



EUROPEAN POLICY BRIEF

VULNER

VULNER POLICY BRIEF: ITALY

Sabrina Marchetti and Letizia Palumbo

September 2021

KEY MESSAGES

- It is important that key actors adopt a **multi-factor perspective** on vulnerabilities and develop new corresponding implementation tools and practices, including ad hoc training for relevant practitioners and other stakeholders.
- **Dialogue and cooperation** between the competent institutional and non-institutional actors should be promoted and supported at all levels of intervention.
- Measures to **promote the social and economic integration of asylum seekers in the long-term** should become an essential part of the Italian reception system in order to address and/or prevent situations of vulnerability to exploitation and abuse.

INTRODUCTION

EU law requires that the special reception needs of vulnerable asylum seekers be identified and addressed, and that special procedural guarantees be provided. Similarly, the UN Global Compacts for Migration and on Refugees require states to develop their migration and asylum policies in ways that consider the vulnerabilities that migrants and refugees may be facing.

To this end, the Italian team of the VULNER project studied how vulnerable asylum seekers (and other vulnerable migrants) are identified, and how their special reception and procedural needs are assessed and addressed by the Italian asylum authorities. They examined legislation, case law, policy documents and administrative guidelines. They conducted 44 interviews with members of international organizations, civil servants and judges in Italy.

This Policy Brief explores the findings of this research, highlighting the challenges and the shortcomings observed in Italy, as well as proposing concrete policy recommendations.

The main findings of our research were as follows:

- **The critical impact of categorization and group-based approach to vulnerabilities**

Gendered, sexualized and culturalized conceptions of vulnerable people/groups are still the dominant paradigms used by institutional and legal actors. This leads not only to the exclusion of those who do not fit into these categories, but it also results in significant aspects of the person's situations of vulnerability being overlooked.

NGOs and lawyers have expressed criticism about this listing of vulnerable groups, as have some civil servants and judges. According to a number of participants, this approach expresses its limitations and shortcomings when a person does not fit strictly into the categories, or when more than one category is applicable.

In general, participants stressed the distinction between 'visible' or 'objective' vulnerabilities (including unaccompanied minors, pregnant women, elderly and disabled people, and individuals with serious and documented health problems) and 'less visible' and 'subjective' vulnerabilities that tend to be overlooked by competent authorities and, accordingly, not receive adequate protection.

- **Challenges in identifying vulnerabilities, and the issue of credibility**

A number of legal actors highlighted that some vulnerabilities only emerged during private meetings in their offices or in supporting organizations.

According to several lawyers, one of the main challenges is preparing the applicants to present their painful stories in a sufficiently detailed way to administrative and judicial decision makers. This process has been frequently reported as frustrating for both the lawyer and the applicant.

Credibility of the experiences and personal features that contribute to asylum seekers' situations of vulnerability are often assessed by competent authorities through a stereotyped and standardized approach, looking at parts of the story in isolation without conducting an overall, integrated assessment.

However, various participants mentioned that different views on asylum seekers' credibility can sometimes generate debate during the decision-making process. Therefore, according to many judges, the creation of 'specialized sections on migration issues' within the civil tribunals is an important step forward in providing them with support with difficult cases of vulnerability.

- **The importance of institutional tools to assess vulnerabilities**

Institutional tools, such as Country of Origin Information (COI) or guidelines, constitute useful instruments in addressing and assessing the situations of vulnerability and are constantly used by both members of Territorial Commissions (TCs) and judges. Of these, it is worth mentioning the guidelines to identify victims of trafficking among international protection seekers, developed in 2017 by the UNHCR in association with the National Commission for the Right of Asylum (CNDA). These guidelines are for the use of Territorial Commissions (TCs). Another important tool is the guidelines published by the Italian Ministry of Health in 2017, and which apply to those who have suffered torture, rape or other severe forms of violence.

However, a number of participants criticized the way some of these institutional tools are conceived and used, highlighting that dominant interpretations risk overshadowing certain vulnerabilities,

especially intersectional vulnerabilities. Others underlined the need to frequently update these guidelines.

- **Vulnerabilities fostered by institutional inadequacies**

Many participants highlighted how vulnerabilities are produced and/or exacerbated by the country of arrival's institutional and social context (e.g. inadequate reception system or the lack of non-exploitative working opportunities), including during the asylum procedure (e.g. bureaucratic obstacles and mistreatment in administrative and judicial settings).

The interplay of severe delays in asylum procedures and a lack of adequate hosting and protection mechanisms in the country produces a condition of uncertainty and precariousness, which in turn creates or intensifies situations of vulnerability. This means that migrants are left outside the collective community, with limited options for integration.

All this exposes asylum seekers to dynamics of abuse and exploitation in Italy. For example, some reception centres have become a pool for the recruitment of cheap and easily exploitable migrants, especially in poorly-protected sectors such as agriculture.

- **Developments in national case law**

In contrast with restrictive national legislative and political reforms in the field of migration and asylum, in recent years there have been important case law developments on the matter of international protection, and in particular of humanitarian protection (abrogated in 2018). This case law has adopted a broad definition of vulnerability, paying special attention to its contextual dimension.

In particular, some decisions of civil tribunals and the Court of Cassation regarding humanitarian protection provide insightful developments on the notion of vulnerability at the conceptual-legal level, taking into account the interplay between the different factors leading to situations of vulnerability linked to human rights violations. This conception of vulnerability highlights the "situational" meaning of this notion, considering the concrete forms that such a concept assumes according to relationships and contexts in which the individuals concerned are situated.

Even regarding international protection, some judicial authorities have adopted a broad conception of vulnerability. Of particular relevance are some civil tribunal decisions concerning victims of trafficking that recognized the difficulties that people may have in the recounting their experiences and situations of vulnerability. Such cases stress the importance of applicants' trust in anti-trafficking NGOs during the referral mechanism. In these decisions, judges have also paid attention to the gender dimension, while some have adopted an approach that is in line with an intersectional perspective.

POLICY IMPLICATIONS AND RECOMMENDATIONS

On the basis of the findings of our research, we believe that the following measures could help improve the mechanisms implemented at national level to **recognize, address and prevent** the situations of vulnerability of asylum seekers:

- **Promoting a multi-factor perspective** in the assessment of vulnerabilities, developing new tools to deal with intersecting vulnerabilities, by considering personal and socio-political dimensions. To this end, decision makers are encouraged to cooperate with different professionals – including cultural mediators, anthropologists and ethno-psychologists.

- **Strengthening training activities for relevant actors** – including members of the Territorial Commissions (TCs), judges, interpreters, cultural mediators, police staff and professionals working in reception centers – in order to consolidate their ability to understand, recognize and address situations of vulnerability. This also includes providing clear guidelines to ensure that each actor reacts in an appropriate and coherent way to certain cases of vulnerability.
- **Fostering cooperation and dialogue between the various institutional and non-institutional actors** involved in the identification and assessment of protection seekers’ situations of vulnerability. For instance, TCs may collaborate more with civil tribunals and police headquarters in looking at how to address some complex vulnerabilities. Civil tribunals can also establish and/or consolidate forms of cooperation – for instance through protocols – with local associations and services such as anti-trafficking organizations. In this regard, it is important to adopt the referral mechanisms – which currently apply to cases of trafficking and exploitation – to other specific areas, such as gender-based violence and psychological distress.
- **Providing solid protection and integration measures** by building a reception system that is flexible and individualized, responding to protection seekers’ special needs. The system should also support individuals in the search for sustainable living and working conditions, following up on their needs and paths. Reception measures should therefore aim at providing migrants with solid long-term access to rights, employment and community participation; in other words, solutions that go beyond mere assistance and survival.

THE VULNER RESEARCH PROJECT

This policy brief has been issued by Sabrina Marchetti and Letizia Palumbo. It reflects the result of their own scientific data and analyses, which they developed within the framework of the VULNER research project. The fieldwork for this research was carried out by Dany Carnassale, who also participated in the analysis of findings and in drafting the VULNER Research Report 1 on Italy.

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.

PROJECT IDENTITY

PROJECT NAME VULNERABILITIES UNDER THE GLOBAL PROTECTION REGIME - How Does the Law Assess, Address, Shape and Produce the Vulnerabilities of the Protection Seekers? (VULNER)

COORDINATOR Department of Law & Anthropology, Max Planck Institute for Social Anthropology, MPG, Halle a.d. Saale, Germany

CONSORTIUM	<p>Max Planck Institute for Social Anthropology - MPG Halle, Germany</p> <p>Ca'Foscari University of Venice - UNIVE Venice, Italy</p> <p>Catholic University of Louvain - UCL Louvain, Belgium</p> <p>Center for Lebanese Studies - CLS Beirut, Lebanon</p> <p>Institute for Social Research - ISF Oslo, Norway</p> <p>Martin Luther University Halle-Wittenberg - MLU Halle, Germany</p> <p>Population Europe – PE Berlin, Germany</p> <p>University of Ottawa - UOTTAWA Ottawa, Canada</p>
FUNDING SCHEME	<p>Horizon 2020 - RIA Research and Innovation action – Europe's role as a global actor, notably regarding human rights and global justice – call: H2020-SC6-MIGRATION-2019 - Grant ID: 870845.</p>
DURATION	<p>February 2020 – January 2023 (36 months).</p>
BUDGET	<p>EU contribution: 3 030 932,50 €.</p>
WEBSITE & TWITTER	<p>www.vulner.eu @VULNERproject</p>
FOR MORE INFORMATION	<p>Contact: Dr. Luc Leboeuf, Department of Law & Anthropology, Max Planck Institute for Social Anthropology, MPG, Halle a.d. Saale, Germany, info@vulner.eu</p>
FURTHER READING	<p>Marchetti, S., Palumbo, L., (Eds.) <i>Vulnerability in the Asylum and Protection System in Italy: Legal and Policy Framework and Implementing Practices</i>. 2021. VULNER Research Report1. doi: 10.5281/zenodo.5518933</p>



This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 870845.