



EUROPEAN POLICY BRIEF

VULNER

VULNER POLICY BRIEF 2: BELGIUM

Minding the Gaps: Towards an equal and coherent Assessment of Asylum Seekers' Vulnerabilities

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KEY MESSAGES

- Ensure full compliance to the 2007 Reception Law and the positive obligations of the state which derive from it and which are clearly established therein. Taking into account vulnerabilities only makes sense in a system that respects the guarantees it provides;
- Develop a timeline that can be adapted, which would be a sort of overall programme of the duration of the procedure. This timeline would take the form of a platform that would allow the asylum seeker to follow the evolution of their file, with particular attention to privacy safeguards. This tool and method would empower the asylum seekers as they would feel more connected to their procedure and more involved in what concerns them in the first place. It also helps them to fulfil their obligation to cooperate to the establishment of facts, with a minimum of access to information about their process;
- Strengthen information channels and diversify sources, systematically favouring clear access to information through a real contact with a member of the reception network on the ground. This also requires ensuring that staff are available and trained to respond to this demand for information. To this end, information sessions or standby services could also be organised within the centres, which would guarantee a real contact where asylum seekers could ask their questions;
- Implement interdisciplinary training of the reception and asylum instances including the assessment of vulnerability through the notion of intersectionality;
- Provide clear guidelines on the assessment and follow-up of vulnerability in an intersectional way;
- Provide sustainable funding for the voluntary sector that allows vulnerabilities to be taken into account over time, not limited to a project-based approach;
- Implement a **“vulnerability diary” to keep track of vulnerabilities of asylum seekers** throughout the asylum procedure, to ensure coherent follow-up of a vulnerable profile;
- Ensure sufficient staffing of the asylum bodies as well as availability of medical staff at the CGRS and the Immigration Office to identify vulnerabilities or carry out examinations of medical certificates.

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. For example, the UN Global Compact on Refugees and the EU Directives on asylum require addressing the specific protection needs of the most vulnerable asylum seekers and refugees, and the **objective 7 of the UN Global Compact for Migration calls on states to ‘address and reduce’ vulnerabilities** in migration more broadly.

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 8 countries located in Europe (Belgium, Germany, Italy, and Norway), the Middle-East (Lebanon), Africa (Uganda), and North America (Canada) – thus encapsulating different policy contexts that range from the humanitarian response in first countries of asylum (Lebanon and Uganda), to asylum and other relevant processes to address the protection needs of migrants in Western countries (Belgium, Germany, Italy, and Norway). 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 a first research phase, the VULNER researchers documented the various legal and bureaucratic **approaches to identifying and addressing ‘vulnerabilities’ among migrants seeking protection.** They analysed the relevant domestic regulations and case-laws, and they conducted 216 interviews with public servants and social and aid workers. This resulted in policy recommendations for the policymakers of each of the countries under study, as well as for the EU policymakers, which can be found here: <https://www.vulner.eu/58198/policy-briefs>

In a second research phase, the VULNER researchers also met with migrants seeking protection to understand how they experience their vulnerabilities, and what they identify as their main life challenges. In Belgium, 39 asylum seekers, five lawyers (three Dutch-speaking, two French-speaking), 2 guardians of unaccompanied minors and 15 members of associations active in the field of asylum and migration have participated in the study. The fieldwork was conducted from April 2021 to February 2022.

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

EVIDENCE AND ANALYSIS

The study and fieldwork conducted present the following main findings at a micro, meso and macro level.

At the micro level, the report highlights the intersectionality of different types of vulnerabilities based on the personal narratives of protection seekers, as their experiences are more generally related to the impact that certain type situation had on them during the asylum procedure. More importantly, the study shows that a combination of different factors increases the vulnerability of the applicant for protection, which thus becomes something evolving and increasing throughout their migration journey, continuing in the country of arrival.

In this respect, at the meso level, the study highlights that many types of vulnerabilities experienced by asylum seekers are fostered, produced or maintained by the process itself, in its current functioning. The study shows that the length of the process, the gaps in communication between the authorities and asylum seekers as well as the resulting sense of isolation, mistrust and powerlessness all place asylum

seekers in a situation of vulnerability that they can hardly cope with, because they are not 'equipped' to do so.

At a macro level, the research reveals different tensions around the way vulnerability is addressed and assessed in the Belgian asylum system. It highlights that in the current system, vulnerability enters into decision mostly as a matter of 'chance' or 'coincidence', which can hardly consist of a unified practice. It also reveals that asylum authorities do not give the same weight to vulnerability, as it is sometimes considered as an exceptional guarantee to be granted under certain conditions or as a standard to be applied to all asylum seekers regardless of their specific needs.

This lack of uniformity implies that the consideration of vulnerability varies in an unsystematic way and poses problems of predictability and consistency. Indeed, the extent to which vulnerability is considered seems to depend often on the context, the support given to protection seekers and their understanding of the basic principles of the procedure. If considerations of vulnerability vary randomly, they also pose problems of equality before the law for asylum seekers.

POLICY IMPLICATIONS AND RECOMMENDATIONS

1. Mind the Law - Apply the EU Reception Directive as transposed in the 2007 Reception Law

The study was carried out in a particular context that has been ongoing for several years in Belgium, e.g., the reception crisis. This crisis has practical consequences on asylum seekers arrived on the Belgian territory who are being deprived of their rights to shelter, provided in art. 3 of the 2007 Belgian Reception Law¹. Access to psycho-medical or legal aid has also been denied so that it can be said that the fundamental rights to dignity is currently not ensured for asylum seekers. As the basic principles of the 2007 Reception Law are not applied upstream, the obligations to assess and address vulnerability look like an empty shell. Beyond access to decent housing, provisions relating to the time of the procedure are not applied on the ground either. The majority of the asylum seekers met in the field have largely exceeded the 6-month period in which a decision must be taken on their application². The research demonstrates that the length of the procedure is one of the major factors of vulnerability experienced by asylum seekers in reception centres, which degrades their mental and health conditions, but also their capacity to go through the asylum procedure in a secure manner. When implementing the law of 2007, an initial period of 6 months was fixed for a collective reception model. Implemented model of limited stay in the reception centre ensures a smooth transition to an individual reception system after 6 months and will improve the situation of the asylum seekers as it allows them to have a perspective on their future as well as on the path of the process, while mitigating the feeling of disempowerment.

In this context, the first recommendation concerns the positive obligations of the state to ensure dignified and decent housing for those seeking asylum on its territory. It is also necessary to guarantee procedural deadlines that do not make the applicant more vulnerable by placing them in a situation of almost indefinite insecurity. This research recommends:

- Full compliance to the 2007 Reception Law and the positive obligations of the state which derive from it and which are clearly established therein. Taking into account vulnerabilities only makes sense in a system that respects the guarantees it provides.

2. Development of an interactive platform to ensure a follow-up of the procedure by the asylum seeker themselves and transparent information

¹ Every asylum seeker has the right to be received in such a way as to enable them to live with dignity. See art.3 of the Law of 12 January 2007 on the reception of asylum seekers and certain other categories of foreigners, *Belgian Official Journal*, 7 May 2007.

² See art. 40, 6° of the Law of 21 November 2017 amending the Act of 15 December 1980 on access to the territory, residence, establishment and removal of foreigners and the Act of 12 January 2007 on the reception of asylum seekers and certain categories of foreigners, *Belgian Official Journal*, 12 March 2018.

The study shows the extent to which vulnerabilities are created in a system where the asylum seeker feels dispossessed of a procedure that concerns them in the first place. The lack of follow-up and perspective on the trajectory of the procedure and the feeling of loss of control are perceived as forms of vulnerability that are very difficult to cope with for asylum seekers, particularly when they last for years. In order to mitigate these negative effects and shortcomings, the study proposes to further involve the asylum seeker, so that they can be a more proactive actor in the evolution of their procedure. In this sense, the study proposes:

- To develop a tool; a timeline that can be adapted, which would be a sort of overall programme of the duration of the procedure. This timeline would take the form of a platform that would allow the asylum seeker to follow the evolution of their file, with particular attention to privacy safeguards. Regular report on the progress of the file should also be available. Each asylum seeker should be able to consult the file online to see information related to their their application, as well as potential upcoming appointments for interviews. The platform could potentially allow for the addition of online documents or evidence that would enable the asylum seeker who wishes to do so to consult their file and add documents to it. This tool and method would empower the asylum seekers as they would feel more connected to their procedure and more involved in what concerns them in the first place. It also helps them to fulfil their obligation to cooperate to the establishment of facts, with a minimum of access to information about their process.

3. Strengthen information channels for asylum seekers with clear information to be given in real time

The asylum procedure is particularly complex and difficult to understand for asylum seekers. The first VULNER report showed a lack of communication and monitoring of asylum seekers' vulnerabilities between asylum bodies. The second report shows that asylum seekers have a very limited, fragmented vision and understanding of the procedure and a general lack of information about the issues at stake. Many felt that they were unprepared for the interview or ill-informed about the procedure. Many also struggle to find information that is available and accessible when they need it, mainly from a reference person. Asylum seekers are also often overwhelmed by information available online, when they would like to have a "**reference person**" to answer their question. To avoid this misinformation and the resulting vulnerabilities, the study recommends:

- To strengthen information channels and diversify sources, systematically favouring clear access to information through a real contact with a "**reference person**" on the ground. This also requires ensuring that staff are available and trained to respond to this demand for information. To this end, information sessions or standby services could also be organised within the centres, which would guarantee a real contact where asylum seekers could ask their questions.

4. Ensure an adequate and equal assessment of the vulnerabilities

Based on the personal narratives of protection seekers, the research emphasises the different and multiple experiences of vulnerability that build up for the same profile in an intersectional way. It highlights that the evaluation of vulnerability should be individualised through this specific lens. In order to assess vulnerability in a coherent and transversal way, training should be given to protection officers to raise awareness on an intersectional perspective of vulnerability. Clear guidance through guidelines on assessing vulnerability will also enhance the consideration of the special needs of the protection seekers by the authorities, avoiding the feelings of the asylum seekers that their vulnerability is often taken into account as a matter of chance. In order to limit these effects, medical staff could also be hired at the Immigration Office and the CGRS to more accurately identify the vulnerabilities of asylum seekers or to assess the medical certificates provided. The law already provides for the possibility of assessing the vulnerabilities of an asylum seeker through a medical examination: Article 48/9(2) of the Aliens Act stipulates that a professional health care practitioner, appointed by the Immigration Office, may make recommendations about any special procedural needs that an applicant may have.

This will allow a consistent approach of different vulnerabilities by the asylum bodies authorities and ensure equal chances for these vulnerabilities to be assessed and considered. In this perspective, the voluntary sector, which plays a fundamental role in the recognition and handling of vulnerabilities in the Belgian asylum system, should also be financed in a sustainable manner, with structural financing policies that go beyond the "project" approach, which is by definition limited in time and does not guarantee that vulnerabilities are consistently taken into account over time. As recommended in the first Belgian policy brief, there should also be a close follow up of the vulnerabilities throughout the asylum process with the **help of a "journal of vulnerabilities" or "vulnerability diary"** to keep track. This goes hand in hand with sufficient staffing.

To this end, the study recommends:

- Interdisciplinary training of the reception and asylum instances including the assessment of vulnerability through the notion of intersectionality;
- Clear guidelines on the assessment and follow-up of vulnerability in an intersectional way;
- Availability of medical staff at the CGRS and the Immigration Office to identify vulnerabilities and carry out counter-examinations of medical certificates;
- Sustainable funding for the voluntary sector that allows vulnerabilities to be taken into account over time, not limited to a project-based approach;
- Implementation of a **"vulnerability diary" to keep track of vulnerabilities of asylum seekers** throughout the asylum procedure, to ensure coherent follow-up of a vulnerable profile;
- Sufficient staffing of the asylum bodies.

THE VULNER RESEARCH PROJECT

This policy brief has been issued by Zoé Crine, Francesca Raimondo, Christine Flamand and Sylvie Sarolea. 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 (such as minors and victims of human trafficking), with the one of their own experiences on the ground.

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.

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CONSORTIUM	Max Planck Institute for Social Anthropology – MPG, Halle, Germany Ca'Foscari University of Venice – UNIVE, Venice, Italy Catholic University of Louvain – UCL, Louvain, Belgium Center for Lebanese Studies – CLS, Beirut, Lebanon Institute for Social Research – ISF, Oslo, Norway Martin Luther University Halle-Wittenberg – MLU, Halle, Germany Population Europe – PE, Berlin, Germany University of Ottawa – UOTTAWA, Ottawa, Canada
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FURTHER READING	Saroléa, S., Raimondo, F., Crine, Z., <i>Through the Eyes of the “Vulnerable”: Exploring Vulnerabilities in the Belgian Asylum System</i> . 2021. VULNER Research Report 2. DOI: https://doi.org/10.5281/zenodo.7179724 Saroléa, S., Raimondo, F., Crine, Z., <i>Exploring Vulnerability's Challenges and Pitfalls in Belgian Asylum System - Research Report on the Legal and Policy Framework and Implementing Practices in Belgium</i> . 2021. VULNER Research Report 1. DOI: https://doi.org/10.5281/zenodo.5508769



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