



**SCHOOL OF ECONOMICS AND REGIONAL STUDIES**

**DEPARTMENT OF BALKAN, SLAVIC & ORIENTAL STUDIES**

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Becoming a Street-Level Bureaucrat: Aspects of discretion in asylum decision-making. An autoethnography of a caseworker in the Greek Asylum Service.

by

Maria Nektaria Karastergiou

Supervisor: Eftihia Voutira, Professor

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## **Abstract**

Drawing on the theoretical concept of the street-level bureaucrats and with the methodological vehicle of autoethnography, this thesis attempts to examine how asylum caseworkers perceive their role and exercise discretion in their everyday work through the refugee status determination process. For this purpose, I draw on my personal experience as an asylum caseworker in the Greek Asylum Service for four years, since 2015, on the mainland and the Greek islands, and observations in one of the most complicated and challenging bureaucratic services of the public administration, which began to operate in the same breath of the so-called “European refugee crisis”. The study offers insights into the dilemmas, challenges, uncertainties and conflicts inherent in the asylum decision-making process, and explores how caseworkers establish mechanisms to manage the above tensions that are produced in the realities of everyday practice.

**Keywords:** Street-level bureaucracy, autoethnography, discretion, asylum decision-making, refugee status determination

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## List of main acronyms and abbreviations

APD (recast)	Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection
CEAS	Common European Asylum System
COI	Country of Origin Information
EUAA	European Union Agency for Asylum (European Asylum Support Office (EASO) until 2021)
ECHR	European Convention on Human Rights
EU	European Union
GAS	Greek Asylum Service
NGO	Non-Governmental Organization
QD (recast)	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
RAO	Regional Asylum Office
RSD	Refugee Status Determination
SLB	Street-level Bureaucrat
SOPs	Standard Operational Procedures
UNHCR	United Nations High Commissioner for Refugees

## **Introduction**

In October 2015 I was hired by the Greek Asylum Service (GAS) as an international protection caseworker in the newly established office of Samos, an island in the Northwestern Aegean Sea. The urgent recruitment call was the result of the upsurge in arriving asylum seekers to the Greek shores that brought unprecedented pressure to the operation of the Service. Under the emergency of the so-called European “refugee-crisis” me and other novice caseworkers were trained in the procedure for a short period and we jumped in at the deep end of the asylum bureaucracy. Asylum adjudication is one of the most complicated and challenging functions in the field of human rights and is considered highly controversial due to its political dimensions. Ideally, in the asylum system it should not matter which caseworker makes the decision on a particular asylum application and the final outcome of similar cases should be consistent. It would be assumed that as long as all caseworkers strictly apply the rules, laws, guidelines and follow the principles transmitted at the training, the system will operate in a fair and consistent way. However, according to the relevant reports (see i.e., EASO, 2021, p.205), the divergence in the recognition rates among EU countries since the beginning of the “refugee crisis” shows that the “Asylum lottery” is a persistent phenomenon and one of the flaws in the implementation of the Common European Asylum System (CEAS). Asylum seekers under the same profile can even become recipients of different decision not only in different EU member-states, but also in the same country or the same regional office (Lyons & Brewer, 2018; Schneider & Riedel, 2017). This fact is a basic argument on the critique that asylum decision-making is mostly the outcome of highly subjective views and arbitrary use of discretion by the caseworkers.

This study is an autoethnography that draws directly from my personal experience as a caseworker and the observations in the field and provides an inside perspective to the action of asylum decision – making. In order to understand how the asylum bureaucratic policies work in practice I set as a starting point of examination the seminal work of Michael Lipsky on street-level bureaucrats and their exercise of discretion in policy implementation. I am mainly interested in highlighting the extra-legal factors that shape the discretion of caseworkers and the impact on the way they perceive their role, the sense of duty and responsibility. Moreover, I emphasize on the individual and the collective practices and routines caseworkers develop to strike a balance between organizational demands and being responsive to the individual needs of the asylum seekers.

This thesis is divided into three parts. The first part, outlines how my personal experience as an asylum caseworker at the GAS shaped my research questions and what methodological concerns arise in an autoethnographic approach. In addition, a brief discussion of the research relationship between anthropology and the topic of bureaucracy is attempted. This chapter, concludes by outlining the basic features of the street-level bureaucracy theory and discretion as perceived and analyzed by Michael Lipsky. The second part, introduces readers to the Greek Asylum Service, its mandate and organisational structure. It also provides the legal and procedural context of the refugee asylum determination and describes the daily workflow of caseworkers to deliver the first-instance decision on the application for international protection. The final part, focuses on the field of decision – making where the structural dilemmas, the tensions and contradictions are inscribed. Specifically, the analysis draws on the ambiguity that arises between the initial training of caseworkers and the practice of decision-making in the field, the differences in working environments and the perception of “crisis” both in an island office and an office in mainland, and the conflicting performance demands embodied in the “quality and quantity” scheme.

# **PART I: Methodology and Theoretical Framework**

## **1.1. Notes on the Methodological Approach**

*March 2016, Samos Island*

*“How do you feel that you are witnessing history in the making?”, a UNHCR associate asked me once during a shift on the Hot Spot of Samos, a few hours after the intense and violent end of a refugee protest against the delay of the police in the issuing of documents that would allow them to leave the place and move freely to the mainland to reach their destinations in various European countries. I wasn’t sure about my feelings at that moment as I had never been so close to a human tragedy. Moreover, in a place which turns to be the front-line of a “battlefield” research curiosity pushed me to record for study everything around but also nothing at the same time. After several months on this “battlefield”, her question made me wonder whether I could reverse the research lens around from the “usual” subjects to myself and maybe to my colleagues that were experiencing the same situation: the feeling of being unprepared to make important decisions about the lives of people who suffer.*

At the beginning of my work as an asylum officer, I did not think of my job as a potential study project. I believed there were far more intriguing and vital issues for someone to record and analyze in the middle of an unprecedented “refugee crisis” as it was mostly called. Keeping scattered notes of random incidents that I have experienced and people I have met was part of a habit that I followed from the beginning of my employment on Samos Island to keep track of things that I didn’t want to forget or I was unable to understand at that time. “Understand what? Such cognitive ambition is misplaced” in a site that has been through such a deconstruction, Papataxiarchis (2016a&b) admits in his ethnographic dispatch in “Being There”, concerning another landmark “battlefield”, Skala Sykamnias in Lesvos, during the refugee flow of 2016, and I couldn’t agree more.

The idea to focus on the insights of the asylum bureaucracy regarding decision-making was evocatively stimulated during the period I was a team leader of newly hired asylum caseworkers in 2020-2021 and I had the chance to reflect through my colleagues on my beginning journey in this field. Therefore, as an attempt to understand my involvement in the so-called European “refugee crisis”, the present study, as the title

indicates, is an autoethnography. The data and analysis draw from my personal experiences and memories as an asylum caseworker for a period of nearly four years extending from October 2015 to October 2021. During those years I was employed by the Greek Asylum Service mainly as a caseworker and in 2020 as a caseworkers' team leader at the Regional Asylum Offices (RAOs) of Samos, Thessaloniki, Lesvos and also at the Lagkadikia refugee site. Samos and Lesvos are considered two of the main entry points for asylum seekers to the EU, the biggest "hotspots" of the five islands (along with Chios, Leros and Kos) and have experienced the peak of the vast influx of 2015-2016. Thessaloniki's RAO is the second largest office on the mainland which always had to deal with a massive overload of cases, covering almost all the region of Northern Greece.<sup>1</sup>

Autoethnography embraces subjectivity and emotionality to the extent that it is needless to declare that everything written in this thesis is about my perceptions, experiences, ideas, judgement, emotions, viewpoint and under no circumstances should it be assumed that the Greek Asylum Service endorses or accepts the content of this study. However, a request was first made to GAS to formally ensure permission for writing this study, as all the employees are subject to a specific set of confidentiality restrictions. Since my study does not include formal interviews with employees or asylum applicants or does not project personal information from interviews and other proceedings, I have been assured that no special permission is needed. Yet, living and working in an environment for so long where the principle of confidentiality is of utmost importance has been a constant internal barrier to the development of my ideas and analyses on what can and what cannot be written. The study of other asylum ethnographies and research helped to some extent in overcoming the "institutionalized" perception (i.e. Dahvilik, 2018; Eggebø, 2013; Gill & Good, 2019; Graham, 2002). Studying bureaucracy highlights many methodological dilemmas for the researcher (Deeb & Marcus, 2011). Studying yourself while becoming a bureaucrat raises awareness of the nature of those dilemmas and helps in formulating your approach accordingly.

As a method, autoethnography is characterized both as a process and a product and it combines observational, participant and reflexive research (Ellis et al, 2011). Recalling was a basic data resource during the writing and research progression. Thus, there are several narrative excerpts throughout this paper looking at my direct experience

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<sup>1</sup> For some time, I also worked for the "Dublin" and "Relocation" divisions as a registration officer according to the procedural demands.

and accordingly are framed by the theoretical tools and existing scholarly literature. Furthermore, data gathering, besides participant observations, includes conversation engagement with GAS colleagues and members of other institutional actors, informal interviews, the experience of everyday office life, the discussions around critical changes, conditions in the organization and the decision-making process. Conducting formal interviews with colleagues who also were employed as asylum caseworkers would surely broaden the scope of the research data and analysis but at the same time it would raise several limitations that would modify the purpose of this paper where hitherto the potential of my reflective capacity is registered.

At this point, a note should be made to the use of some specific concepts, clarifying the following: The officers whose duty it is to conduct the interview with the asylum seekers, evaluate the evidence and write the first instance decision are called in Greek “χειριστής/τρια” (chiristis/tria), meaning the one who deals with or handles an asylum case. For this thesis, the words asylum “caseworker” and “decision-maker” have been chosen. The first is the closest translation to the Greek term and the second is closer to the context of the Street-level Bureaucrat. Also, the bureaucratic definition “asylum seeker/applicant” will be employed as the study focuses on the asylum administrative procedure and thus emphasizes the etic terminologies that the caseworkers use (Voutira, 2003). The dichotomous categories “refugee” or “migrant” are avoided by GAS as they imply the outcome of the final asylum decision. Applicants can be recognized as refugees or are entitled to subsidiary protection, otherwise, their application is rejected as unfounded. Until the final decision, all applicants are considered asylum seekers/applicants who are out of their country of origin or are stateless. After all, the “humanitarian” bureaucratic universe wherein asylum seekers are “processed” includes a multitude of terms according to the agency involved in their case. They are “foreigners” (allodapoi) for the Police, “patients” for the medical aid organisations, “incidents” (peristatika) for the social workers and healthcare providers, “beneficiaries” and “POCs” (Persons of Concern) for several humanitarian aid organisations. As Rozakou (2012, p.572) suggests, “the bureaucratic and humanitarian production of the refugee initiated new significations and internal differentiations”.

## 1.2. Notes on Bureaucracy

July 2016, Northern Greece

*“The Mass Pre-Registration Program that took place between June-August of 2016 at two locations in Northern and Southern mainland was one of the most challenging and demanding operations that was ever organized by GAS with the support of UNHCR, EASO and some of the most active NGOs in the refugee field. The specific large-scale exercise aimed at registering the nearly 50,000 asylum seekers who lived on the mainland and providing them with a temporary asylum card which would allow them to legally reside in Greece pending the full lodging of their asylum application. This mapping exercise identified those who were eligible for family reunification or relocation to other EU member-states, as well as hundreds of unaccompanied or separated children who were referred to the in-charge government entity of the National Centre for Social Solidarity. The working conditions were more than difficult. We were working in a huge tent that had been set up for this purpose, in temperatures of more than 38 degrees daily, exceeding working hours and with lots of problems resulting from the lack of important and necessary resources. In spite of these harsh circumstances, we were under great pressure to ensure a speedy procedure with the least possible errors.*

*A month had passed since the beginning of the exercise and we were already suffering from exhaustion and brain fog caused by a work routine demanding from each of us to provide service to more than fifty people each day. One day, while I was taking a short break with a colleague, a young woman working for an NGO started a chit-chat with us. After some minutes she asked which organization we worked for. “For the Greek Asylum Service”, we answered. “So, you are the State”, she replied with a tone of contempt and disdain. It sounded so unflattering and we finished our break wondering how it was possible for someone to identify with the State people who work so hard and with such dedication and sensitivity. I have to admit that it took me a long time while working at the Greek Asylum Service, to realize that I should consider myself simply a bureaucrat, a term that is by no means a compliment.”*

In general, the term bureaucracy has a negative connotation and although the bureaucratic organization can be found in both public and private institutions it is closely connected to the State. An internet search for current meanings of the term “bureaucrat” delivers as its first result the definition by the *New Oxford Dictionary of English*: “an

official in a government department, in particular one perceived as being concerned with procedural correctness at the expense of people's needs." The example given with the term is: "the unemployed will be dealt with not by faceless bureaucrats but by individuals". Additionally, Dictionary.com defines a bureaucrat as "an official who works by fixed routine without exercising intelligent judgment". Faceless, rigid, impersonal, rule-bound, strict adherence to standard procedures, lack of flexibility, devotion to details, complexity, a highly specialized division of labor, permanence, legal authority, and hierarchical structure are some of the attributes that fit the stereotypical idea of the Weberian bureaucracy.

Max Weber was the first who formally used and described the term bureaucracy and accurately predicted that the bureaucratic model would be the defining institution of the modern state as a result of the inevitable rationalization of societies. Under his perspective, bureaucracy, compared to other forms of organization, is more advanced because of its purely technical superiority which ultimately ensures efficiency and effectiveness. The ideal type of bureaucracy for the sociologist was a predominantly rationalized and dehumanized system of impersonal procedures and regulations that would reduce uncertainty, malfunctions, inequalities and the role of personal status or power (Kumar, 2016; Serpa & Ferreira, 2019; Sharma & Gupta, 2006). Weber praised the de-humanized bureaucrat who works as a cog by eliminating "love, hatred, and all purely personal, irrational, and emotional elements that escape calculation" (1981, p.21, as cited in Eggebo, 2013). Yet, he was concerned that bureaucrats' control over resource distribution would bring them a level of power that would exceed that of the sovereign (Hoag, 2011).

Is a bureaucrat a "kind" of person, the one that takes just decisions by renouncing humanness and by religiously and unimaginatively following rules and laws like a rigid automaton, part of a unified state apparatus? And did this "kind" manage to attract the ethnographic interest of anthropologists? Bernstein and Mertz (2011) identified anthropologists' slow inclination, without ignoring the notable exceptions, to recognize state bureaucracy as an ethnographic site and bureaucrats as members of a complicated realm of the social act and political action. They imply that for many anthropologists Carl Schmitt's (1985) resonant claim on sovereignty and exception has been notably influential to share a disdain for everyday maintenance of the state. Outside of standard and simplistic frameworks, anthropologists and bureaucrats seem to have more common

than they romantically and rebelliously against routinization believe, as they usually work for universities and other development agencies and definitely, they are not insusceptible to the effects of the bureaucratization of society and daily life. Furthermore, in policy implementation bureaucrats are expected to maintain objectivity just as anthropologists were expected to do so in their research mostly at the past (Hoag, 2011).

The American anthropologist David Graeber, in his lecture under the title “Beyond Power/Knowledge: an exploration of the relation of power, ignorance and stupidity” at LSE (2006), began by narrating the horrendous experience he endured in a form-filling to place his mother in a nursing house. He argued that although the world is faced with over-bureaucratization which repress (revolutionary) imagination and creativity, ethnography has largely ignored bureaucracy and its implications in people’s everyday life. However, he cites the work of the anthropologist Michael Herzfeld (1993) on the “Social Production of Indifference”, a study that critically examines the symbolic practices of bureaucracy. For Herzfeld, bureaucratic indifference equals the “rejection of common humanity” as people once they are placed behind a desk become humorless automatons, racists and bigots, careless of human needs and plight (p.1). Part of his ethnographic evidence draws from his fieldwork in Greece which exhibits two opposed images: hospitality, on the one hand, and a hostile and indifferent bureaucracy towards clients, on the other. Two models that reflect the constant identity crisis of modern Greece between “Europe”, the home of rationalization, and the passive fatalism of the “Orient”. Whereas Herzfeld’s empirical study does not address bureaucracy’s historical and cultural characteristics at the locations of his interest, his work is significant for the study of symbolic power and its theoretical input to the anthropological study of bureaucracy (Gefou-Madianou, 1997).

Apart from “dangerous” bureaucracies, anthropologists have engaged gradually but critically with this subfield in recent years. There is an expanding interest in bureaucracy which enriched the ethnographies of everyday working of the state. Ethnographic approaches, such as “anthropology of organisations” (Wright, 1994) that question the existing traditional bureaucratic structural models and the managerial culture, from NGOs through government agencies to private corporations both in the West and developing countries, or “anthropology of state” (Sharma & Gupta, 2006) which focus on state forms of representation and everyday practices between bureaucrats and clients, are offering valuable insights into the complexity of this field of inquiry.

At the query of whether bureaucrats should be perceived in an analytical context as a “kind” of a person, Bernstein and Mertz (2011) promote the idea to see them as individuals who sometimes engage in a kind of activity and just like people “in all sorts of other settings, constantly make decisions, interact with others, exceed their own control” (p.7). Colin Hoag (2011) suggests that if anthropologists want to assist in building better bureaucracies for the marginalized people, “those in particular anthropologists often study”, they cannot disregard the way bureaucrats think and act without “reifying their own idealized self-representations” (p.84). For this purpose, rather than debunking and deconstructing bureaucracies, they should draw their research attention to the street-level bureaucrats.

### **1.3. The core elements of the Street-level Bureaucracy theory**

*February 2016, Samos Island*

*I honestly cannot recall the exact context of the discussion we had with a senior colleague and a very experienced caseworker that day, but I was certainly complaining about the unacceptable behavior I received from a certain police officer at the Hotspot as he greatly underestimated the importance and the urgency of a procedural request that I had to carry out but specific actions, on behalf of the local police department, had to precede. The colleague laughed and applied “Don’t you know what we say? Greek Asylum Service is considered to be the State for NGOs while for the State GAS is another NGO”. I didn’t have the empirical tools back then to understand this “catch-phrase”, but it definitely rang my bell. In the next years as an asylum officer, I recalled his saying on many occasions and giving it every time different interpretations.*

Street-level bureaucracy theory attracted my interest when I realized that a well-suited explanation for the above could be possible in what Lipsky points out as a paradoxical reality that is hinted at through the phrase: “bureaucracy implies a set of rules and structures of authority, while “street-level” implies a distance from the center where authority presumably resides” (2010, p.xii).

Michael Lipsky’s concept of street-level bureaucrats (SLBs) is the departure point for this thesis. In this part, we will briefly outline the basic features of the street-level

bureaucracy (SLBy) context, which contributed significantly to the field of public policy analysis as it attempts to elucidate the complexity behind certain aspects of bureaucratic work. In his seminal book, which has been cited by thousands of scholars and researchers since its first edition in 1980 (Google Scholar), he defines street-level bureaucrats as “public service workers who interact directly with citizens in the course of their jobs, and who have substantial discretion in the execution of their work” (Lipsky, 2010p. 3). The public service agencies that employ a significant number of them in their workforce are the Street-level bureaucracies. The daily and direct connection with ordinary clients renders SLBs the “human face” of public services and of government policies as they are tasked with making critical decisions based on their assessments of people’s cases and issues. Some typical examples of street-level bureaucrats are front-line practitioners such as social and welfare workers (Evans & Harris, 2004), legal-aid lawyers, police officers (Bronitt & Stenning, 2011), public school teachers, rehabilitation counsellors, health providers and border guards (Achermann, 2021). They are normally regarded as low-level employees who actually deliver the policy constructed elsewhere by high-ranking administrators and they are authorized to allocate benefits, assess compliance and eligibility, or impose fines. In most cases, decisions that depend on the judgement of the SLBs have a profound impact on people’s lives. While there is a collective perception and experience of public policy as a single concept, i.e., education and healthcare, the SLB approach tries to explain how these public policies “result from the aggregation of the separate actions of many individuals” (Lipsky, 2010, p.xiii).

In the preface of the 30<sup>th</sup> anniversary expanded edition (2010), Lipsky clarifies that it was not his intention to include under the term of SLB all the frontline public servants as not everyone is confronted with stressful and demanding work environments with a heavy caseload, the kind that he focuses on. Although there are various types of public servants, unrelated and diverse from each other, their work within the concept of street-level bureaucracy has specific common denominators which, according to Lipsky, allow for recognizing common behavioral outcomes (2010, p.xx). Despite their diversity, SLBs’ work embodies a critical contradiction (p.xii):

“On the one hand, the work is often highly scripted to achieve policy objectives that have their origins in the political process. On the other hand, the work requires improvisation and responsiveness to the individual case. [...] Essentially, all the great reform efforts of the last thirty years to

improve performance or accountability in street-level public services may be understood as attempts to manage this apparently paradoxical reality: how to treat all citizens alike in their claims on government, and how at the same time to be responsive to the individual case when appropriate.”

To deal effectively with the challenges, the dilemmas, the uncertainties, and the pressure to reach the agency’s requisite objectives and orientation under certain rules and guidelines on one hand, and the client’s needs on the other, street-level bureaucrats act and make their decisions by developing shortcuts, coping mechanisms, procedural simplifications and routines that ultimately influence their decision outcomes and generating a gap between “policy as written and policy as performed” (Lipsky, 2010, p.xvii). The crafting of coping mechanisms by street-level bureaucrats is related to the fact that they have limited resources at their disposal, such as time, information, or any other means that would facilitate the smooth and effective conduct of their challenging existing working conditions. This procedure allows the mass processing of their clients while at the same time SLBs retain the ideal that they handled every case in a tailored and fair mode.

Central to Lipsky’s analysis of policy implementation is that street-level bureaucrats exercise “wide discretion in decisions about citizens with whom they interact” (p.13). SLBs, who face the particular work situations as mentioned, enjoy “a relatively high degree of discretion and a relative autonomy from organisational authority” and they have extensive flexibility in determining the nature, amount, and quality of benefits and sanctions provided by their agencies (p 13). Discretion is a distinctive and crucial component of the daily decision-making of public servants as Lipsky sees it not only as a common and widespread practice that cannot be avoided but also as necessary for welfare bureaucracies (Hill & Hupe, 2009, p. 3). This should not be interpreted as unrestrained freedom of acting. The discretionary practices of SLBs significantly result from the formal structure of the authority they serve. As public servants, they have to apply to individual cases rules, guides and legislation that in most cases consist of rather abstract general principles, are open to wide and multiple interpretations, comprise complexity, conflict and ambiguity, and very often are subject to ongoing modifications. Lipsky argues that discretion derives largely from SLBs’ work which is “too complicated to reduce to programmatic formats” in addition to the difficulty of supervising their actions and behaviors or being scrutinized by clients (p.15).

Moreover, human judgement is part of the nature of the services SLBs provide and sensitive observation of individuals' special circumstances that cannot be predicted is more necessary than impartiality. Many scholars participated in a longstanding debate on the degree, the nature and the direction of discretion and contributed significantly to the development of the concept as will be seen next.

For Lipsky, policy-making ultimately takes place at the street-level of an agency: “the decisions of SLBs, the routines they establish, and the devices they invent to cope with uncertainties and work pressures effectively become the public policies they carry out” (p, xiii) and clients experience a state policy as the decision that the SLB made about their personal case. The policy “as delivered” may sometimes even contrast with the one officially expected by the agency, as the reality makes compliance unrealistic (Gilson, 2015). To comprehend this, we must first find out how the rules are perceived by employees, the degree of flexibility they have in acting on their preferences, and what additional pressures they face (p.xiii). Thus, Lipsky’s approach to SLBs goes beyond the Weberian bureaucratic notion of accountability and a devoid of individual initiative implementation which only provides increased power and responsibility “at the top” and a reduced and controllable discretion “downwards”. In fact, he gives prominence to a public policy which is rather implemented and executed bottom-up by SLBs. In the field of public administration, Lipsky is identified as the one who laid the groundwork for the so-called "bottom-up" perspective, the shift from government to governance (Hupe & Hill, 2007).

In the asylum and migration administration field some significant empirical studies examine the decision-making and put stress on Lipsky’s front-line state officials and their everyday practices (see, for instance, Affolter, 2021; Alpes & Spire, 2014; Dahlvik, 2018; Giacomelli, 2021; Liodden, 2019; Hoog, 2018; Schneider, 2019). My own small contribution through this paper to this field of research coincides with the above studies and with the importance they highlight, as Affolter (2021, p. 4) puts it, “to study not only what decision-makers do, but to also analyze what makes them do what they do”.

## **PART II. The Context of Asylum Refugee Status Determination**

This chapter concisely introduces readers to the Greek Asylum Service, its mandate and organisational structure. It also provides an outline of the daily procedure caseworkers follow in order to complete the cases they are assigned to, that is to deliver the first-instance decision on the application for international protection. The description of caseworkers' workflow allows to comprehend the legal and procedural framework in which caseworkers develop discretionary practices and rationalities.

### **2.1. The Greek Asylum Service**

By the end of 2015, when I joined GAS, nearly 1,3 million people had fled to Europe by sea and applied for asylum in the 28 EU member-states. In addition to Mediterranean crossings, tens of thousands reached Greece and Bulgaria through Turkey (Pew Research Center, 2016). The so-called “European refugee crisis” involved the highest number of displaced people on the continent since the war in former Yugoslavia and the dissolution of the Soviet Union during the early 1990s. More than half of those who arrived in Europe trace their origins mainly from Syria, Afghanistan, Iraq, while a significant proportion originated from Somalia, Eritrea, Pakistan, Nigeria and Iran due to severe conflicts, political upheaval, deteriorating security and poverty in the Middle East, Africa and Southeast Asia. The Mediterranean route that year deprived the lives of more than 3,700 people in search of protection and safety who either died or were reported missing. Greece was the entry point to Europe for about 850,000 people, and “open” borders, the implicit acceptance of crossings to northern countries through the Western Balkan route, allowed for most of the onward movement (UNHCR, 2016). Consequently, the highest number of first-time asylum applicants was registered by Germany which was the primary destination for many of the asylum seekers (Eurostat, 2016). At that time, Greek Asylum Service had only been in operation for two and a half years, and the sudden excessive increase in the number of asylum seekers challenged the capacity of both the asylum and reception systems.

The Greek Asylum Service, staffed by civil servants, has been established under law 3907/2011, adapting to Directive 2008/115/EU “on common standards and

procedures in the Member States for returning illegally staying third-country nationals”. Following a highly regulated procedure, the organization applies national, European and international legislation to abide by the country’s obligations regarding the provision of international protection for individuals that meet the grounds for the granting of refugee status established by the 1951 Refugee Convention. As public authority of a European member state, GAS adopts the regulations and the directives established under the scope of the Common European Asylum System (CEAS) which sets down common procedural standards to ensure that asylum seekers will be treated equally in a fair asylum system and with a dignified manner wherever they apply among EU countries. An important role in the development and implementation of the CEAS is played by the European Union Agency for Asylum, until 2021 known as EASO, (European Asylum Support Office). The agency operates in Greece since 2011, after a request by the Greek government, providing various forms of support (technical, operational, training) both in the GAS and the First Reception Service (EUAA, n.d).

The Greek Asylum Service receives, examines and decides at first instance on all filed applications for international protection and also significantly contributes to the formulation and implementation of policy regarding this field. The GAS started its operation in June 2013, the same year in which the Greek authorities under “Operation Aspida” (“Shield”) enhanced the border controls by constructing a barbed-wire fence along the Greek-Turkish land border. Its first premises were opened in Attica, Lesbos and Evros but it expanded fast during the next years by establishing more than twenty Regional Asylum Offices (RAO) and Asylum Units in several locations throughout the country. The structural model as well as the hierarchical order of the GAS also expanded and reshaped over recent years. The planning and policy-making of the asylum process as well as the monitoring and evaluation of its implementation is under the competency of the General Asylum Directorate, located in Piraeus along with the Ministry of Migration and Asylum to which it currently belongs (Greek Asylum Service, n.d.).

Since the mid-2000s there has been an imperative need for a reformed asylum policy and the creation of an autonomous public agency that would exclusively undertake the overall asylum procedure. Since then, the Police Directorate for Foreigners (Allodapon) was in charge of the examination of first-instance degree asylum applications, and it was strongly criticised, both inside Greece and abroad, by European and international organisations as immoral, violent and dangerous in its implementation

(Σίμογλου, 2018; Cabot, 2014).<sup>2</sup> Push-backs, illegal deportations and detentions including families with children and unaccompanied minors, a total absence of procedural safeguards, denial of access to the asylum procedure, racist attacks and tens of thousands of asylum seekers trapped in a constant limbo regime were the typical characteristics of this period (UNHCR, 2009; ΥΑ ΟΗΕ για τους Πρόσφυγες, 2011; Διεθνής Αμνηστία, 2013). This precedent was a significant element that affected the initial organisational culture of the GAS, as will be discussed below.

Since 2011 the Asylum Law has been amended several times and so did the internal Standard Operational Procedure (SOPs) guidelines, an indication of the volatility of the asylum field. It is also noticeable that as a public administration service, the GAS has been transferred under the authority of different Ministries during the last decade. In brief, the Service was initially part of the Ministry of the Citizen's Protection (2011). In 2015, the Ministry of Interior and Administration Reconstruction followed until the establishment of the first Ministry of Migration Policy in Greece (P.D. 123/2016). The latter was abolished in July of 2019 by the new right-wing government and GAS was once again integrated into the Ministry of Citizen's Protection. Six months later the Ministry of Migration and Asylum was re-established as a "corrective action" to the former decision which caused a lot of operational complications (Ελληνική Δημοκρατία, Πρωθυπουργός, 2020). These continuous and successive changes undeniably leave their political imprint but also help us understand how the management of the refugee issue is perceived by the respective governments.

## **2.2. The job of an Asylum Caseworker**

Asylum caseworkers are required to adhere to certain guidelines and to adopt a typical workflow based on the internal SOPs and the relative legislation. In order to offer some insights into the complexity of the everyday work of caseworkers, an outline of the framework in which the process of asylum decision-making takes place will follow. Bringing into light the formal and informal requirements and main duties of the job is necessary to identify the coping mechanisms and routines that asylum caseworkers

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<sup>2</sup> In her ethnography, Cabot (2014) describes in detail the legal gap and the uncertainty that characterized refugees and immigrants' condition since 2000.

develop to reach the institutional targets. This job description provides the background information for an analysis of the connections between this process and the function of street-level bureaucrats and the discretion practices available to them.

The formal requirements and the duties of the asylum caseworker are spelled out in the Regulation on the Operation of the Asylum Service (Y.A. 6416/25.7.2014). The main tasks of a caseworker, which are at the core of the mission of the Asylum Service, are two: First, through the interview process, to clarify the reasons why the applicant is seeking international protection from Greece. The caseworker must create the appropriate conditions, ask the appropriate questions and have the appropriate attitude so that the applicant can state in detail and in full the above reasons. The interview is considered the cornerstone of the asylum procedure and is the only situation where the caseworker and the applicant enter into direct interaction. Secondly, based on the interview process, their knowledge, and information about the countries of origin, caseworkers should draw conclusions and finally make a decision on whether an asylum seeker should benefit from international protection, namely whether a person should be granted refugee status or subsidiary protection status. Drawing on the 1951 Geneva Convention, the Greek law 4636/2019 on International Protection and other provisions (adapted to Qualification Directive recast) defines refugees as (Art.2 (e)):

“a third-country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it.”

For asylum seekers who do not meet the criteria of the refugee definition the EU legislation (Art.2 (f), QD recast), and within the agenda of CEAS accordingly the Greek Asylum Law, provide an alternative form of protection, the “subsidiary protection status” concerning:

“a third-country national or a stateless person who does not qualify as a refugee but [...] would face a real risk of suffering serious harm [...] of being subjected to a death penalty, torture or other inhuman or degrading

treatment or punishment upon return to his or her country of origin [...] and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country."

It is obvious that the two tasks are interrelated and that the interview process is the basis for the decision, as an improper interview process will most likely lead to a misjudgment. Caseworkers have the obligation to submit in writing all decisions they have reached on the cases that had been assigned to them. The coordination of caseworkers is usually assigned to a team leader, responsible for the implementation and observance of the interview schedule, the resolution of problems arising during the process of examination of applications for international protection, the ensuring of the legality and quality of decisions and generally assisting caseworkers in the performance of their duties.

Regarding basic skills and requirements, all the decision-makers should be at least university-level graduates, have a very good knowledge of the English language and have received appropriate training on Greek, European and international legislation on international protection. Additionally, those who conduct interviews with unaccompanied minors shall have the necessary knowledge of the special needs of minors, where possible. Like all the employees of the GAS, caseworkers must be familiar with the technology as all the data of the file of a case, as well as the issuance of the relevant administrative documents, proceed through a particularly complex electronic database. They must follow the rules of the "Code of ethics and professional conduct for public sector employees". The majority of the caseworkers during the initial operation of the GAS belonged to the permanent staff, mostly coming from other public services, but this was soon overturned as several temporary contract workers were recruited and these are currently constituting the largest part of the workforce. When I first applied for the position of caseworker in the GAS, the job invitation (ΣΟΧ 2B/2015) for hiring temporary personnel highlighted that the recruited staff is called upon daily to work with foreign asylum seekers and beneficiaries of international protection, who come from many different countries and have very different cultural and educational backgrounds without providing further information about the job duties.

### **2.3. The daily workflow**

As with every bureaucratic procedure, the work of a caseworker has to be carried out through a very specific and predefined chain of actions although there is a high degree of unpredictability that can impede and change that sequence. Of course, prior to a case reaching the decision-maker, many complex other procedures have taken place that are not addressed here. In brief, a typical daily workflow for a caseworker, ideally developed according to SOPs, includes the following:

The caseworkers get informed about their weekly schedule, the file numbers of the cases that have been assigned to them and the availability of interpreters. Caseworkers examine thoroughly the lodging form of every asylum applicant and every document or any other information attached to it. A quick “scan” of basic data, like nationality, gender, age, the place of the last residency and the basic claim of the applicants regarding the reason that they left their country of origin provides an idea of “what it is about” (see also, Dahlvik, 2018, p.74). However, an in-depth examination of the file is necessary for the proper preparation of the interview as it allows: to possibly identify the issues on which the interview should focus, the material facts, documents, gaps and inconsistencies that should be clarified by the applicant, to organize a timeline of the crucial events and to gather relevant Country of Origin Information (COI) in order to ask the appropriate questions and understand the claim. Close scrutiny of the file can bring to attention indicators of a possible vulnerability which may not have been identified at an earlier point of the procedure and must be taken into account in the course of the interview.

A detailed procedural context of the asylum interview is described in art.77 of the Greek Law 4636/2019 (adapting to Asylum Procedures Directive (APD) recast). The substantive interview for the eligibility of the application takes place usually in a four-hour slot. Although this might seem like a reasonable time for an in-depth examination of the asylum seeker’s claims many factors reduce the actual time of a substantive interview, such as compulsory breaks, the cycle of interpretation of two or even three languages for every question and answer, issues in communication due to linguistic, cultural or health-related barriers, a detailed explanation of the process, rights and obligations, the fact that the caseworker must type concurrently the transcript of everything is said in detail, technical problems like in the case of remote interpretation, the examination of submitted documents and many other. There are “easy” cases when an interview can finish in an hour but there are also others that might need a second and

even a third appointment to complete, although there is an informal pressure to avoid follow-up interviews. Apart from the caseworker who represents GAS, the asylum applicant and the interpreter who mediates the communication between the two, a legal representative or a consultant can be also present during the interview. As a rule, the presence of persons other than those mentioned above is not allowed in an interview as confidentiality is a primary consideration. Briefly, the interview is, and should be, goal-oriented and normally is guided by the caseworker to obtain adequate relevant and reliable information about all facts that can be connected to the application for international protection. It is most likely that the decision-making will be based solely or almost exclusively on the interview and thus, the credibility of the information gathered is also under examination. Caseworkers also should identify and be tolerant of applicants in need of special procedural guarantees as they belong to the vulnerable groups of minors, victims of trafficking, torture or other serious forms of psychological, physical or sexual violence, etc. (Art.24, QD recast). By the end of the interview the caseworker “shall ensure that the applicant has been given an adequate opportunity to present elements needed to substantiate the application in accordance as completely as possible” (Art.16, APD recast).

The next phase of the asylum procedure for the caseworker is to start the investigation to assess all the facts and shreds of evidence (oral statements and documentation) obtained by the applicant to substantiate the application for protection. For many, this is the most challenging part of daily work as it can be particularly time-consuming and difficult. During the research, caseworkers try to gather any relevant information to substantiate the facts that are linked to one or more of the requisites of the refugee or the eligible for subsidiary protection definition. There is not a precise definition for “Country of Origin Information” (COI) in the CEAS context and this allows a broader interpretation of what can be perceived as an information source. However, to substantiate or refute the applicant’s claims a caseworker must search various, considered reliable, up-to-date and as specific as possible information. For countries such as Syria and Afghanistan - countries that generate the greatest number of asylum seekers in Europe – a sufficient amount of COI reports is offered, as compared to countries that are less frequently encountered in the asylum process or where the agencies involved in research and reporting do not provide easy access. Maps, country reports, news websites, laws and

regulations of the country of origin are some of the main COI sources for the assessment of evidence and all of them must be referred to the decision.

Writing the decision is the final step of the Refugee Status Determination procedure and is as challenging as every phase of the assessment. The written decision must follow a specific predefined structure based on templates that have been already produced by the Quality Department of GAS. The EU directives don't provide any specific guidance on how a decision should be written. However, Art.11 of the APD recast (respectively see, Art.82 (8) 4636/2019 of the Greek Asylum Law) outlines the obligation of the decision authority to state the reasoning in fact and law in case an application is rejected. Detailed and sufficient reasoning must also be provided in writing if an asylum applicant is granted refugee status. Since one of the most fundamental imperatives of the asylum legislation is that the assessment of an application is to be carried out on an individual basis (Art.4 (3), QD recast), the caseworker has to write the decision by taking into account important individual factors such as the applicant's age, gender, health condition, travel route(s), family, cultural and educational background, etc. In short, a written decision includes (i) a brief description of the administrative procedure, (ii) the applicant's profile and personal circumstances, (iii) the basis of the claim, namely a summary of the asserted facts and reasons they left their country and why they fear to return, (iv) a detailed credibility assessment of the claims and (v) the legal basis of "Inclusion", an extended and well-reasoned risk assessment according to the established law and other relevant case-law, which must conclude on whether the asylum applicant satisfies the determined criteria to be "included" in the international protection or not. Decision drafting might take from a few hours to even months on special occasions.

The final outcome of a caseworker's decision is of high stakes as it can be life-changing for the asylum seekers while a misjudgment may even lead to fatal consequences for the applicant in case of deportation. A positive at first instance decision provides beneficiaries with significant rights as defined by the legislation. Those who are granted refugee status or subsidiary protection (with some differentiations), according to the Greek law about international protection (4636/2019) are entitled to a 3-year residence permit renewable, they can obtain, if they wish, travel documents to visit other EU countries, they gain access to the job market either as employed or self-employed, to all levels of the general education system, to social welfare, to healthcare, to integration programs and they have freedom of movement within the Member – State (Art.24-34,

4636/2019). Additionally, members of the immediate family of refugees, due to the right to family unity, are entitled to the same benefits even if they do not qualify for international protection (Art.23, 4636/2019). Finally, they can apply for Greek citizenship following the procedure of the relative legislation. On the other hand, asylum seekers who are excluded on legitimate grounds from any protection status (Art, 12, 17 APD recast) or whose application is rejected as unfounded have the right to appeal to the Greek Appeals Authority for a re-examination in a second instance. The decision on appeal is usually the final decision on an application and in case of a second rejection the asylum applicant must be deported.

This is the minimum a caseworker's daily work can be described to someone unfamiliar with the asylum procedure. Robert Thomas (2011, p.48, as cited in Dahlvik, 2018), in his work on administrative justice and asylum appeals, argues that "asylum decision-making is notoriously difficult, perhaps the most problematic adjudicatory function in the modern state". From my perspective, as a former caseworker, this difficulty could be briefly explained as the effort to give structure, in terms of time, reason and concept, to the fragmented, the absurd, and the unfamiliar under specific, complex and predefined rules and constraints. Both interview and decision-making constitute the administrative processing of human suffering.

### **PART III: Asylum Decision-making at the street-level and discretion**

Returning to Lipsky's theory, after the above description, it's easy to recognize the characteristics that render asylum caseworkers as the "ideal" street-level bureaucrats. By definition, caseworkers are positioned on the front-line as representatives of the Asylum Service, they interact directly with asylum seekers during the interview and their decisions have a profound impact on people's lives. The outcome of their decisions is perceived as the policy implementation by GAS, the official authority for the granting of asylum by the Greek state. The final asylum rates result from the aggregation of the separate decisions of many caseworkers and thus, they function as *de facto* bureaucratic policy makers. Like other street-level bureaucrats, caseworkers not only implement policy, they also influence in actively shaping it in important ways by interpreting rules and allocating benefits, namely the rights that either refugee or subsidiary protection status "unlocks". Nevertheless, asylum caseworkers wield significant discretion and autonomy.

Asylum decision-making by its very nature is discretionary in the sense that it involves the free exercise of choice, knowledge, interpretation or judgement. Although Lipsky (2010) gave to discretion a particular context, as already discussed at the first part, interesting other interpretations of the term have existed before and after his work. A prior standard definition of discretion is that offered by Davis (1969, p.4, as cited in Bronitt & Stenning, 2011): "A public officer has discretion whenever the effective limits on his power leave him [or her] free to make a choice among possible courses of action or inaction". This is consistent to Lipsky's analysis that street-level bureaucrats' discretion involves to choose between incompatible policies and ignore impractical policies. Additionally, as noted by Evans (2011) discretion also refers to how much freedom bureaucrats perceive to have in choosing specific policy actions during implementation.

A considerable space of discretion in Refugee Status Determination caseworkers lies upon the fact that although the procedure is framed by a vast number of laws, regulations and guidelines, at the same time it is defined by considerable uncertainty, ambiguity, conflict, contradiction, constant modifications and lack of predictability. Within this interstice caseworkers perceive and shape their discretionary practices.

Starting in a wider context, it is true that there is a deep conflict tension between European states' desire to uphold their human rights commitments while limiting migration as far as feasible (Carling, 2011, as cited in Liodden, 2019). Accordingly, asylum caseworkers, as state agents, are required to provide international protection to those eligible of refugee status and at the same time to prevent the procedure's abuse by "bogus" asylum seekers, those who are supposed to be trying to manipulate the system to obtain the rights granted.

The discretionary space that caseworkers wield spreads out through the entire course of action as uncertainty, dilemmas and contradictions emerge in every phase when processing and evaluating asylum claims. This discretion may be applied in a number of ways and steps of the process, including: the evaluation of the submitted evidence, their behavior and methods in interviewing asylum seekers, how much time they spend in every case, the kind of COI they choose as source of information to assess whether the applicant's claims are in line with "generally known facts" (UNHCR, 2019, p.44), how deep they will go with the research of evidence and the interview examination, whether they take under consideration other specific information or circumstances related to every individual, which colleague or expert they will ask for help and which they avoid, whether they choose to consider the advice or not. Applying rules also means shifting, bending or stretching, changing, replacing, and avoiding a rule according to the judgment of the caseworker.

Moreover, the establishment of the facts of every case is through the interpretation of ambiguous, vague and "loose" terms from the legal and the procedural framework, such as "well-founded fear", "benefit of the doubt", "plausibility", "reasonable degree of likelihood" and "persecution". Particularly, "credibility" assessment constitutes one of the most challenging part of the asylum decision – making a lack of unambiguous evidence "makes uncertainty a constant companion" for the caseworkers (Dahlvik, 2018, p. 133). A colleague once interviewed a man who claimed to have oracular abilities, predicting the future through a ritual of randomly throwing stones on the ground and interpreting the formation. During the break of the interview, the colleague told us how confused and desperate he felt as, up to that point, only half of the applicant's story could be considered credible, while the other half sounded fabricated. "So I'm really this close to asking him to throw his stones and tell me what he's predicting for the future, whether I'm going to accept his application or reject it." Beyond the somehow "comic" nuance of the story, it depicts much of the difficulty and the uncertainty due to cultural differences,

presumptions, communication challenges, time limitations and other factors this job produces. Most of the times asylum decision-making is much the same to the applicant's "skill", a kind of a "prophecy", a prediction of the applicant's future by "reading" and combining "evidence" (Liodden, 2019). In reality, in most cases you can never be sure whether your decision is right or wrong and the use of discretion aims to reach a safer outcome.

Despite of its great importance, it is beyond the scope of this thesis to analyze the legal factors that influence the discretionary practices of caseworkers. In the following, we will examine how the tension between conflicting schemes reveals itself in certain aspects of the caseworkers' work and impact the shaping of their discretion: initial training and practice, the locus of decision-making island hotspot and mainland office and quality and quantity in decision-making.

### **3.1. Training and practice**

*October, 2020, Lagkadikia Camp*

*"So, how do you rate the training experience you had, I asked the new caseworkers of my team when we first met at the office and welcomed them to their new position. "We will see in the field", someone said with a tone of irony and everyone laughed. I got the joke right away. I have been there too I thought, when I had my first training five years ago".*

The first phase through which we as neophytes were introduced to asylum decision-making and the refugee law was the "induction" training for the newly hired staff provided by senior officers of GAS who had previously worked as decision-makers themselves for less than two years. Our team of five caseworkers was trained in Samos for three weeks in November 2015 on three core modules: Inclusion, Interview Techniques and Evidence Assessment, designed and offered by EASO to cover the essential knowledge required for asylum officers according to the principles of the Common European Asylum System (CEAS).<sup>3</sup> The amount of information provided in

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<sup>3</sup> It is worth noting that the training period of new asylum officers varies considerably from country to country within the EU, as shown by ethnographic studies carried out in the respective national asylum offices. In Switzerland (Affolter, 2021) the basic training lasts 3 weeks, in Germany (Schneider, 2017) 4-8 weeks and in Austria (Dahlvik, 2018) caseworkers are trained in 23 modules for 4 months.

such a short period was so overwhelming that we could only get a rough idea of what asylum decision-making really was. I remember I was so excited yet terrified at the same time with all this new knowledge. The training introduces caseworkers to the complexity of the asylum decision-making through legal and administrative theory but also through intense exercises in case studies, role-playing, mind maps, fictional interviews and other interactive methods.

In general, training aims to transmit the basic interpretative schemes of the organization but also its ideals and values. As an introduction to the first module, the trainers showed us a video on the historical development of human rights and refugee protection. So, asylum rights were part of this development and this was especially important in Greece where the Asylum Service had only recently emerged as an independent agency with the task to improve substantially a dysfunctional and unfair for asylum seekers procedure that until then had been the responsibility of the Greek Police. Athena Simoglou (2018, p.8), who worked as a UNHCR legal adviser at GAS since the beginning of its operation, points out in her ethnographic work that the Service was thus called upon to respond not only to requests for speed, efficiency and justice but also to an "ethical" discourse on human rights, in the context of the "ethical governance" of the European institutions in the refugee field. There was, indeed, a dynamic and heroic narrative that dominated the passionate speech of the trainers whenever they referred to the "birth of the Service" as a modern, technologically innovative, extrovert organization, recruited mostly by qualified young people and how it was so different and not "contaminated" by the "stiffness" of the other traditional Greek public administration bodies (see also interview with GAS officials Manolis and Anna, Σίμογλου, 2018, p.42)

This environment that praised the new, rational, scientific, transparent, reliable and fair way of implementing the asylum procedure for the first time in Greece (see also Cabot, 2014, p.35) genuinely matched with our motives and enthusiasm as novices in that period. For most of us who graduated in humanities and social sciences and were searching for a job in the midst of the economic crisis in Greece, unemployment was a familiar issue that we had in common. After all, one of the main criteria for being hired as a contract staff member in the GAS was the length of time we had been unemployed. The "refugee crisis" brought an unexpected opportunity for our disdained university degrees. Suddenly, there was a desperate demand for qualifications in the fields of sociology, political science, psychology, social anthropology and international relations

by all the organizations and NGOs that were active in the refugee field. This was perceived by all five of us as a call to perform the duty for which we were destined by our disciplines although GAS was an unknown agency to us and we did not have a clue about our tasks and the scope of the job. In fact, the job description was rather concise, lacking in details and precision. In Meyers and Nielsen's (2012) attempt to summarize the job characteristics of SLBs and the resulting behavioral consequences, it arises that job responsibilities cannot be fully specified in advance and that their work is part of the joint production process(es) that involves other actors, as well as policy targets. Therefore, SLBs are able and required to exercise discretion in performing their jobs, and their behaviors and performances emerge in interaction with these other actors. Thus elements of variability and unpredictability are introduced in their daily routine and we will see next how these emerge through the decision-making process. However, to come back to our initial perceptions, our motivation was very high and matched the values that the GAS was embracing at the time. For most of the team's members this was their first "proper job" which offered a sense of accomplishment.

The job of a caseworker demands a lot of studying and research after the basic training and, it usually takes six to twelve months to get fully acquainted with the tasks and to be able to work autonomously, without requiring frequent support and advice from others (see also the interviews of caseworkers Roland and Veronica, Dahlvik, 2018,p.57). Along with formal sources of knowledge that GAS provided, such as consultation with UNHCR associates and written guidelines, instructions and handbooks on the legal, procedural and administrative context, as new caseworkers we had to seek personally other informal channels to confront the realities of practice. There was an implicit rule in GAS that all "seniors" with more experience shall participate in the job training of the novices. The "veterans", who in our case had at most two years of experience in asylum decision-making, provided vital knowledge that could not be accessed elsewhere. Through the "institutional socialization process" among caseworkers what was transmitted were not only important information, on decision-making, but also skills, professional norms, routinized practices, interpretation schemes and organizational values (Affolter, 2021; Dahlvik, 2018). Through this learning process, involving the sharing of material (older asylum decisions, templates, interview transcripts, COI, etc.) and nonmaterial (ideas, experiences, stories, feelings, realities of practice) elements,

along with personal daily practice in the field, new caseworkers become aware of their role and of what is expected from them.

Caseworkers who find themselves on the frontline will soon have the opportunity to understand why "You'll see it in the field" was the appropriate and repetitive response to many of their questions. It means that practical knowledge can be particularly challenging to put into words, that concrete answers cannot be given due to the variety, complexity and abundance of individual cases, and that there is a gap between the reality of practice and the ideals of the service and the refugee law theory or simply that "experience is the best teacher" since this is a job that someone learns through practice. In any case, caseworkers are granted with autonomy and discretionary power to find the answers during the implementation of the policies and instructions in the field.

To sum up, in training emphasis is being principally placed on the qualitative characteristics of the procedure and the importance to treat every individual asylum application on its own merits in an impartial, accurate, equal and fair manner. Little or no reference is being made to everyday practical difficulties that impact the implementation of the guidelines and regulations, the strict and unrealistic organizational quantitative targets, the pressure, the unpredictable challenges, the ambiguities and uncertainties of the decision-making process, the constant policy and administrative changes, and the emotional and ethical dilemmas that caseworkers experience in the field. The confrontation between these two realities may lead to disenchantment. A colleague expressed once his disappointment to me after working for six months in Samos "We came here with a knife between our teeth and now look what we've become!". The incident that brought him to this reflection was as follows. An asylum seeker had attempted to commit suicide in the camp following a choice made by their family about an asylum-related procedure and the colleague believed that he had not given them enough time to think about their decision. In reality, the procedure stipulated that they should not take any time at all and that they should have responded immediately so that the process could continue. It was within the colleague's discretion to give them some time to think it over, showing he understood the seriousness of their decision. It is at such moments that new caseworkers may begin to understand the "trickiness" of their discretionary power. The phrase used by our colleague to express his disenchantment spoke to all of us. "We came here with the knives between our teeth" meant that we started working being highly motivated and inspired to help and contribute through our job to

easing the “refugee crisis”. And yet there comes a moment when you do not recognize any of this when you look at yourself.

### **3.2. The islands and the mainland**

*“If someone has ever been in a Hotspot then it’s impossible to forget a smell that dominates the place. I would say a mix of boiled potatoes, dust, exotic spices, dried sea salt on clothes, confusion and discomfort. “On the Island, the border is experienced”, Trumbeta (2012, p.11) notes regarding Lesbos. After eight months in Samos, our fixed-term employment contracts had expired and we had to apply to the new job invitation to continue working in GAS. My new positioning as a caseworker was at the Regional Asylum Office of Thessaloniki in Northern Greece. For the first few days at my new environment, I was living under a constant shock. Everything seemed too organized, too “office” and “humanitarian sterilized”. First of all, there was an awkward silent compared to the ever-bustling camp condition. All applicants waited patiently in the waiting area, neat and clean and all the employees seemed to have particular tasks to carry through. “I know that you came from the front-line but we are also under a crisis here and you have to work hard”, the supervisor told me.”*

I hardly remember working in GAS out of a situation of a “crisis”, of an extreme urgent and pressure. In fact, it was in the middle of the Greek economic crisis, when I first joined the Service in Samos, during the peak of the “European refugee crisis”, to recruit an urgently established office to work and contribute to an “asylum system in crisis”. A situation which many has described as “a crisis within a crisis” that Greece, at least at that time, despite the imperfections and delays, the contradictory attitudes and negative examples, seemed to have handled successfully to a point (Παπαταξιάρχης, 2016, p.8). The narrative of the small and poor country on the periphery of Europe that had to encounter the refugee “wave” along with all the implications of the financial crisis was dominant at that time. A typical perception of bureaucrats depicts them as incompetent and inadequate of addressing effectively situations of crisis, especially when it comes to migration (Gill & Good, 2019). Perhaps one of the most bureaucratic pictures that overwhelmed the media during 2015 was the endless queue of asylum seekers outside the premises of the Regional Asylum Office of Athens in Katechaki Avenue for making

an appointment to register their application for asylum. Respectively, on the islands the situation was worse due to overcrowded camps where applicants were waiting to be registered by the Reception and Identification Service and then have their application for international protection examined by the GAS. And whereas the dominant accusation against GAS was the excessive delay to proceed the thousands of asylum applications, the real picture from inside was that of a staff in burn-out that worked relentlessly.

The discourse of “urgency”, either in the form of financial and human resource constraints in the context of the financial crisis, or in the form of the immediate need to respond to humanitarian and administrative needs and concerns for refugees, especially after the summer of 2015, have a crucial impact on the way policies are formulated in relation to the refugee issue (Σίμογλου, 2018). Within this context, many responsibilities were delegated to NGOs and international organisations, which were mostly responsible for providing protection to asylum seekers in areas where the official state could not respond. These areas included the provision of psychosocial support, housing outside the camps, food, health care, protection of minors and other vulnerable groups and many others. The stage on the island (Lesvos, Samos and Chios), apart from the police officers and the coastguard, “bureaucrats with weapons” as David Graeber characterizes them (2012, 117, as cited in Rozakou, 2017), the local authorities and NGOs, also included religious and secular organisations, local solidarity groups, native and foreign volunteers who came to the island from other parts of the world as “helpers” to provide humanitarian aid to those in “need of help” during the refugee crisis and formed a diverse group of actors who acquired shifting roles (Harrell-Bond, 2002).

To the extent that the state of “urgency” constantly rearranges needs and priorities within the working field, it appears to function decisively in the way employees experience and shape the perception of their job. A senior colleague told me when I was at my start as a caseworker, “Don’t you ever think that you are going to save the world through this job or else you’ll be soon burned out”. It was the first time that I would hear the term “burn out” so I didn’t pay much of attention. On the other hand, the whole island operated in a “saving mode” and at the same time the narrative of the poor southern country which was under imposed financial austerity and yet showing admirable solidarity and hospitality to the refugees (Rozakou, 2012) was particularly popular while the racist and xenophobic voices were somehow muted, at least for the time being. From the emblematic “three grannies” of Lesvos who had been captured by a photographer

feeding milk a refugee babe and gained international fame, the ordinary fishermen and the heroic figure of the captain of the Greek Coast Guard Kyriakos Papadopoulos who rescued over 5.000 migrants crossing the Aegean sea,<sup>4</sup> to the Pope Francis and Hollywood celebrities who visited the islands to show their compassion to the refugees and talk about a humanitarian crisis that should concern the whole world, everyone supported the “helpless”.

Under these circumstances, for most of us who arrived in Samos as newly hired caseworkers “help” was conceived as part of our duties. After all, this was also consistent with the ideals of the training as mentioned above. One day, a colleague of mine and I, while we were still in the training phase, decided to go to the Hotspot and help as volunteers in distributing food to the asylum seekers. The next day, we described our experience to our supervisor. She politely told us that this was conflicting with our job as caseworkers. "What would it be like if tomorrow you had to reject the asylum application of someone you gave food to yesterday? Your job is to decide on provision of international protection". This reflected the different conceptualizations of "protection" that coexisted in the 'humanitarian field'. It could be the duty of compassion to those who are in “need”, or saving lives or ending suffering and restoring dignity. As inexperienced and newly hired employees most of us conceived “protection” as a form of ethical duty that simultaneously constituted our job identity, blurring the boundaries between paid work and ethical citizenship, a feature that also have emerged in the research on NGO workers (Σίμογλου, 2018; Αλεξανδρή et al, 2021). Since it was clear that we could not “help” by providing humanitarian aid, most of us approached our job as a response to a duty of effective asylum protection ideally by safeguarding the principle of equal treatment, justice, impartiality, transparency and lawfulness of the interview and the decision-making. Most of all, it was important to assess every case individually on its own merits. On the other hand, different caseworkers have diverse perception of the above traits and thus, they have different “attitudes” towards the procedure.

In January 2016, the gradual "closing of the borders" began, making it doubtful that new arrivals would be able to continue their journey to the European north and causing a rapid increase in the number of asylum seekers stacked either on the islands or on the mainland and so did respectively the number of asylum applications in GAS. A

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<sup>4</sup> The short documentary film “4.1 miles” (2016) by Daphne Matziaraki best captures captain Papadopoulos on duty.

Syrian man once shouted in the Hotspot asking randomly the employees, "Are you from Europe? I am looking to talk to someone who is from Europe. The conditions we live in are unacceptable". It was beyond his imagination that what he envisioned as Europe was already there. Working in the Hotspot where the applicants live and seeing the daily impoverishment, created to the staff even more pressure for faster decisions and the need to prioritize those who belonged to vulnerable groups in order to be transferred to the mainland. Moreover, the island is a small and limited place for everyone, both employees and applicants. The person you interviewed in the morning can be met in the afternoon at the market and that may increase the pressure, the sense of urgency and of responsibility to accelerate the procedure, namely to work more intensive and overtime (see also the interview of Despoina, Σίμογλου: 2018).

In situations determined as "crisis" or "exceptionally urgent" discretionary practices by SLBs can either flourish or be confined to reach the organization's targets due to the loosening of control mechanisms, need for flexibility, prioritization, the need to make quick decisions and take initiatives. Additionally, as already mentioned above, one core element in the SLBs working realm is unpredictability. In the framework of the administrative management of the refugee crisis by GAS this was tied to the successive changes in the implementation of different policies. Within a few months, the caseworkers had to adapt to three different guidelines that succeeded each other for the management of asylum seekers from Syria, which constituted the main volume of arrivals in the country. The initial procedure was the "Fast track" which would complete the examination of the asylum application at first instance in one day. This was replaced by the "Relocation Program", a procedure provided for a proportion of new arrivals from Syria to be transferred to other European Member States, where their asylum application would be examined. The EU-Turkey Statement and Action Plan, in 18 March 2016, was the next major subversion of the administrative procedure alongside the gradual "closing of the borders". The Statement, which set out that all new irregular migrants crossing from Turkey into Greek islands will be returned to Turkey, has provoked intense criticism and questioning both in the public discourse and by many employees of the GAS (Greek Council for Refugees, 2017). Lipsky (2010) points out that SLBs may not consider policies from "above" legitimate and in some respects cannot be thought to be working toward stated agency goals. High quality decisions, autonomy and self-regulation for most caseworkers of GAS were norms that constituted a powerful incentive for

bureaucratic performance, professional identity and self-esteem. According to the Director of the GAS at that time, the percentage of applicants who could return to Turkey was very low and she pointed out the risk that any legislative regulations promoted by the Ministry of Migration Policy "could be challenged as unconstitutional" (Γεωργιοπούλου, 2018). The interviews for the new procedure were undertaken by officials working for the European Asylum Support Office (EASO) experts and have been reportedly different to those conducted by Greek caseworkers. According to a report by Greek Council for Refugees (2017) "Cases have been reported in practice where EASO experts lack knowledge about countries of origin, lack cultural sensitivity, employ closed and suggestive questions, use repetitive questions akin to interrogation, and conduct unnecessarily exhaustive interviews" (Gill & Good, 2019, p.14). An interesting research with interviews with EASO experts in Lesbos by op 't Hoog (2018) brings in light that most of the caseworkers conceptualized discretion as a weakness, identical to arbitrariness and subjectivity. This demonstrates the differences in the organisational culture between the two agencies.

My transfer to the RAO of Thessaloniki during this period relieved me of the dilemmas and moral conflicts created by the above situation which only applied in the islands. While the concept of a "crisis" used to signify a critical and temporary moment it has "come to be construed as a protracted historical and experiential condition" subordinated in a "generic logic" that seems "self-explanatory" (Roitman, 2013, p.2, as cited in Gill & Good, 2019). Although the supervisor warned me that I should not rest since they were also facing a significant "crisis" due to the rising of asylum applications in mainland after the "closing of the borders", I could not overlook the substantial differences with Samos and that this "crisis" in the new office was somehow "routinized". Of course the capacity in more experienced caseworkers and the fact that the office was more organized and operated much longer compared to the newly established Samos office was an advantage in terms of efficiency. However, understaffing was evident, corresponding to a considerable backlog of cases that had to be proceeded.

The greatest difference I had to encounter in the new environment was the variety of countries from which the asylum seekers originated. That involved a lot more effort and work to research the situation in the "new" countries and at the same time the cases were radically different. Suddenly I was confronted with cases of applicants from countries I never imagined might be seeking protection and also with the term "system's

abuse", meaning that there was a vast number of applicants who "burdened" the flow of the procedure while not qualifying for any protection status. As in Samos priority was given to Syrians, but also to Afghans and Somalis, it was easy to be the "good one" since you were dealing mostly with "prima facie" refugees. The new environment and this condition also meant that I had to adjust to the office's routines, expectations and rules.

### **3.3. Quality and Quantity**

*"Fortunately, this case fell into your hands!", the asylum consultant in RAO of Thessaloniki once told me about a case of mine so difficult and complex that I worked on it for a month gathering evidence to build a well-founded decision that finally granted the applicant refugee status. Several factors related to the applicant's situation made him hesitant and indifferent during the interview to substantiate the reasons he left his country. As it turned out, he did not even realize that he was a refugee until I used some indicators. I dug deep into the case and decided that other protection agencies had to be involved, something that took a considerable amount of time, but was crucial to the outcome. But since my senior colleague approved the quality of my decision, I was very pleased nonetheless. I wrote a fair and well-founded decision and let's say that for a moment I felt close to be a "good caseworker" enhancing my sense of professionalism. On the other hand, I also managed to increase the bulking of my backlog by delaying decisions on other pending cases and that's definitely far to be considered a good caseworker".*

Street-level bureaucrats often experience competing or even contradictory performance demands (Meyers & Nielsen, 2012). Working effectively, in terms of quantifiable productivity, and efficiently, in terms of quality, has been fundamental since the beginning of the Service's operation. The quantification of the produced work and the publication of statistics was part of the transparency policy of the GAS. Bureaucracy has been often perceived as secretive and opaque (Hoag, 2011, p.82), something that characterized the previous asylum examination regime that the GAS came to replace. At the same time, the achievement of objectives was also directly dependent on the necessary funding that GAS received from European funds, a common element of operation and continuity with NGOs. However, priority was given to the quality of decisions and

interviewing and there was a certain tolerance for the achievement of the set quantitative targets or the backlog of each caseworker especially the beginners. Performance standards and measurements, statistical charts and in general the emphasis on 'numbers' as a productivity indicator is something that is projected as a dominant source of stress and pressure in most surveys on asylum caseworkers in different European countries<sup>5</sup> and a type of management that is linked to the New Public Management (NPM), a philosophy and approach that emerged in the 1980s and gained widespread acceptance in the public sector during the 1990s. It is characterized by a focus on performance, the use of private sector management techniques, decentralization and devolution of decision-making, and the use of market mechanisms and competition to drive efficiency and effectiveness. The NPM approach emphasizes the use of market mechanisms to control costs and improve the quality of public services. It also stresses the need for clear lines of accountability, and the use of information technology and data analysis to improve decision-making (Hood, 1991). The sharp increase in asylum applications following the closure of the borders and the implementation of EU-Turkey Statement resulted in serious delays in the processing of cases and in denigration of GAS by the press, politicians and public. Consequently, "numbers" became a priority over quality and as a control mechanism some "sanctions" were devised. NPM, especially under considerable shortage of available resources, can have negative impact on the asylum decision-making process, such as the potential for bias and lack of accountability, as well as the risk of reducing the process to a "numbers game" and undermining the complexity of individual cases.

Further intensification of the caseworkers' work was perceived by most of us as unrealistic. For some, this change in priority to the productivity meant a downgrading of their professionalism and a sign of disrespect for the Service's role and the original ideals. For others, it was a policy that would lead to poor, inaccurate and unfair interviews and decisions for asylum seekers, as it would reduce the time for thorough examination of individual cases. For others it was easy to comply as "quality" was never their priority. The perception of this shift largely reflected the idea that each person had of their job and how they defined a "qualitative" decision. This also reveals whether decision-makers see themselves as working in the asylum applicants' interests rather than as an extension of the state (Gilson, 2015, p.387). An apt example of the importance of this parameter to the

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<sup>5</sup> For Austria, see Dahlvik, 2018, for Germany, see Shneider, 2019, for Norway, see Liodden, 2019 and for Switzerland, see Affolter, 2021.

dilemma “quantity or quality” comes from the fieldwork of Affolter et al. (2019) at the Swiss Asylum Office where caseworkers expressed that they had a responsibility towards the “Swiss people” and the “tax payers” to not just take correct decisions but decisions of the “right quality”.

Lipsky (2010, p.18) points out that since street-level bureaucrats exercise discretion to process heavy caseloads with inadequate resources, they must devise shortcuts and simplify procedures to handle the pressure and reach the organization’s objectives. The development of coping mechanisms is in the heart of street – level bureaucracy and when they reoccur concurrently they can be seen as “patterns of practice”. Lipsky argues that:

“At best, street-level bureaucrats invent modes of mass processing that more or less permit them to deal with the public fairly, appropriately, and thoughtfully. At worst, they give in to favoritism, stereotyping, convenience, and routinizing - all of which serve their own or agency purposes” (p. xiv).

He identified a number of coping strategies that street-level bureaucrats develop such as emotional detachment, standardization and routinization of the assessment process, allocating resources unevenly, specialization that de-emphasizes complex tasks, increasing control over clients. Although, this mechanisms might often perceived as counter to official policy and without explicit consent by the agency they are actually crucial to its survival (Eriksson & Johansson, 2021). In short, they make things work as they may reflect an acceptable compromise between the goals of enacted policy and the needs of the street-level workers to minimize the dangers and discomfort in executing their job.

Coping strategies are developed individually to fit to the needs of each caseworker, like time management and prioritization, but they can also be established collectively between colleagues. Since this demand to limit as possible our backlog and intensify our productivity in final decisions concerned us all we had to adopt various strategies to manage the workload and maintain the quality, meaning fair and accurate decisions. Some of these strategies included the production of templates and pre-structured sets of basic questions, the sharing of COI, legal texts, case studies and other relevant and up-to-date information for the assessment of evidence, the "distribution" of

countries among caseworkers to encourage "specialization" as many cases from the same country are repetitive, but above all the classification of cases into categories, and what could be more bureaucratic than that?

Liodden (2021, p.9), whose research on the Norwegian asylum system also examines the extra-legal factors that shape caseworkers' discretion, draws on the word's etymological root, from the Latin 'discretionem', meaning 'the power to discriminate'. Asylum caseworkers constantly negotiate the boundaries of the term 'refugee' in their work, finding ways to distinguish between those who qualify for protection status and those who do not, who to include and who to exclude. The Convention itself, which provides the legal definition of a refugee, is de facto restrictive in terms of who qualifies and under what conditions. In any case, people who flee their country to escape poverty or disease do not qualify for asylum, but a caseworker must still consider whether there is a nexus between the economic hardship or lack of health care and the violation of basic human rights for the purposes of the definition. The ability to categorize is crucial, as 'individual cases' must be made to fit the general laws (Dahlvik, 2018, p.54).

Beside the legal categorizations, we developed a common understanding of the cases in terms of ease and complexity. A classification is thus formed as it emerged from experience and the accumulation of cases alike. When we had to deal with "more difficult" cases we asked to balance out with cases that are perceived as "easier". For example, there are applicants with certain nationality that are considered by caseworkers as more talkative and descriptive and they have to be prepared in managing the interview time. Claims with religion convention, military or witchcraft and cases with indicators for trafficking or slavery require time for the assessment and mental resilience. A family consisting of several members, which means respective interviews, requires the making of a joint decision. Conversely, having consecutive interviews with single individuals is equivalent to creating a backlog. Additionally, "specialization" in applications from specific countries or regions have the advantage of gaining an in-depth knowledge and experience of the place and the people limiting the unpredictable. The adoption of such practices might facilitate caseworkers in saving time and effort but they also run the risk for them losing sight of the original purpose of asylum procedure which is to thoroughly examine every individual's case on the basis of their personal experience impartially and without preconceptions. Moreover, as Dahlvik points out (2018, p.60), the applicants'

perception of their claim as emergency and the caseworkers' perception of the claim as a routine reinforces the unequal relationship between them.

One of the most common practices among caseworkers when they have limited time to write a “good” decision is to imitate it, namely to find previous, similar cases by other colleagues that meet their threshold of quality. Imitating the reasoning for cases that involve same legal and factual concerns is a kind of “decision – making by precedent” and establishes routines on “deciding in general how to decide in specific cases”, something that could potentially affect a wide range of applications of the same department. Therefore, “discretion is often exercised in ways that, in turn, limit and reduce the need for discretion” (Liiodden, 2021, p.9).

“Burn-out is a normality for a good caseworker”, a senior colleague told me once, and I wonder after all these years whether I misheard that “burn-out is a quality”. Asylum caseworkers are daily exposed to some of the most traumatic human experiences imaginable. Weber described the ideal bureaucrat “sine ira et studio” (“without hatred or passion”), meaning that decisions should be made without the involvement of feelings. However, bureaucrats are not suffering from emotional deficit as several studies in the field of immigration and asylum have shown (Eggebo, 2013; Graham, 2002). The continuous exposure of caseworkers to the applicants' claims that involve torture and maltreatment can lead to “compassion fatigue” or burn-out and effects such as detachment and inability to see each case impartially and individually. It can also lead to secondary traumatization that could make them more inclined to avoid getting deeper into the story in order to avoid traumatic accounts. Caseworkers cannot be impersonal cogs of the bureaucratic apparatus as Weber anticipated. They are expected to show empathy, to try to keep calm the applicants during the interview, avoiding questions that could lead to emotional escalations, to allow frequent breaks taking into account the mental health issues of the applicants. However, they are not properly prepared to deal with such difficult situations and the moral conflicts that arise due to the lack of time and the set quantitative objectives.

In an interview, a former Director of the GAS was asked why it takes so long to issue asylum decisions. She said that "The time of the asylum procedure is a function of the number of asylum applications and the number of employees of the Service. If either of the two goes beyond planning and predictions, the time for the production of the decisions will be longer." (Γεωργιοπούλου & Παπαδόπουλος, 2018). On the one hand,

she was right, in terms of perceiving employees as the available resources of the Service. On the other hand, seeing the employees merely as “numbers” in a function undermines and distorts both their role and the procedure. Whereas measurement and presentation of quantitative data offers transparency to the public, as Schneider (2019, p.286) points out, “In the written decision, the work that is invested into juggling the potentially conflicting demands is naturalized, objectified, and hence rendered invisible”.

## **Concluding Remarks**

This study sought to explore, through the insights provided by the method of autoethnography, the extra-legal factors that shape the frontline discretion of asylum caseworkers as they navigate through challenging structural dilemmas, uncertainties, moral and emotional conflicts in everyday work. The organizational culture, the bureaucratic and the implementation context in which caseworkers operate as well as the “institutional socialization” among them, but also their own motivation, conceptualization of accountability, ethic values and beliefs, are highlighted as vital to the perception of their role, the exercise of discretion and influence how the concepts of the fair and just decisions are produced. Further examination through ethnography on other relevant tensions that exist at the street-level bureaucracy of asylum decision-making can enrich the knowledge on how to better handle the gap between the formal legal body and everyday reality of practice. For instance, a deeper examination of emotions, compassion, distrust and the expectation for impartiality and objectivity, or how the demand for reasoning and assessment based on “common sense” is incompatible to the profound cultural differences can also offer knowledge on discretion. Additionally, we saw how caseworkers develop coping mechanisms to deal with uncertainties and unrealistic demands, but it would also be important to turn our attention to the coping mechanisms that asylum seekers also devise, especially when the system is distrusted, and how this intersubjective relation affects the credibility assessment.

Most of the studies that cited through this thesis, concerning the asylum procedure in various European countries converge in terms of findings, illustrating that decision – makers more or less face similar challenges regardless of their national context and highlighting that is significant policy research to be grounded in street – level experience and the exercise of discretion. Much of discussion among scholars of public administration focuses on whether street-level bureaucrats’ discretion is “good” or “bad” or if it still operates due to the efforts for curtailment or even its elimination (Evans & Harris, 2004). Discretion is neither “good” or “bad”. Discretion is necessary and inevitable, as Lipsky argues (2010, p.xiii), in order the caseworkers to effectively respond to the diverse needs of asylum seekers. Moreover, it is even desirable as it makes things work when the implementation context is flawed, questionable or unrealistic. Providing continuous training, sufficient resources and support for caseworkers, encouraging transparency and accountability in decision – making process through regular reviews,

reliable feedback and quality assurance mechanisms, setting realistic targets for processing applications in a timely and thorough manner, ensuring access to legal representation for asylum seekers, are some of the ways that can contribute to the effectiveness of protection provision to refugees. Despite its importance, a persistent emphasis on the discretion that asylum caseworkers wield attributes to them more accountability and power than they actually possess when our attention should also be focused on policy designs and other factors that determine the asylum implementation context (Meyers & Nielsen, 2012, p.316).

Four decades ago, when Lipsky first wrote his theory on street – level bureaucracies, he was convinced that:

“The essence of street-level bureaucracies is that they require people to make decisions about other people. Street-level bureaucrats have discretion because the nature of service provision calls for human judgment that cannot be programmed and for which machines cannot substitute” (p.161).

In recent years, Canada has experimented with the use of artificial intelligence (AI) to augment and replace human decision-makers in its immigration and refugee system (Molnar & Gill, 2018). The UK Home Office also turned to the implementation of an AI streaming algorithm that 'triaged' visa applications into three different 'risk' categories. There was a legal challenge to the algorithm because nationality was one of the factors used to calculate the risk scores (Threipland & Rickett, 2020). Furthermore, in 2020, the European Commission requested a global company to identify a shortlist of AI capabilities that could be operational in national asylum systems in the EU within five years (Forster, 2020). Although AI is constantly evolving and it will take time for automated decision-making to become a key feature of asylum policy, all of the above examples illustrate current government thinking and practice. Thus, wider rollout is highly likely and poses serious challenges for the refugee protection field, as the use of AI enhances restrictions and control to the asylum procedure “from above” and could lead to violations of internationally and nationally protected human rights in the form of bias, discrimination, error and system failure.

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