



EUROPEAN POLICY BRIEF

VULNER

VULNER POLICY BRIEF 2: NORWAY

Safeguarding the rights of the 'vulnerable' asylum seekers in Norway: A Need to Strengthen the Procedural Guarantees

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KEY MESSAGES

- In Norway, the identification of extra needs is an integral part of the ordinary arrival procedure. However, a necessary psychological health examination is missing. We recommend including sufficient health and child welfare expertise in the vulnerability assessment.
- We recommend a preparedness strategy that ensures adapted procedures and vulnerability assessments during periods of large influx of asylum seekers and refugees.
- Asylum seekers and refugees describe several barriers in the asylum procedure. To strengthen their procedural rights, we recommend increasing access to legal advice early in the asylum procedure and an extended option for oral hearings in appeals proceedings.
- For unaccompanied minors, the outcome of the age assessment is crucial. We recommend a holistic approach to age assessments, not relying solely on Biometric measures.
- Norway does not re-evaluate vulnerability in the case of young adults, not even in special circumstances. We recommend introducing a new assessments of their situation to ensure 'durable solution' for unaccompanied minors on 'UAM limits' turning 18 and for those turning 18 with an asylum case pending.
- More restrictive asylum and immigration policies (since 2015) have produced new situational vulnerabilities by making refugee status and residence permits more temporary. We recommend reducing the use of temporary permit for those granted residency, given the negative impact on integration. Moreover, the practice of granting 'UAM limits' for unaccompanied minors (until they turn 18) shapes new forms of uncertainty, anxieties and exploitative relations. We recommend evaluating the practice of granting 'UAM limits'.
- A more restrictive interpretation of the legislation has also resulted in prioritizing immigration control interests before acknowledged vulnerabilities, such as severe health conditions and

the child's best interest. We recommend reintroducing the reasonability assessment when considering an Intern Flight Alternative (IPA) and giving priority to migrants' protection needs and compounded vulnerabilities over immigration control interests.

INTRODUCTION

In the current legal and policy discourse on asylum and migration, there is an increasing emphasis on the need to address the specific protection needs of the most vulnerable refugees, asylum seekers, and migrants. Yet, there is no common understanding of what migrants' vulnerabilities are, nor of how they should be assessed and addressed.

To produce scientific knowledge that assists policymakers in designing policies and implementation strategies that will contribute to reducing vulnerabilities among migrants seeking protection, the VULNER project conducted a large enquiry in eight countries to encapsulating different policy contexts that range from the humanitarian response in first countries of asylum (Lebanon and Uganda), to asylum and other forms of processes to address the protection needs of migrants in Western countries (Belgium, Germany, Italy, Norway and Canada). The objective is to reach a better understanding of the multiple challenges, promises, and pitfalls of relying on 'vulnerability' as a conceptual tool to design and implement institutional responses to migrants' protection needs.

In the first research phase, the VULNER researchers documented the various legal and bureaucratic approaches to identifying and addressing 'vulnerabilities' among migrants seeking protection. In a second research phase, the VULNER teams met with migrants seeking protection to understand how they experience their vulnerabilities, and what they identify as their main life challenges. The Norwegian team conducted 34 interviews with 35 protection seekers and 23 interviews with 31 people working in the institutional context of the everyday lives of protection seekers. The fieldwork largely took place in three arenas: reception centres, the centres for (re)settlement of unaccompanied minors and those on UNHCR Resettlement programs and facilities for survivors of Human Trafficking (THB).

Based on the results of that second research phase in Norway, this policy brief proposes concrete policy recommendations on how to design Norwegian migration and asylum policies, which effectively consider and address the vulnerabilities among refugees, asylum seekers, and migrants.

EVIDENCE AND ANALYSIS

The Norwegian Immigration Act does not refer to vulnerability as a category of concern; still, Norwegian asylum policy has developed regulations addressing certain forms of vulnerability – such as adjusted *proceeding* and *reception conditions* for those with extra needs. The *asylum qualification procedure* includes assessing residence on humanitarian grounds for all who do not meet the criteria for refugee protection. The regulation states a 'child-sensitive approach', and it acknowledge child specific forms of persecution. Despite these advances, the interviews we conducted with asylum seekers, refugees, public servants, and social workers allow us to identify weaknesses, gaps and contradictions in the regulations, adding to their situational vulnerability.

We organize policy-relevant findings around three themes.

1. Vulnerabilities are not sufficiently identified in the procedures.

In the *arrival procedure*, identifying extra needs is an integral part of the ordinary registration and asylum procedure. However, necessary psychological health examination is missing. Therefore, vulnerability assessments do not cover certain types of harm, including trauma and other consequences of persecution that are difficult to reveal. Despite detailed guidelines about interviewing and following up children, women exposed to gender-based violence, those with trauma, LGBTQIA+ minorities, and victims of THB, vulnerabilities remain under the radar or are revealed later in the asylum process, which may impact negatively on their credibility.

There is a need for preparedness to conduct vulnerability assessments and meet extra needs during periods of large influx of asylum seekers and refugees.

To ensure procedural justice, we have identified several barriers in the hearing procedure: the lack of sufficient information to grasp the rationale in the assessments; a need for more legal advice early in the procedure, and use of qualified interpreters to communicate 'shameful' experiences or practices. We also see the need for improvements in procedure that should be adjusted to the specific needs of certain groups, such as a more holistic age assessment for unaccompanied minors, and sufficient resources to maintain procedural accommodations in times of extraordinary arrivals. Informants also stress the negative implications of slow administrative procedures and insufficient updated information about the asylum process, which adds to their feeling of lack of agency.

Norwegian policy offers very few pathways to regularization for non-recognized refugees. Most of those with a rejection are either deported or choose a voluntary return alternative. Upon turning 18, the return procedure is implemented in the same way for unaccompanied minors as for adults, including no reasonability assessment for the return. Norway do not re-evaluate vulnerability in the case of young adults, even if special circumstances apply. They are moved to a reception centre for adults, receive reduced subsidies, are not allowed to finish school before being returned, and have no option to work. They may apply for assisted return with a supplementary reintegration grant.

We also identify gaps in the measures for identifying and supporting THB victims and the need for a national referral mechanism to ensure sufficient support in all cases of THB and a broad approach on how vulnerability factors interact in trafficking cases.

Our informants on resettlement programs draw attention to administrative procedures adding to their vulnerabilities after arriving in Norway. Slow family reunification procedures, the lack of adjusted language learning tracks and the difficult administrative procedures to have educational credentials recognized are but some of the problems they face and lead to a prolonged process of integration.

2. Vulnerabilities increase with extended stays in reception conditions.

The Norwegian asylum system relates rights as an asylum seeker to staying in a reception centre, including access to basic economic support. The level of economic support does not reflect rising costs; many of our informants complain that the support does not even cover basic needs. Further, there is a need for improved reception standards and care for unaccompanied minors 15+. Residents also face limitations in access to health specialists and treatment when staying in reception centres.

Asylum seekers may stay for extended periods in a reception centre due to various reasons; waiting for an appeal or a reexamination of their case, being granted a limited permit due to health problems or other causes. Some live over time in a reception centre with a rejection, if they come from a country where Norway does not have a bilateral return agreement, and they themselves see the return as unsafe and unbearable. They have no right to work and receive reduced basic support. A significant part of this category is elderly people. All staying over time in reception centres face difficulties. The segregation marked by such centres limit their social networking, access to information and legal

aid, the ability to learn the language and to have a job. The many moves from one reception centre to another, due to variations in arrivals, increase the residents' feelings of being uprooted.

For children, a long stay in centres means a prolonged period of precariousness comprising a vital part of their childhood, which has vital implications for their wellbeing and integration. The reception conditions add significantly to parents' everyday concerns for their children.

For nearly all, the stay aggravates their health condition.

3. Vulnerabilities are shaped by the asylum system and an increasingly restrictive migration policy.

Many protection seekers state that they were less vulnerable upon arrival in Norway than after some years trying to secure protection. One reason relates to a stricter migration policy, initiated in 2015, which leads to the increased use of temporary permits and restricted practice of granting permits on humanitarian conditions. The immigration authorities have the opportunity to limit, re-examine or withdraw permits, producing new forms of vulnerability. Temporal permits, such as ID limits, for those granted residency, extend the stay in reception centre, then the period of uncertainty and the option for the normalization of life. The practices of granting UAMs 16+ a temporary permit to stay until turning 18, rendering them more vulnerable to physical and mental harm. If they go missing to escape deportation, this may lead into further exploitation.

People with *compounded vulnerabilities* who do not qualify for refugee protection are considered for a residual category of residence on *strong humanitarian grounds*, however, with fewer rights, less legal security, and a greater scope for revocation. The factors in favor of residence on strong humanitarian grounds are balanced against the state's interest in immigration control. We find inconsistencies in how the state's obligations are weighted, particularly in prioritizing immigration control interests over a child's best interests, severe health problems, and compounded individual and situationally produced vulnerabilities.

4. Resettlement also risks producing vulnerability, and mitigation of such risks is needed.

Resettlement is only available for less than one percent of the global refugee population, and it is supposed to target the most vulnerable. This programme rationale may stand in the way of recognizing the variety of intersecting vulnerabilities that resettled refugees face, and the need for tailor-made approaches to facilitate their integration and post-resettlement lives. Highly-skilled resettlement refugees could potentially benefit from a more tailored approach, especially in terms of career guidance and language courses.

POLICY IMPLICATIONS AND RECOMMENDATIONS

Our research gives rise to the following recommendations.

To ensure a holistic approach to vulnerability that takes into account individual needs and situational factors, that needs to be reflected in the legal framework and the administrative procedure. Although efforts have been made to meet extra needs, there is still a need to accommodate procedural rights.

Improve the procedural rights for vulnerable applicants

- We recommend a preparedness strategy that allows for vulnerability assessments that is able to meet extra needs during periods of large influx of asylum seekers and refugees.

- To improve the option to tell their story and to understand the rationale of the asylum assessment, we recommend improving access to information and to free legal advice early in the procedure.
- We see a need to improve advisory support for asylum seekers with unverifiable or missing ID documents.
- We recommend including sufficient health and child welfare expertise in the vulnerability assessment.
- There is a need to improve the competence of interpreters related to vulnerability issues.
- To strengthen the procedural rights, we recommend evaluating the administrative practices of credibility assessments in the hearing procedure of applicants disclosing abuse and harm.
- We recommend a holistic approach to age assessment, not relying solely on Biometric measures.
- We recommend introducing vulnerability assessments to ensure 'durable solution' for unaccompanied minors on 'UAM limits' turning 18 and for those with an asylum case pending.
- We recommend free access to legal advice when re-evaluating the status of unaccompanied minors turning 18.
- We see a need to extend access to oral hearings in the Appeal Board, also for documenting compounded vulnerabilities.
- There is a need to ensure sufficient measures and routines to assess vulnerabilities, even in periods with numerous arrivals.

Improve reception conditions and welfare rights

The time spent in reception centres often increases vulnerabilities and health problems. Therefore, our recommendation is to improve the provisions for those with an extended stay in a reception centre. We also see the need to strengthen the access to welfare rights and to accommodate the procedures for those with extra needs when settled in a municipality.

- We recommend increasing the level of basic subsidies for all living in reception centres.
- We recommend the inclusion of unaccompanied minors 15 years and older under the Child Welfare Act to ensure sufficient care, as part of the child welfare system instead of the reception system for asylum seekers.
- We recommend the right to language learning and education for those with prolonged stay in a reception centre. For UAM turning 18, we recommend the right to finish their school.
- We recommend better access to competent health specialists and increased resources to following up on trauma and torture.
- We recommend increased rights to healthcare for those living 'in limbo' for prolonged time periods.
- We recommend adjusted language learning tracks for people with extra needs because of age or health problems.
- We recommend a more tailored approach to highly skilled resettled refugees in terms of career guidance and language courses. Both this group and others could benefit from improved administrative procedures for the recognition of foreign-earned educational degrees.

Avoid producing vulnerability through narrow interpretation of refugee law and security control measures.

Shifts towards more restrictive asylum and immigration policies since 2015 have produced new situational vulnerabilities by making refugee status and residence permits more temporary and prioritizing immigration control interests before identified vulnerabilities. Vulnerability shaped by the restrictive legal framework produce unintended contradictions to integration interests and durable solutions.

- We strongly recommend reintroducing the 'reasonableness' requirement for applications of the 'internal protection alternative' (IPA) and give weight to compound vulnerabilities in the reassessment of the Afghanistan cases and other cases.
- We see the need for a clarification of the obligation to advance durable solutions for unaccompanied minors who have been granted temporary permit to stay, including an option for a new vulnerability assessment when turning 18.
- We recommend a critical assessment of the practices of favouring immigration control interests before acknowledged vulnerabilities, e.g., in cases related to severe health problems, the child's best interests, and long attachment to Norway.
- Temporary residence permits have well-documented detrimental effects on the inclusion of persons with a right to remain in Norway. We recommend looking into solutions for balancing the need for control of residents' identities with the benefits of speedy settlement in a local community.
- We suggest it is time for a new regulation on the criteria for reassessment/amnesty for *elderly* protection seekers. Many of those living in reception centres without a legal stay, or on ID limits, are elderly, yet regulations for this demographic are underspecified.

THE VULNER RESEARCH PROJECT

This policy brief has been issued by Hilde Lidén, Erlend Paasche, and Dorina Damsa. It reflects the result of their own scientific data and analyses, which they developed within the framework of the VULNER research project.

The VULNER research project is an international research initiative, which objective is to reach a more profound understanding of the experiences of vulnerabilities of migrants applying for asylum and other humanitarian protection statuses, and how they could best be addressed. It therefore makes use of a twofold analysis, which confronts the study of existing protection mechanisms towards vulnerable migrants as they are defined, designed and implemented in various local bureaucratic contexts, with the one of migrants' experiences.

The result of the first phase's policy recommendations for the policymakers of each of the countries under study, as well as for the EU policymakers, can be found here: <https://www.vulner.eu/58198/policy-briefs>

The VULNER research project is coordinated by Luc Leboeuf, from the Department of Law & Anthropology of the Max Planck Institute for Social Anthropology in Halle a.d. Saale (Germany). It is funded under the Horizon 2020 research programme, from February 2020 to June 2023.

This policy brief reflects only the authors' views. The European Union and the project coordinator are not liable for any use that may be made of the information contained therein.

For more information on the VULNER research project and its outputs and events, have a look at our website (www.vulner.eu) and follow us on Twitter (@VULNERproject).



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FURTHER READING	Lidén, H., Schultz, J., Paasche, E., Wessmann, H. <i>Vulnerable Protection Seekers in Norway: Regulations, Practices, and Challenges</i> . 2021. VULNER Research Report 1 . DOI: https://doi.org/10.5281/zenodo.5518575 Lidén, H., Paasche, E., Damsa, D. <i>Protection Seekers' Lived Experience of Vulnerability in Times of Stricter Migration Policy. The Case of Norway</i> . 2022. VULNER Research Report 2 . DOI: https://doi.org/10.5281/zenodo.7375797 Lidén, H., Schultz, J., Paasche, E., Wessmann, H. VULNER Policy Brief: Norway . 2021. https://www.vulner.eu/78617/VULNER_PB_Norway_2021.pdf