo 72.º

Segurança social

Aos beneficiários do estatuto de refugiado ou de proteção subsidiária são aplicáveis as disposições legais relativas ao sistema de segurança social.

Artigo 73.º

Cuidados de saúde

1 — Os beneficiários do estatuto de refugiado ou de proteção subsidiária e respetivos membros da família têm acesso ao Serviço Nacional de Saúde, nas mesmas condições que os cidadãos nacionais.

2 — São assegurados cuidados de saúde adequados, incluindo tratamento de perturbações mentais, quando necessários, aos beneficiários do estatuto de refugiado ou de proteção subsidiária que se integrem nos grupos de pessoas particularmente vulneráveis, nas mesmas condições que aos cidadãos nacionais.

3 — Considera-se que têm necessidades especiais para efeitos do disposto no número anterior, as grávidas, os deficientes, as vítimas de tortura, violação ou outras formas graves de violência física, psicológica ou sexual, como as vítimas de violência doméstica e as vítimas de mutilação genital feminina, os menores que sofreram qualquer forma de abuso, negligência, exploração, tortura, tratamentos cruéis, desumanos ou degradantes ou os efeitos de um conflito armado.

Artigo 74.º

Alojamento

Aos beneficiários do estatuto de refugiado ou de proteção subsidiária é assegurado acesso a alojamento, em

condições equivalentes às dos estrangeiros que residam legalmente em Portugal.

Artigo 75.º

Liberdade de circulação em território nacional

É garantida a liberdade de circulação em território nacional aos beneficiários do estatuto de refugiado ou de proteção subsidiária, nas mesmas condições que as previstas para os estrangeiros que residam legalmente em Portugal.

Artigo 76.º

Programas de integração

A fim de facilitar a integração dos refugiados e dos beneficiários da proteção subsidiária na sociedade portuguesa, devem ser promovidos programas de integração pelas entidades competentes.

CAPÍTULO VIII

Disposições comuns aos estatutos de requerentes e beneficiários de asilo e proteção subsidiária

Artigo 77.º

Disposições relativas a pessoas particularmente vulneráveis

1 — Tanto no procedimento de análise como na prestação das condições materiais de acolhimento, bem como dos cuidados de saúde, é tida em consideração a situação das pessoas particularmente vulneráveis, nos termos dos artigos seguintes.

2 — Aquando da apresentação do pedido de proteção internacional ou de proteção subsidiária ou em qualquer fase do procedimento, a entidade competente deve identificar as pessoas cujas necessidades especiais tenham de ser tomadas em consideração, bem como a natureza dessas necessidades, de acordo com o previsto no número anterior.

3 — A avaliação dos requerentes com necessidades de acolhimento especiais é realizada num prazo razoável logo após a apresentação do pedido de proteção internacional.

Artigo 78.º

Menores

1 — Na aplicação da presente lei, devem ser tomados em consideração os superiores interesses dos menores.

2 — Para efeitos do disposto no número anterior, considera-se ser do superior interesse do menor, designadamente:

a) A sua colocação junto dos respetivos progenitores idóneos ou, na falta destes, sucessivamente, junto de familiares adultos, em famílias de acolhimento, em centros especializados de alojamento para menores ou em locais que disponham de condições para o efeito;

b) (Revogada.)

c) (Revogada.)

d) A não separação de fratrias;

e) A estabilidade de vida, com mudanças de local de residência limitadas ao mínimo;

f) O seu bem-estar e desenvolvimento social, atendendo às suas origens;

g) Os aspetos ligados à segurança e proteção, sobretudo se existir o risco de ser vítima de tráfico de seres humanos;

h) A sua opinião, atendendo à sua idade e maturidade.

3 — As entidades competentes da Administração Pública asseguram que os menores que tenham sido vítimas de qualquer forma de abuso, negligência, exploração, tortura, tratamentos cruéis, desumanos e degradantes ou de conflitos armados tenham acesso aos serviços de reabilitação, bem como a assistência psicológica adequada, providenciando, se necessário, apoio qualificado.

4 — Aplicam-se aos menores não acompanhados as regras constantes dos números anteriores.

Artigo 79.º

Menores não acompanhados

1 — Os menores que sejam requerentes ou beneficiários de proteção internacional devem ser representados por entidade ou organização não governamental, ou por qualquer outra forma de representação legalmente admitida, sem prejuízo das medidas tutelares aplicáveis ao abrigo da legislação tutelar de menores, sendo disso informado o menor.

2 — Incumbe ao SEF comunicar o pedido apresentado por menor ou incapaz ao tribunal competente, para efeito de representação, para que o requerente menor ou incapaz possa exercer os direitos e cumprir os deveres previstos na lei.

3 — O representante deve ser informado pelo SEF, atempadamente, do momento e da prestação de declarações a que se refere o artigo 16.º, para estar presente, podendo intervir na mesma.

4 — O SEF deve providenciar que o representante tenha a oportunidade de informar o menor não acompanhado do significado e das eventuais consequências da entrevista pessoal e, se adequado, da forma de se preparar para a mesma.

5 — O SEF pode exigir a presença do menor não acompanhado na entrevista pessoal mesmo que o representante esteja presente.

6 — Para determinar a idade do menor não acompanhado, o SEF pode recorrer a perícia médica, através de exame pericial não invasivo, presumindo-se que o requerente é menor se subsistirem fundadas dúvidas.

7 — Os menores não acompanhados devem ser informados de que a sua idade vai ser determinada através de um exame pericial, devendo o respetivo representante dar consentimento para esse efeito.

8 — A recusa em realizar exame pericial não determina o indeferimento do pedido de proteção internacional, nem obsta a que seja proferida decisão sobre o mesmo.

9 — Aos pedidos apresentados por menores não acompanhados é aplicável o disposto nas alíneas g) do n.º 1 do artigo 19.º e b), e) e f) do n.º 1 do artigo 19.º-A.

10 — Os menores não acompanhados com idade igual ou superior a 16 anos apenas podem ser colocados em centros de acolhimento de adultos requerentes de proteção internacional quando isso for do seu superior interesse.

11 — Nos casos em que a vida ou a integridade física de um menor ou dos seus parentes próximos esteja em risco, designadamente se estes se encontrarem no país de origem, a recolha, o tratamento e a divulgação de infor-

mações respeitantes a essas pessoas são realizados a título confidencial, para evitar comprometer a sua segurança.

12 — O pessoal envolvido na análise dos pedidos de proteção internacional abrangendo menores não acompanhados deve ter formação adequada às necessidades específicas dos menores e está sujeito ao dever de confidencialidade no que respeita às informações de que tome conhecimento no exercício das suas funções.

13 — As comissões de proteção de crianças e jovens em perigo com responsabilidades na proteção e salvaguarda dos menores não acompanhados que aguardam uma decisão sobre o repatriamento podem apresentar um pedido de proteção internacional em nome do menor não acompanhado, se em resultado da avaliação da respetiva situação pessoal considerarem que o menor pode necessitar dessa proteção.

14 — Com o objetivo de proteger os interesses superiores do menor não acompanhado, o SEF, em articulação com as outras entidades envolvidas no procedimento e com o ministério responsável pela área dos negócios estrangeiros, deve iniciar o processo para encontrar os membros da família.

15 — Caso já tenha sido concedida proteção internacional e a procura referida no número anterior ainda não tenha sido iniciada, deve dar-se início àquele processo o mais rapidamente possível.

Artigo 80.º

Vítimas de tortura ou violência

Às pessoas que tenham sido vítimas de atos de tortura, de violação ou de outros atos de violência grave é assegurado tratamento especial adequado aos danos causados pelos atos referidos, nomeadamente através da especial atenção e acompanhamento por parte do respetivo centro distrital do Instituto de Segurança Social, I. P., e serviços de saúde ou das entidades que com este tenham celebrado protocolos de apoio.

Artigo 81.º

Repatriamento voluntário

Pode ser prestada assistência aos requerentes e beneficiários de asilo ou proteção subsidiária que manifestem vontade de ser repatriados, designadamente através de programas de retorno voluntário e reintegração previstos na legislação aplicável.

CAPÍTULO IX

Disposições finais

Artigo 82.º

Forma de notificação

1 — As notificações ao requerente são feitas pessoalmente ou através de carta registada, com aviso de receção, a enviar para a sua última morada conhecida.

2 — No caso de a carta ser devolvida, deve tal facto ser de imediato comunicado ao representante do ACNUR e ao CPR enquanto organização não governamental que atue em seu nome, considerando-se a notificação feita se o requerente não comparecer no SEF no prazo de 20 dias a contar da data da referida devolução.

Artigo 83.º

Formação e confidencialidade

Os intervenientes no procedimento de asilo, bem como todos os que trabalhem com requerentes de asilo, beneficiários do estatuto de refugiado ou de proteção subsidiária, nomeadamente em centros de acolhimento e postos de fronteira, devem dispor de formação adequada, estando sujeitos ao dever de confidencialidade no que respeita às informações a que tenham acesso no exercício das suas funções.

Artigo 84.º

Gratuidade e urgência dos processos

Os processos de concessão ou de perda do direito de asilo ou de proteção subsidiária e de expulsão são gratuitos e têm carácter urgente, quer na fase administrativa quer na judicial.

Artigo 85.º

Simplificação, desmaterialização e identificação

São aplicáveis, com as devidas adaptações, as disposições do artigo 212.º da Lei n.º 23/2007, de 4 de julho, alterada pela Lei n.º 29/2012, de 9 de agosto, respeitantes à simplificação, desmaterialização e identificação de pessoas.

Artigo 86.º

Interpretação e integração

Os preceitos da presente lei devem ser interpretados e integrados de harmonia com a Declaração Universal dos Direitos do Homem, a Convenção Europeia dos Direitos do Homem, a Convenção de Genebra de 28 de julho de 1951 e o Protocolo Adicional de 31 de janeiro de 1967.

Artigo 87.º

Lei n.º 67/2003, de 23 de agosto

O disposto na presente lei não prejudica o regime jurídico previsto na Lei n.º 67/2003, de 23 de agosto (transpõe para a ordem jurídica nacional a Diretiva n.º 2001/55/CE, do Conselho, de 20 de julho).

Artigo 88.º

Norma revogatória

São revogadas as Leis n.ºs 15/98, de 26 de março, e 20/2006, de 23 de junho.

Artigo 89.º

Entrada em vigor

A presente lei entra em vigor 60 dias após a data da sua publicação e é aplicável aos pedidos de asilo pendentes.

MINISTÉRIO DA SAÚDE

Portaria n.º 96/2014

de 5 de maio

A Lei n.º 25/2012, de 16 de julho, estabelece o regime das diretivas antecipadas de vontade em matéria de cui-



PRESIDÊNCIA DO CONSELHO DE MINISTROS

Resolução do Conselho de Ministros n.º 103/2020

Sumário: Estabelece um sistema único de acolhimento e integração de requerentes e beneficiários de proteção internacional.

Portugal é um país com uma larga experiência no domínio da gestão de fluxos migratórios, cujas políticas públicas de acolhimento e integração de migrantes são amplamente reconhecidas, tanto no panorama nacional como internacional.

No domínio do acolhimento e integração de requerentes e beneficiários de proteção internacional, Portugal tem acolhido pessoas refugiadas no âmbito da reinstalação, através do Alto Comissariado das Nações Unidas para os Refugiados e através de pedidos espontâneos apresentados em território nacional e na fronteira. O nosso país adquiriu uma experiência acrescida no quadro da Agenda Europeia para as Migrações, em cujo contexto Portugal foi convocado para responder aos desafios migratórios e de solidariedade inscritos no Programa de Recolocação da União Europeia. Mais recentemente, Portugal tem assumido um papel proativo no apoio humanitário e no acolhimento de pessoas que chegam à Europa após resgate marítimo no Mediterrâneo.

Neste contexto, através do Despacho n.º 10041-A/2015, publicado no *Diário da República*, 2.ª série, n.º 172, de 3 de julho, foi criado o Grupo de Trabalho para a Agenda Europeia para as Migrações, com a missão de proceder à aferição da capacidade instalada de acolhimento e de conceber um plano de ação e resposta em matéria de reinstalação, recolocação e integração dos migrantes. Destaca-se ainda a existência do Grupo Operativo, liderado pelo Instituto da Segurança Social, I. P., e criado no contexto do Protocolo de Cooperação em matéria de Apoio a Requerentes e Beneficiários de Proteção Internacional, celebrado a 24 de setembro de 2012, modelo substituído pelo que agora é criado.

Acompanhando a tendência crescente de mobilidade internacional, na última década registou-se um crescimento exponencial do número de pedidos de asilo em Portugal, sendo necessário encontrar formas de resposta expeditas e inovadoras, preferencialmente descentralizadas no território.

De modo a garantir uma maior eficácia e eficiência no âmbito do acolhimento e integração de requerentes e beneficiários de proteção internacional, incluindo as crianças não acompanhadas, reinstalados ou recolocados, urge criar uma estrutura que assegure a cooperação e coordenação entre os vários intervenientes.

Assim:

Nos termos do disposto no n.º 9 do artigo 28.º da Lei n.º 4/2004, de 15 de janeiro, na sua redação atual, e das alíneas d) e g) do artigo 199.º da Constituição, o Conselho de Ministros resolve:

1 — Proceder à criação de um sistema único de acolhimento e integração de requerentes e beneficiários de proteção internacional, incluindo crianças não acompanhadas, que abrange a reinstalação e a recolocação, bem como os requerentes de proteção internacional retomados a cargo e beneficiários de proteção internacional readmitidos no país.

2 — Constituir um grupo operativo único que funciona na formação restrita ou alargada, com funções de coordenação e técnico-operativas, respetivamente (Grupo Operativo Único).

3 — Definir que a formação restrita com funções de coordenação do Grupo Operativo Único é composta pelo Alto Comissariado para as Migrações, I. P. (ACM, I. P.), pelo Serviço de Estrangeiros e Fronteiras (SEF) e pelo Instituto da Segurança Social, I. P. (ISS, I. P.).

4 — Determinar que cada entidade referida no número anterior é representada por um elemento a indicar pelo dirigente máximo do serviço a que respeita.

5 — Definir que a formação alargada com funções técnico-operativas do Grupo Operativo Único é constituída pelas entidades referidas no n.º 3 e pelos serviços e entidades das diferentes áreas governativas com competências em matéria de requerentes e beneficiários de proteção internacional, nomeadamente:

- a) A Direção-Geral do Ensino Superior;
- b) A Direção-Geral dos Estabelecimentos Escolares;



- c) O Instituto Português do Desporto e Juventude, I. P.;
- d) O Instituto do Emprego e da Formação Profissional, I. P.;
- e) A Agência Nacional para a Qualificação e o Ensino Profissional, I. P.;
- f) A Santa Casa da Misericórdia de Lisboa (SCML);
- g) A Administração Central do Sistema de Saúde, I. P.;
- h) A Direção-Geral da Saúde;
- i) O Instituto da Habitação e da Reabilitação Urbana, I. P.

6 — Determinar que integram ainda a referida formação alargada quaisquer outras entidades que, em função do território e da matéria, tenham competências que concorram diretamente para o acolhimento e a integração dos requerentes e beneficiários de proteção internacional, nomeadamente o Conselho Português para os Refugiados, no âmbito das competências previstas na lei.

7 — Atribuir ao ACM, I. P., a competência para:

- a) Proceder à convocatória para as respetivas reuniões, que devem ter, no mínimo, periodicidade mensal;
- b) Prestar o apoio logístico e administrativo necessário ao seu regular funcionamento;
- c) Elaborar o regulamento de funcionamento do Grupo Operativo Único, a ser aprovado pelos elementos que integram a formação restrita.

8 — Atribuir à formação restrita do Grupo Operativo Único a missão de articular a ação das entidades que o compõem, no quadro das respetivas atribuições, bem como a relação com entidades terceiras, para efeito da conceção e implementação do sistema único de acolhimento e integração de requerentes e beneficiários de proteção internacional.

9 — Determinar que à formação alargada compete efetuar as diligências necessárias à execução das orientações definidas em sede de formação restrita do Grupo Operativo Único, dando respostas concretas, de acordo com as respetivas competências, em matéria de acolhimento e integração de requerentes e beneficiários de proteção internacional, através da análise e resolução de temas concretos, nomeadamente programas de apoio, pessoas apátridas e crianças não acompanhadas, nos termos do regulamento referido na alínea c) do n.º 7.

10 — Atribuir ao ACM, I. P., a responsabilidade de prestar apoio e colaborar com os restantes membros, de acordo com as respetivas competências, na revisão e celebração de protocolos em matéria de acolhimento e integração de requerentes e beneficiários de proteção internacional.

11 — Estabelecer que a formação restrita com funções de coordenação, sempre que necessário, pode convocar representantes das entidades públicas a participar nas respetivas reuniões, designadamente autarquias locais e entidades intermunicipais, entidades privadas, organizações internacionais, não governamentais e da sociedade civil, cujas competências concorram diretamente para o acolhimento e a integração dos requerentes e beneficiários de proteção internacional.

12 — Determinar que os serviços e entidades referidas nos n.ºs 3 e 5 indicam os seus representantes, no prazo de 10 dias a contar da data do pedido de designação por parte do ACM, I. P.

13 — Definir que as entidades referidas no n.º 3 apresentam aos respetivos membros do Governo o plano de ação para o ano seguinte e o relatório de atividades do ano anterior do Grupo Operativo Único, respetivamente, até ao dia 30 de novembro e 30 de março de cada ano.

14 — Determinar que o ACM, I. P., no quadro das suas atribuições, elabora um modelo de acolhimento e integração único para requerentes e beneficiários de proteção internacional, definindo os princípios, linhas orientadoras, responsabilidades das várias entidades competentes e das pessoas refugiadas, e coordena os processos de acolhimento e integração no âmbito do sistema previsto no n.º 1, devendo, para o efeito:

- a) Mapear as disponibilidades de acolhimento, em articulação com autarquias locais, entidades intermunicipais e entidades da sociedade civil, assegurando as condições de acolhimento exigidas, devendo, se possível, ser dada preferência ao acolhimento em territórios de baixa densidade, contribuindo para a coesão territorial;

- b) Articular a afetação dos requerentes e beneficiários de proteção internacional, através de protocolo a celebrar com entidades públicas ou privadas;

c) Garantir o acompanhamento dos requerentes e beneficiários de proteção internacional chegados a Portugal, em articulação com o SEF, o ISS, I. P., a SCML, as entidades de acolhimento e as pessoas refugiadas, designadamente através de visitas locais;

d) Garantir apoio no atendimento, esclarecimento e informação orientada aos requerentes e beneficiários de proteção internacional, através dos Centros Nacionais de Apoio à Integração de Migrantes e ou da rede de Centros Locais de Apoio à Integração de Migrantes, sempre que necessário, bem como encaminhamento para os serviços competentes;

e) Articular a afetação do acolhimento e integração dos requerentes e beneficiários de proteção internacional que sejam retomados a cargo ou readmitidos, dentro das disponibilidades de acolhimento, durante a vigência dos programas de apoio;

f) Acionar e o Plano de Contingência para Acolhimento de Refugiados, em estreita articulação com as entidades representadas na formação restrita do Grupo Operativo Único;

g) Sinalizar ao Grupo Operativo Único os requerentes e beneficiários de proteção internacional que manifestem interesse em se tornarem autónomos antes do fim de vigência dos programas de apoio;

h) Garantir a execução dos planos de transição relativamente aos apoios financeiros atribuídos aos requerentes e beneficiários de proteção internacional, em articulação com o ISS, I. P., e a SCML, por forma a apoiar os respetivos processos de autonomização;

i) Assegurar o apoio financeiro às entidades de acolhimento através de pagamentos unitários ou em outros moldes previstos, em sede de acolhimento e integração de requerentes e beneficiários de proteção internacional reinstalados, recolocados, retomados a cargo ou readmitidos, através da transferência para o ACM, I. P., de acordo com a lei e nos termos a definir por protocolo, da entidade beneficiária dos apoios da União Europeia;

j) Compilar e manter atualizada uma base de dados que congregue indicadores sobre os requerentes e beneficiários de proteção internacional, mediante informação prestada mensalmente por parte das entidades de acolhimento e entidades que constituem a formação restrita do Grupo Operativo Único, bem como da informação resultante de processos de avaliação e monitorização do acolhimento e integração que incluam consultas a requerentes e beneficiários de proteção internacional;

k) Promover a realização de estudos que permitam aprofundar o conhecimento e a avaliação das políticas de acolhimento e integração de requerentes e beneficiários de proteção internacional em Portugal;

l) Sensibilizar a opinião pública e assegurar a formação das entidades de acolhimento e seus parceiros;

m) Reportar mensalmente à formação restrita do Grupo Operativo Único, em articulação com o SEF, a informação relativa aos requerentes e beneficiários de proteção internacional com paradeiro desconhecido.

15 — Determinar que o SEF, no quadro das respetivas atribuições e para efeitos da sua participação na formação restrita do Grupo Operativo Único deve:

a) Disponibilizar às organizações internacionais e aos requerentes e beneficiários de proteção internacional a informação produzida pelo Grupo Operativo Único sobre o quadro jurídico dos requerentes e beneficiários de proteção internacional em Portugal e sobre o respetivo sistema de acolhimento;

b) Garantir apoio aos requerentes de proteção internacional até à decisão de admissão do pedido, em articulação com o ACM, I. P., mediante protocolo a celebrar com entidades públicas ou particulares;

c) Garantir o apoio de proteção internacional às crianças e jovens estrangeiros não acompanhados, até à decisão de admissão do pedido, em articulação com o ACM, I. P., nos termos da Lei n.º 147/99, de 1 de setembro, na sua redação atual, nomeadamente quanto à promoção e proteção das crianças e jovens e respetivo acolhimento;

d) Facultar à formação restrita, juntamente com o ACM, I. P., os perfis dos requerentes e beneficiários de proteção internacional, no âmbito de programas de apoio, designadamente de

recolocação e reinstalação, sempre que possível, com a antecedência de 30 dias a contar da data da respetiva chegada a Portugal, bem como de todos os outros pedidos de proteção internacional após a sua chegada ao território nacional;

e) Facultar ao Grupo Operativo Único, com a maior antecedência possível, os perfis e datas de chegada a território nacional de indivíduos transferidos, designadamente ao abrigo do Regulamento Dublin;

f) Assegurar, de acordo com a lei e nos termos a definir por protocolo, a transferência, para o ACM, I. P., das verbas da União Europeia destinadas aos pagamentos unitários a gerir pelas entidades de acolhimento e parceiros de apoio à integração nos termos da alínea i) do número anterior, bem como assegurar o financiamento do processo de seleção e deslocação das pessoas reinstaladas;

g) Emitir toda a documentação necessária à instrução dos processos para efeitos de reembolso, através dos mecanismos de financiamento da União Europeia, no prazo de 20 dias úteis.

16 — Determinar que o ISS, I. P., no quadro das respetivas atribuições, e para efeitos da sua participação na formação restrita do Grupo Operativo Único, deve:

a) Garantir respostas aos requerentes de proteção internacional, com decisão de admissão, incluindo os pedidos de crianças não acompanhadas, no âmbito da rede de apoio disponível;

b) Prestar apoio social aos requerentes de proteção internacional titulares de autorização de residência provisória e beneficiários de proteção internacional, em situação de carência socioeconómica, após a cessação dos apoios financeiros garantidos na fase inicial de admissibilidade ou findos os programas de apoio e integração em território nacional;

c) Apoiar financeiramente, através de acordos de cooperação, as entidades de acolhimento;

d) Garantir respostas aos requerentes de proteção internacional em situação de recurso da decisão de não admissibilidade do pedido de proteção internacional, ou da decisão de transferência para outro Estado-Membro da União Europeia, no âmbito da rede de apoio disponível;

e) Apoiar socialmente os requerentes de proteção internacional em situação de recurso da decisão de não admissibilidade do pedido de proteção internacional, ou da decisão de transferência para outro Estado-Membro da União Europeia;

f) Garantir o acolhimento e integração aos requerentes e beneficiários de proteção internacional que sejam retomados a cargo ou readmitidos finda a vigência dos respetivos programas de apoio, que se encontrem em situação de carência socioeconómica;

g) Apoiar os requerentes e beneficiários de proteção subsidiária ao nível judiciário para efeitos da interposição do recurso, no âmbito do disposto na Lei n.º 27/2008, de 30 de junho, na sua redação atual;

h) Assumir a responsabilidade, até 15 dias, ou excecionalmente até 30 dias, após sinalização em reunião do Grupo Operativo Único, quanto ao disposto nas alíneas a), b), d) e e), sendo essa responsabilidade partilhada com a SCML, no âmbito dos respetivos Estatutos, nos termos e condições a regulamentar em protocolo específico entre as duas entidades.

17 — Estabelecer que o financiamento do ACM, I. P., destinado à política de acolhimento e integração de requerentes e beneficiários de proteção internacional é assegurado, preferencialmente, por fundos europeus disponíveis para apoiar os Estados-Membros, e complementado por verbas do Orçamento do Estado, se necessário.

18 — Determinar que a Secretaria-Geral do Ministério da Administração Interna e o ACM, I. P., estabelecem mecanismos de coordenação e articulação no que respeita à definição de orientações técnicas, à avaliação e à programação da abertura de avisos no âmbito da gestão técnica e financeira das verbas inscritas em fundos e instrumentos financeiros da União Europeia, nomeadamente o Fundo para o Asilo, a Migração e a Integração, bem como outros considerados adequados para o efeito, de modo a garantir uma maior eficácia e eficiência no âmbito do acolhimento e integração de requerentes e beneficiários de proteção internacional.



19 — Estabelecer que o Grupo Operativo Único é constituído pelo prazo de cinco anos a contar da data da entrada em vigor da presente resolução, sem prejuízo da possibilidade de prorrogação do respetivo mandato.

20 — Determinar que a informação constante da base de dados a que se refere a alínea j) do n.º 14 é efetuada em conformidade com o disposto na Lei n.º 58/2019, de 8 de agosto.

21 — Estabelecer que os membros do Grupo Operativo Único não auferem qualquer remuneração pela participação nas respetivas reuniões.

22 — Determinar que os instrumentos em vigor no âmbito do acolhimento e integração de requerentes e beneficiários de proteção internacional devem ser adaptados ao disposto na presente resolução.

23 — Revogar o Despacho n.º 10041-A/2015, publicado no *Diário da República*, 2.ª série, n.º 172, de 3 de julho.

24 — Determinar que a presente resolução entra em vigor no dia seguinte ao da sua publicação.

Presidência do Conselho de Ministros, 5 de novembro de 2020. — O Primeiro-Ministro, *António Luís Santos da Costa*.

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