



Young Age, Migratory Vulnerabilities and Temporality. Compounding Inequalities Raised by Age and Legal Status – in Four European Countries

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Received 10 September 2023 | Accepted 30 September 2023 |

Published online 21 December 2023

Abstract

This article adopts an intersectional approach to examine migratory vulnerabilities. It draws from qualitative data gathered by the VULNER research teams in four countries: Belgium, Germany, Italy, and Norway, exploring how age and legal status intersect and how this intersection influences other vulnerability factors. When examining the rationale and consequences of practices that employ young age as a criterion for additional protection and welfare provision in the four countries, a paradox becomes apparent: designating UAMS as minors provide them with safer recipient conditions, yet, it may not guarantee a comprehensive child-sensitive approach in the long run. Treating them as asylum seekers, however, could lead to a more thorough evaluation of their vulnerabilities and long-term protection needs. Managing this paradox creates ambivalence in both systems. Moreover, the timing of these procedures greatly influences outcomes. The analysis is a part of the EU VULNER project, investigating vulnerability within global protection regimes.

Keywords

vulnerability – young age – refugee – intersectionality – children's rights

1 Introduction

We've endured hardships, you know. Frightening images are reappearing. We might tell you that we're battling a constant headache. We feel exhausted or uncontrollable anger. We're not always in command. Painful dreams haunt us. We've undergone a lot.

Like many minors traveling alone, Binar (15) recounts the way violence and abuse before and during his journey to Europe continue to impact his daily life upon arriving in a host country. Additionally, he grapples with fresh challenges as an asylum seeker in Europe. The absence of parental care compounds his precarious situation, intensifying his worries about the future, as his stay is only approved until he reaches 18.

Legal frameworks concerning migration consider young age as a pivotal marker of vulnerability.¹ Children's vulnerability relates to their perceived lack of autonomy and capacity to assert their own interests and rights. The dependency on others expose them to the risk of physical and non-physical harm from others, whether the risk comes from state actors or from their everyday relationships.² Children's individual positioning in a generational hierarchy draws attention to specific structural and individual factors that contribute to such precarities and disparities. For migrant children, the intersection of past, present and future risks of harm define their particular vulnerability. International legal instruments recognize the potential vulnerability of migrant children and impose obligations on states to take reasonable measures to reduce and protect children from harm and abuse, and to ensure them protection and the benefit of welfare provision.

The UN Convention on the Rights of the Child (CRC) represents one such legal instrument that tailors general human rights obligations and introduces new ones to suit a child's unique circumstances and needs. CRC Article 22 recognizes the entitlement of asylum-seeking and refugee children to 'appropriate protection and humanitarian assistance,' emphasizing that these children

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- 1 See e.g. UNGA Res 73/195 of 19 December 2018, *Global Compact for Safe, Orderly and Regular Migration*; Dir. 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection. 29 June 2013. *Official Journal* L 180, 60–95; Dir. 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast). 29 June 2013. *Official Journal* L 180, 96–116.
 - 2 See Tobin, J. (2015) Understanding Children's Rights: A Vision beyond Vulnerability. *Nordic Journal of International Law* 84(2) pp. 155–182.

should be treated no differently from others.³ The 1951 Convention relating to the Status of Refugees (CSR), specialized to ensure that marginalized refugees access rights in their host jurisdictions, acknowledges the specific needs of children. UNHCR's guidance identifies unaccompanied minors as a group potentially qualifying as 'members of a social group'. Similarly, the European Union's Common European Asylum System (CEAS) guarantees certain rights to minors. Most specific regulations pertain to unaccompanied minors, defining distinct state responsibilities due to their tender age when traveling without parents or guardians. In alignment with the EU Asylum Procedures Directive (2013/32/EU), Reception Directive (2013/33/EU), and the Qualification Directive (2011/95/EU), the majority of European countries utilize age as one of the primary criteria for assessing asylum seekers' vulnerability. These regulations particularly secure unaccompanied minors with adjusted reception conditions and tailored asylum procedures and evaluations.

In many asylum systems in Europe, unaccompanied minors still find themselves in an ambiguous position. On one hand, they benefit from being acknowledged as a group necessitating the state's care and to guarantee them legal guardianship. Simultaneously, they are subject to the same restrictive migration policies as other migrants. Such restrictions lead to limited resources available in the asylum system and to curtailed rights. On the individual level, UAMS report facing distrust and various forms of discrimination. While most European countries offer protection to unaccompanied minors, the nature and scope of their legal status varies. Their immigration status has implications for their living conditions, as well as for their recovery from harm stemming from past mistreatment and their prospect for the future. The compounded forms of vulnerability, when young age intersects with indefinite legal status, creates a complex outcome that is not a mere summation of individual inequalities, but rather an interplay of multiple factors that mutually influence each other.⁴

In this article, I adopt an intersectional approach to examine vulnerability in migration, exploring how age and legal status intersect and how this intersection influences other vulnerability factors. The concept of intersectionality underscores the inequalities that arise when different grounds of oppressions

3 See Cohen, S.P. and Olsen, Per Miljeteig (1991) Status Report: United Nation Convention of the Rights of the Child. *New York Law School Journal of Human Rights*, Vol. 8, (2) pp. 367–382.

4 See Crenshaw, K. (1989) Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics. *University of Chicago Legal Forum* 1(8) <https://chicagounbound.uchicago.edu/uclfv/vol1989/iss1/8>. See also Crenshaw K. (1991) Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color. *Stanford Law Review* 43 (6) pp. 1241–1299 <https://doi.org/10.2307/1229039>. See also the editorial of this special issue.

interact and result in unique forms of oppression.⁵ Young age, combined with other facets such as gender, ethnicity, religion, or sexual orientation may lead to disadvantages, harm, and distinct support requirements. Adopting an intersectional approach becomes essential when examining how risk factors are influenced by the legal status held by UAMS. I delve into how risk factors influence the legal status as well as the context of reception provisions and protection assessments for unaccompanied minors in four European countries: Belgium, Germany, Italy, and Norway. I seek to understand the rationale and implications of practices that treat young age as an objective criterion for adjustment and support. Particularly, I examine the practices that categorize all unaccompanied minors under welfare authorities due to their status as children, as opposed to practices where minors are included within the asylum system. These four countries range on a spectrum, viewing unaccompanied minors primarily as children (Germany) or primarily as asylum seekers (Italy), with Belgium and Norway adopting more dualistic approaches. I explore whether considering young age as an objective criterion for (temporary) immigration status adequately addresses individual needs and acknowledges other vulnerability factors and protection needs tied to their status as asylum seekers. I also consider the influence of gender, as well as dynamics related to gender identities, social class, ethnicity, and religion. Furthermore, the legal classification of age, defining children as those under 18, often results in a temporary residency permit in most countries. This marks a significant transition, both legally and experientially, into a new category of (young) adulthood upon turning 18. Consequently, this analysis probes the consequences of how age relates to legal status when unaccompanied minors reach the age of 18. Does the practice of using young age as an (objective) criterion for (temporary) immigration status adequately address individual needs and acknowledge the intersection of vulnerability factors and protection needs – both while they're minors and for their potential permanent status in the future?

This analysis is a part of the EU VULNER research project, which investigates how vulnerability is perceived, assessed, and produced within global protection regimes (www.vulner.eu). The sub-study on age-related vulnerabilities draws from qualitative data gathered by the VULNER research teams in the four countries analyzed.⁶ The article commences by examining existing legal and

5 See Crenshaw, 1991 *ibid*.

6 See Carnassale, D. and Marchetti, S. (2022) *Vulnerabilities and the Italian Protection System: An ethnographic exploration of the perspectives of protection seekers*. VULNER Research Report 2. doi: 10.5281/zenodo.712357 Junghans, J. and Kluth, W. (2023). *Exploring Asylum Seekers' Lived experiences of Vulnerability in Germany* VULNER Research Report 2. doi: 10.5281/zenodo.8019659. Kluth, W., Heuser, H., and Junghans, J. (2021) *Addressing Vulnerabilities of Protection*

sociological literature concerning vulnerability factors associated with young age. It then discusses similarities and distinctions in legislation pertaining to safeguarding reception conditions and protection for unaccompanied minors, using the four country cases as examples. To what extent do regulations and practices effectively address and meet the intersection of multiple vulnerability factors? What are the consequences of their legal status for their welfare, particularly when minors turn 18? How do the minors themselves articulate their concerns? The article concludes by discussing temporality and age as vulnerability factors within an intersectional framework.

2 Young Age and the Intersection of Protection and Welfare Provision

In international treaties, unaccompanied minors stand out as among the most vulnerable individuals seeking protection. However, within most legal instruments referring to young age,⁷ vulnerability is taken for granted as an inherent aspect of childhood, without identifying the underlying reasons that render these children disposed when young age intersects with gender identities, social class, ethnicity and religion in complex ways. This oversight has resulted in an incomplete grasp of the specific structural circumstances shaping a child's position, their unique protection requirements, and the grounds underlying their need for support.

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- Seekers in German Federalism* – VULNER Research Report 1. doi: 10.5281/zenodo.5497309. Lidén, H., Schultz, J., Paasche, E. and Wessmann, H. (2021). *Vulnerable Protection Seekers in Norway: Regulations, Practices, and Challenges*. VULNER Research Report 1. doi: 10.5281/zenodo.5518575. Lidén, H., Paasche, E. and Damsa, D. (2022). *Protection Seekers' Lived Experience of Vulnerability in Times of Stricter Migration Policy: The Case of Norway*. VULNER Research Report 2. doi: 10.5281/zenodo.7375797. Marchetti, S. and Palumbo, L. (2021) (Eds.) *Vulnerability in the Asylum and Protection System in Italy: Legal and Policy Framework and Implementing Practices*. 2021. VULNER Research Report 1. doi: 10.5281/zenodo.5518933. Saroléa, S., Raimondo, F. and Crine, Z. (2021) *Exploring Vulnerability's Challenges and Pitfalls in Belgian Asylum System – Research Report on the Legal and Policy Framework and Implementing Practices in Belgium*. VULNER Research Report 1. doi: 10.5281/zenodo.5508769. Saroléa, S., Raimondo, F. and Crine, Z. (2022) *Through the Eyes of the "Vulnerable": Exploring Vulnerabilities in the Belgian Asylum System*. VULNER Research Report 2. doi: 10.5281/zenodo.7179724.
- 7 UNHCR (2009) *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, p. 49: 'although age, in strict terms, is neither innate nor permanent as it changes continuously, being a child is in effect an immutable characteristic at any given point in time.'

Simultaneously, a considerable body of literature examines various factors contributing to instability in the lives of migrant minors, with a particular focus on unaccompanied minors. Research from a socio-cultural perspective explores how characteristics associated with age create distinct risk factors in their home countries, during their journeys, at 'hot spots', and as asylum seekers in new countries – stages that all pose significant threats to their safety, well-being, and development. The studies report that a weak position in the generational hierarchy triggered by cultural, religious and political dogmas and beliefs on gender, ethnicity, disabilities etc. are main reasons for conflicts, harmful relations, humiliation and exploitation. Studies with a health-focused approach reveal that unaccompanied minors are at a heightened risk of developing mental health issues due to their separation from caregivers and exposure to challenging situations and events alone.⁸

A significant portion of research on asylum and refugee children revolves around inadequate social needs and reception conditions. Several of these studies, including the accounts of migrant children themselves, underscore the substantial impact of protection status on their social welfare. This has been documented by several researchers.⁹ Although most EU countries grant children temporary permits and social rights due to their young age, these

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- 8 See e.g. Derluyn, I. and Broekaert, E. (2008). Unaccompanied refugee children and adolescent: The glaring contrast between a legal and a psychological perspective. *International Journal of Law and Psychiatry*, 31, 319–330, Derluyn, I., Mels, C., & Broekaert, E. (2009). Mental health problems in separated refugee adolescents. *Journal of Adolescent Health*, 44(3), pp. 291–297, Jakobsen, M., Meyer DeMott, M.A., Wentzel-Larsen, T., Heir, T. (2017). The impact of the asylum process on mental health: A longitudinal study of unaccompanied refugee minors in Norway. *BMJ Open*, 7(6) DOI: 10.1136/bmjopen-2016-015157, Jensen, T.K., Skar, A.-M.S., Andersson, E.S., Birkeland, M.S. (2019). Long-term mental health in unaccompanied refugee minors: Pre- and post-flight predictors. *European Child & Adolescent Psychiatry*, 28, pp. 1671–1682. <https://doi.org/10.1007/s00787-01901340->, Montgomery, E. (2010). Trauma and resilience in young refugees: A 9-year follow-up study. *Development and Psychopathology*, 22, pp. 477–489.
- 9 See e.g. Chase, E. (2013) The serendipity of justice: The case of unaccompanied migrant children becoming 'adult' in the UK. *Sociology of Health and Illness*, pp. 35–49, Chase, E. (2021) Transitions, capabilities and wellbeing: how Afghan unaccompanied young people experience becoming 'adult' in the UK and beyond. In Lemb, A., Oester K., Strasser, S. (eds) *Children of the Crisis. Ethnographic Perspectives on Unaccompanied Refugee Youth In and en Route to Europe*. Routledge. DOI <https://doi.org/10.4324/9781003206132>, Chase, E. & Alsopp, Jennifer (2021) *Youth, Migration and the Politics of Wellbeing*. Bristol University Press, and Clayton, S., Gupta, A. og Willis, K. (red.) (2019). *Unaccompanied young migrants. Identity, care and justice*. Bristol: Policy Press, as well as researchers in the VULNER project: Carnassale and Marchetti, 2022, Lidén et al., 2022, Saroléa et al., 2022.

provisions may terminate when they turn 18.¹⁰ Consequently, these studies reveal a pattern where unaccompanied minors go missing, live in hidden circumstances, migrate to other countries, or face detention and even deportation before they reach maturity.¹¹ The welfare of these young individuals is significantly influenced by each country's asylum systems and immigration policies, which are themselves intertwined with global trends and policies, as observed in the aftermath of increased migration to Europe in 2015.¹² The minors encounter numerous obstacles in accessing provisions, including conflicting immigration policy priorities, limited resources allocated to the asylum system, public ambivalence, and discrimination against immigrants.¹³ The obstacles rise with the practice of 'everyday bordering',¹⁴ when detailed regulations on who deserve support govern the welfare bureaucracies' room of

- 10 See e.g. Alsopp, J., Chase, E. (2017) Best interests, durable solutions and belonging: policy discourses shaping the futures of unaccompanied migrant and refugee minors coming of age in Europe. *Journal of Ethnic and Migration Studies* 45(2):1–19 DOI: 10.1080/1369183X.2017.1404265, Ni Raghallaigh, M., Thornton, L. (2017). Vulnerable childhood, vulnerable adulthood: Direct provision as aftercare for aged-out separated children seeking asylum in Ireland. *Critical Social Policy* 37 (3) pp. 1–19, Williams, L. (2019). "Durable solutions" when turning 18. I Clayton, S., Gupta, A. og Willis, K. (eds.): *Unaccompanied young migrants. Identity, care and justice*. Bristol: Policy Press.
- 11 Sigona, N. and Allsopp, J. (2016) *Mind the gap: why are unaccompanied children disappearing in their thousands?* Mind the gap: why are unaccompanied children disappearing in their thousands? | openDemocracy, NOAS, Save the Children, and FO (2017). En gjennomgang av midlertidig opphold til enslige mindreårige asylsøkere Report, EMA-notat_web.pdf (noas.no), Williams (2019) *ibid*.
- 12 Chase & Allsopp (2021); Clayton et al. (2019); Humphris, R. and Sigona, N. (2019) Outsourcing the 'best interests' of unaccompanied asylum-seeking children in the era of austerity. *Journal of Ethnic and Migration Studies* 45(3):1–19 DOI: 10.1080/1369183X.2017.1404266.
- 13 See e.g. De Graeve, K., Vervliet, M., & Derluyn, I. (2017). Between immigration control and child protection: Unaccompanied minors in Belgium. *Social Work & Society*, 15 (1), Derluyn, I. (2018) A critical analysis of the creation of separated care structures for unaccompanied refugee minors. *Children and Youth Services Review* 92 (2018) pp. 22–29, Derluyn, I., Orsini, G., Verhaeghe, F., Elhaj, R., Lietaert, I., & Pfeiffer, E. (2023). The impact of trauma and daily hardships on the mental health of unaccompanied refugee minors detained in Libya. *BJPsych Open*, 9(8), Giovannetti, M. (2017) Reception and Protection Policies for Unaccompanied Foreign Minors in Italy. *Social Work & Society*, Volume 15, Issue 2. <http://nbn-resolving.de/urn:nbn:de:hbz:464-sws-1273>, Gupta, A. (2019). Caring for and about unaccompanied migrant youth. I Clayton, S., Gupta, A. and Willis, K. (red.): *Unaccompanied young migrants. Identity, care and justice*. Bristol: Policy Press, Lidén, H., Stang, E.G., Eide, K. (2017). The gap between legal protection, good intentions and political restrictions: Unaccompanied minors in Norway. *Social Work & Society*. 15(1). Vervliet, M. (2013). *The trajectories of unaccompanied refugee minors: Aspirations, agency and psycho-social well-being*. Gent, Ghent University.
- 14 See e.g. Karlsen, M.A. (2021) *Migration Control and Access to Welfare. The Precarious Inclusion of Irregular Migrants in Norway*. Routledge, London. Yuval Davis, N., Wemyss, G.,

discretion.¹⁵ The minors' experiences then are influenced by intricate systems of control entwined with social support, shaping vulnerability across various contexts and societal levels. There is a need for approaches that more effectively combine protection and provision needs, while also accounting for the interplay of various risk factors.

The literature on migrant children is divided between sociological research on provision and well-being, and legal studies on children's rights.¹⁶ Although children's rights is a substantial research topic, only a handful of studies delve into protection practices, particularly the recognition of child-specific harm and persecution and qualification as a child refugee,¹⁷ or thoroughly discuss the participation rights of vulnerable minors.¹⁸ Some reasoned studies advocate for a more comprehensive utilization of legal instruments to secure the rights of migrant children. Arnhold (2018) refers to children as rights holders with rights relating to their innate vulnerabilities, but also relating to their independent actions, decisions and beliefs. Her contribution is to analyse the conceptualization of children in international law, and how CRC as a whole and the rights therein can improve how the 1951 Convention relating to the Status of Refugees (CSR) as an instrument considers the child applicant's protection needs. Arnhold's (2017) contribution lies in her scrutiny of how children are conceptualized within the framework of international law. Her work challenges the conventional understanding of children solely as recipients of protection, highlighting their active agency and their entitlement to rights.

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- Cassidy, K. (2018) Everyday bordering, belonging and the reorientation of British immigration legislation. *Sociology*, Volume 52(2) <https://doi.org/10.1177/0038038517702599>.
- 15 Andreetta, Sophie (2022). Granting 'Human Dignity'. How Emotions and Professional Ethos Make Public Services. *The Cambridge Journal of Anthropology*, Vol. 40(2) pp. 36–53 <https://doi.org/10.3167/cja.2022.400204>.
- 16 See e.g. Brittle, R. & Desmet, E. (2020) Thirty Years of Research on Children's Rights in the Context of Migration. Towards Increased Visibility and Recognition of Some Children, But Not All? *International Journal of Children's Rights* 28 (2020) 36–65 doi 10.1163/15718182-02801008.
- 17 Bhabha, J. (2009), Arendt's Children: Do today's Migrant Children Have a Right to Rights? *Human Rights Quarterly*, 31, 410–451. Bhabha, J. (2014), *Child Migration and Human Rights in a Global Age*, Princeton University Press, Princeton. Arnold, S. (2018), *Children's Rights and Refugee Law: Conceptualising Children within the Refugee Convention*, Abingdon: Routledge. Kalverboer, M., Beltman, D., van Os, C., & Zijlstra, E. (2017). The best interests of the child in cases of migration. Assessing and determining the best interests of the child in migration procedures. *International Journal of Children's Rights*, 25, pp. 114–139. Pobjoy, J. (2017) *The Child in the International Refugee Law*. Cambridge University Press, Cambridge.
- 18 See Tobin, J. (2015).

This perspective aligns with the CRC's holistic approach, potentially enhancing the way the UNHCR Convention addresses the unique protection requirements of child applicants. Moreover, Pobjoy (2017) argues for greater alignment between the definition of 'being persecuted' and the rights enshrined in the CRC. The CRC guarantees children's "individual personality" rights and establishes minimum rights standards for children. Article 22 of the CRC recognizes that refugee and asylum-seeking children are entitled to "appropriate protection and humanitarian assistance", underscoring that they should be treated on par with other children. Pobjoy criticizes the presumption that all children share a uniform and unchanging characteristic solely tied to age. He suggests that the CRC, as a whole and in each of its articles, illuminates different facets of how children might experience harm. This underscores the need for heightened awareness of the distinct and varied ways that children encounter harm and how various factors intersect to make them more vulnerable. This includes forms of harm similar to those faced by adults (such as cruel, inhuman, or degrading treatment, involuntary confinement, torture, kidnapping, or sexual assault) as well as harm specific to children.¹⁹ Children may experience a level or degree of physical or psychological harm that may not qualify as persecution for adults but would be deemed as such from a child's perspective – such as witnessing death or violence, enduring abuse, or experiencing the injury or death of family members. Furthermore, the denial of certain social, economic, or cultural rights can have a more pronounced impact on children compared to adults.

The arguments raised by Arnhold and Pobjoy, along with other scholars examining the rights of migrant children,²⁰ underscore the necessity for a nuanced analysis of rights by including the intersecting factors that impact the situations of these children. My contribution aims to address the tenuous link between age and legal status, highlighting the necessity of recognizing the vulnerabilities tied to migration that give rise to specific protection needs over an extended time frame.

19 Child-specific forms of persecution include, but are not limited to, under-age recruitment, child trafficking and female genital mutilation, family and domestic violence, forced or underage marriage, bonded or hazardous child labour, forced labour, forced prostitution (UNHCR 2009 guideline no 8 para. 18).

20 See e.g. Bhabha (2009) and Sandberg, K. (2015) *The Convention on the Rights of the Child and the Vulnerability of Children* *Nordic Journal of International Law*, 84 (2) pp. 221–247; Tobin (2015).

3 The Study and Country Context

The examination of vulnerability and age-related asylum practices is a component of the EU VULNER project.²¹ This Horizon 2020 initiative aims to enhance our comprehension of the manifold challenges, potentials, and drawbacks tied to the utilization of ‘vulnerability’ as a conceptual framework for devising and executing institutional responses to migrants’ protection requirements. The VULNER project encompasses national teams spanning Belgium, Germany, Italy, Norway, Canada, Lebanon, and a refugee camp in Uganda. These teams meticulously analyzed pertinent domestic regulations and case law within these countries, conducting a total of 216 interviews with public officials, social workers, and aid providers.

The study entails a comparative exploration of age-related vulnerability, anchored by three datasets. Initially, the national teams compiled explicit legal provisions, administrative practices, and case law concerning (unaccompanied) minors and the elderly in their respective countries. This was gathered through a questionnaire distributed to project members and forms the foundation of the analysis.²² Subsequently, a second questionnaire was administered in 2022, capturing data pertaining to the day-to-day experiences of vulnerabilities as reported by asylum seekers, refugees, and individuals operating within the institutional milieu of protection seekers’ lives.²³ The present analysis is grounded in data provided by the Belgium, Germany, Italy, and Norway teams. The third dataset draws from supplementary information culled from statistics, European Migration Network (EMN) reports,²⁴ national documents, and assorted studies carried out by researchers and non-governmental organizations (NGOs) on unaccompanied minors, even encompassing their transition to adulthood.²⁵ This dataset serves to contextualize and substantiate the age-related intricacies in each of the four European countries.

21 The Author wishes to warmly thank the researchers of the national teams of the VULNER project, particularly Dr. Dany Carnassale, Zoé Crine, Jakob Junghans, Dr. Letizia Palumbo, Dr. Francesca Raimondo.

22 The responses included in this article are based on the VULNER reports: Kluth, Heuser, Junghans (2021), Lidén et al., (2021), Marchetti and Palumbo (2021), Saroléa et al. (2021).

23 The responses included in this article are based on the VULNER reports: Carnassale and Marchetti (2022), Junghans and Kluth (2023), Lidén et al. (2022), Saroléa et al. (2022).

24 See European Migration Network EMN (2015). *Policies, practices and data on unaccompanied minors in the EU member states and Norway*; EMN (2018) *Approaches to unaccompanied minors following status determination in the EU plus Norway – Synthesis Report*; EMN (2022) *Transition of unaccompanied minors to adulthood*.

25 See De Grave et al., (2017); Giovannetti, (2017); Lidén et al (2017); Zeller, M. and Sandermann, S. (2017) *Unaccompanied Minors in Germany. A success story with setbacks? Social Work & Society*, Vol. 15 (2). Microsoft Word – 03_Germany (d-nb.info).

In the process of scrutinizing the datasets from these four nations – comprising comparisons of legislation, administrative practices, and lived experiences – I unearthed discernible patterns, ambivalence, and inconsistencies in how age delineates particular rights, procedures, and provisions within each country’s framework. Notably, divergences emerge when analyzing the asylum systems of these countries, which bear relevance to the challenges confronted by their respective asylum mechanisms.

Primarily, these variances are tied to the volume of applicants, including unaccompanied minors, arriving in each country. These discrepancies stem from factors such as the country’s geographical location within Europe, prevalent migration routes and networks, and the country’s perceived allure as a destination, as detailed in Table 1. Secondly, the principal national groups arriving in these four countries differ significantly. The recognition rates across the four countries exhibit notable disparities. Norway stands out with an approval rate of approximately 80–100 percent, primarily attributed to cases falling under the Geneva Convention status, as is also the case in Belgium. In contrast, Italy’s recognition rate is less than 50 percent, largely stemming from humanitarian status grants.

TABLE 1 The main national groups, size and gender of unaccompanied minors arriving in 2021 in Belgium, Germany, Italy and Norway

	Belgium	Germany	Italy	Norway
Main groups of UAMS	Syria, Afghanistan African/East European countries	Syria, Afghanistan	Tunisia, Egypt, Bangladesh and Côte d’Ivoire	Syria, Eritrea, Afghanistan
UAMS 2021	1780	3250	1500 ^a	170
% males	87	78	85	75

a In Italy, all UAMS have access to the reception system regardless of whether or not they have applied for international protection. Unaccompanied minors recorded outside of the asylum procedure in 2021 was 12 280.

SOURCES: EUROSTAT

4 Intersection of Young Age and Legal Status

In this section, I delve into the understanding of, and response to, vulnerabilities linked to young age. The central inquiry revolves around whether the state’s institutional responsibility for provisioning and safeguarding Unaccompanied Minors (UAMS) is based on their age or their status as asylum

seekers. Furthermore, I explore whether additional risk factors inherent to the migratory situation of UAMS are better addressed through predefined, objective group criteria centered on childhood or by their asylum seeker status. Initially, I describe the legal status available to UAMS. Then I scrutinize how state obligations pertaining to ensuring reception conditions for UAMS are fulfilled. I discuss the authorities in charge of the provisions in the four countries, and how the organization affects the acknowledgment, resolution, and even generation of vulnerabilities. Finally, I delve into the implications of their legal status and juvenile living conditions for their circumstances upon reaching adulthood.

4.1 *Legal Status as Either ‘A Minor’ or ‘A Refugee’*

UNHCR’s Guidelines concerning Child Asylum Claims state that “alongside age, factors such as rights specific to children, a child’s stage of development, knowledge and/or memory of conditions in the country of origin, and vulnerability, also need to be considered to ensure an appropriate application of the eligibility criteria for refugee status.”²⁶ These Guidelines further emphasize that children may face persecution influenced by “age, lack of maturity, or vulnerability”, and that even if a child faces the same risks as adults, the experience may differ due to various factors.

When examining the four countries included in the study, two primary statuses are attributed to UAMS – one categorizes them as children, while the other designates them as asylum seekers. In both cases, their essential protection needs come to the forefront, yet paradoxes arise from these legal distinctions. When classified as children, their rights as minors cease upon reaching the age of 18. This transition often leads to reduced attention to their protection needs by authorities, potentially overlooking child-specific forms of persecution that warrant acknowledgment, identification, and follow-up.

On the other hand, when primarily identified as asylum seekers, UAMS may find themselves in a more favorable position to secure refugee status or humanitarian grounds-based status. If granted protection when still being a minor, this, in turn, can offer them improved conditions and expanded rights. However, if their claim for protection is not accepted, they confront the risk of obtaining an irregular status upon turning 18, unless alternative avenues for regulating their stay are provided.

The legal statuses not only influence their current living conditions and well-being but also their future prospects. Across all four countries, UAMS are shielded from deportation, thereby securing their right to remain if they

²⁶ UNHCR, 2009.

are identified as minors. In Germany and Italy, all UAMs receive protection as minors (“residence permit for a minor age”) purely by virtue of belonging to this age bracket. This endows children with temporary protection, affording them a permit until they turn 18. Moreover, they can also apply for asylum or other residence permits grounded in humanitarian reasons while still underage or when turning 18. These permits may remain temporary or be elevated to permanent status.

Conversely, in Norway, every UAM is immediately integrated into the international protection procedures. The retention of their stay permit depends on the outcome of assessments of their protection needs. Clauses on child specific forms of persecution and protection needs are implemented in the Immigration Act. Should they not meet the criteria for refugee status, caseworkers directly evaluate whether ‘strong humanitarian considerations’ warrant a residency permit. Those granted residency on humanitarian grounds may either receive standard residency with fewer rights than a protection-based residency, or they might obtain temporary stay permits until they come of age.²⁷ A notable distinction between Norway and Italy/Germany is the absence of alternative pathways for those granted temporary stays until the age of 18 in Norway. These minors are expected to leave the country immediately after reaching adulthood.

In Belgium, a dual system is in place for protection procedures. Most UAMs opt to seek international protection, undergoing the process as asylum seekers while residing in reception facilities overseen by immigration authorities. However, Belgium also offers UAMs a stay authorization based on their status as minors. This ‘durable solution’ approach involves evaluating lasting solutions for those lacking guardians and assessed as not requiring protection. In cases where alternatives like reuniting with family or returning to family in their home country are not feasible, UAMs receive temporary stay permits valid throughout their minority. These permits cease to be valid upon turning 18.²⁸ Additionally, Belgium addresses the possibility of recognizing age-related vulnerability through an initial assessment of vulnerability, potentially leading to the granting of permits on humanitarian grounds.

Because of the extended duration of asylum proceedings, minors may find themselves awaiting asylum decisions until they reach adulthood. Consequently, if their asylum claims are not adjudicated prior to this transition, the authorities will treat them as adults in the decision-making process regarding their asylum applications. This legal status distinction – either ‘minor’ or

27 See Lidén et al. (2021) and (2022).

28 See EMN (2018); De Grave (2017); Sarolea et al. (2021) and (2022).

'refugee' – across the four countries carries ramifications not only for their present circumstances and well-being but also for their future prospects. Age assessment holds significance not just for their legal status as minors but also for their access to tailored reception facilities and guardianship. Accurate age determination is crucial for eligibility to these rights, often leading to challenges.

4.1.1 The Imperative of Accurate Age Determination

The need to accurately determine age is imperative, as the rights and provisions available to minors depend on their age group. In the initial stages, minors seldom hold an ID document, and authorities often harbor skepticism toward minors' self-declarations. Age assessment holds significance not only for legal status as minors but also for access to tailored reception facilities and guardianship. Age assessment is integrated into asylum procedures across all four countries, although the responsible parties, methods used, and necessity for precision may differ. Belgium and Germany delegate age assessments to the initial caretakers of the minors – the Guardianship Service in Belgium and the local Youth Welfare Agency in Germany. Also here, recourse to medical evaluation are common, and criticized, although assessments may also involve observations conducted over a period. These assessments involve observations conducted over a period. Italy employs a multidisciplinary approach involving socio-medical tests, wherein 'Culture Mediators' contribute to ensure accurate age and maturity assessment.

In Germany and Italy, where minors are guaranteed residency until they turn 18, the precise age might bear less significance during arrival procedures. In countries like Belgium and Norway, where UAMS go through regular protection procedures, the authorities place greater emphasis on age assessment, often carried out shortly after arrival. Norway entrusts the immigration authorities with age assessment, relying on biomedical examinations such as X-rays of hands and teeth. The goal in Norway is to distinguish age groups below 15 and those above 18. In cases where age is defined through biometric measures as an objective criterion, the assessment of individual needs for additional care and maturity becomes less integral to determining age. This objective approach through medical measures is utilized despite acknowledging the limitations of such measures and their potentially detrimental consequences for minors.²⁹

29 EASO (2018) *Practical Guide on Age Assessment*. In Norway, the BioAge measure is an improved version of assessing X-rays of finger bones and teeth; it was developed in 2018 by the Institute of Forensic Medicine at the University of Oslo. Medical professionals have expressed concern about how the measure is used to define exact age. See also Crawley, H.

UAMS' testimonies across the four countries emphasize that they were frequently met with disbelief, with age assessment outcomes influencing the credibility attributed to their protection claims. A minor assessed as 'over-age' faces critical consequences, being left in a state of limbo without rights to accommodation, legal assistance, and exposed to heightened vulnerability. The intersection of age and legal status therefore introduces the risk of not being recognized as a minor, thereby forfeiting the rights designed specifically for this age group.

4.2 *Legal Status and Reception Conditions*

Reception conditions play a pivotal role in the everyday life and development of young individuals. The EU directive on Reception (Directive 2013/33/EU) mandates that states provide UAMS lodged in centers with basic necessities, including education access. For UAMS, the state's obligations need to address at least three types of risk factors: providing essential needs, assigning a guardian, and ensuring safety. Further, UAMS are entitled to education and to equal healthcare rights as other child citizens, recognizing the need to address trauma and harm resulting from violence, abuse, and exploitation they might have endured prior to reaching Europe. Moreover, the state is required to assign a legal guardian.

These obligations are fulfilled through either the asylum system (as in Italy) or the regular child welfare authorities (as in Germany). Belgium and Norway adopt a dual approach, although, in both countries, most UAMS are treated primarily as asylum seekers, in separate units or centres managed by the immigration authorities. In Belgium, migrant children without perceived protection needs but lacking parental care, and those deemed particularly vulnerable (such as girls, very young children, and those with significant psychological or medical issues), are placed in care overseen by the youth welfare sector. In Norway, the dual tracks are defined by objective age, as the welfare authorities are responsible for those aged 14 and younger.

Furthermore, once they obtain a residency permit, minors could be relocated to municipalities where welfare authorities oversee their more stable lodgings and care arrangements. In some countries, as in Italy, it is more up to the individual, their support network or civil service to manage the settlement.

(2007). *When is a child not a child? Asylum, age disputes and the process of age assessment*. IPLA research report. London, Immigration Law Practitioners' Association; Prabhat, D., Singleton, A. and Eyles, R. (2019), Age is Just a Number? Supporting Migrant Young People with Precarious Legal Status in the UK, *The International Journal of Children's Rights*, 27(2), pp. 228–250.

In Norway, the decision on residency permit is envisioned to occur following a swift processing of their asylum claims; nevertheless, the duration can significantly stretch due to the extended appeal process for certain cases. Similarly, in other countries, the asylum procedures can be prolonged, spanning months or even years. During this period, the quality of reception conditions while they maintain their status as asylum seekers assumes even greater significance, as it constitutes integral aspects of their formative years.

Legal status intersects on three distinct manners. Firstly, *the state's regulations* define the authority and system in charge of the reception conditions for UAMS due to preferred status as either children or asylum seekers. Secondly, the regulations make exemptions for the minors' *individual vulnerabilities* related to very young age, being a girl, disability or severe health conditions may lead to improved care and accommodation. Thirdly, *the minors' legal status*, either as asylum seekers, holding a temporal permit as minors or when granted protection affect their reception conditions.

Distinct care provisions either under the welfare or asylum systems lead to differences in how individual needs are met and addressed. In cases where child welfare authorities oversee the care of UAMS, they are treated as children and young people first, and are integrated within the child welfare legislation and provisions. This approach endeavors to provide them with a care system

TABLE 2 The main character of the provision system for UAMS in Belgium, Germany, Italy and Norway

	Child welfare authorities in charge	Immigration authorities in charge
Germany	All UAMS	
Belgium	Durable solution track for UAMS presumed not to have protection needs Exceptionally 'vulnerable' children i.e.g. younger children and girls	UAMS who seek asylum UAMS granted limited residence until the age of 18
Norway	UAMS age 14 or younger UAMS recognized as refugees or granted humanitarian protection	UAMS over the age of 15 UAMS granted limited residence until the age of 18
Italy		All UAMS, run by NGOs on behalf of local immigration authorities

akin to that of other children without parental care. Accommodation overseen by child and youth welfare sectors tend to provide better standards of living and support. Moreover, staff members tend to be more qualified in these systems. Nonetheless, minors may still feel constrained by institutional regulations and rules, limiting their agency and resilience.³⁰

Conversely, when UAMS are primarily categorized as asylum seekers and become integrated into the asylum system, their treatment is governed by the principles and regulations of the immigration system. Even though endeavors are undertaken to establish a distinct care framework for them, the overall approach is influenced by the underlying rationale and guidelines of the asylum process. Furthermore, their legal status significantly impacts the well-being of UAMS. For example, minors aged 16–17 granted temporary permits until they turn 18 experience heightened worry about their future and the inability to recover from previous vulnerabilities.³¹ These temporary permits cause anxiety among these minors, many of whom vanish from reception centers, fleeing to other European countries for a more favorable asylum case assessment or to live as irregular migrants and avoid deportation.³² The temporal nature of their status exposes them to new difficulties and exploitative relationships well before they reach the age of 18.

The reception conditions related to their legal status also intertwines with distinct vulnerability factors. For example, gender compounds the situation, given that the majority of UAMS are boys. Consequently, separate accommodations are frequently arranged for girls. However, the acknowledgment of less conspicuous vulnerabilities, such as the revelation of one's SOGIESC (Sexual Orientation, Gender Identity, Expression, and Sex Characteristics) identity, may come into play, but are not necessarily identified or taken seriously by those responsible for the person's safety. This may also relate to faith. For instance, when a minor speaks of converting to Christianity, they may recount instances of harsh treatment from their fellow residents. Additionally, significant health issues can easily go unnoticed when the staff's interaction with minors remains distant.

Health-related concerns intersect with age and legal status in unique ways. Many UAMS lack avenues for addressing trauma stemming from violence,

30 Eide, K., Lidén, H., Haugland, B., Fladstad, T., Hauge, H.A. (2018). Trajectories of ambivalence and trust: experiences of unaccompanied refugee minors resettling in Norway. *European Journal of Social Work*. DOI: 10.1080/13691457.2018.1504752, Gupta, (2019), Vervliet, (2013).

31 See e.g. Lidén et al. (2022).

32 See e.g. NOAS (2017); Sigona and Alsopp (2016); Kalverboer et al. (2009).

abuse, and the challenges encountered as migrant children.³³ Research focusing on health underscores that unaccompanied minors face an elevated risk of developing mental health problems due to their separation from caregivers and exposure to demanding situations in isolation.³⁴ Specialized health support, unfortunately, tends to be beyond their reach, thereby prolonging their period of resilience.

Additionally, the situation becomes more adverse for minors when their care is integrated into the asylum system in time unexpected surges in arrivals and capacity limitations. The prevailing global migration conditions, combined with decrease of public backing for policies and resources dedicated to the asylum system, can result in a decline in conditions where the actual day-to-day implementation diverges notably from the stipulated regulations, a point underscored by several of our informants. Minors in Italy told the Italian team they stayed over time in a reception centre for adults, although the local immigration authorities (SPRAR) are in charge of the accommodation facilities dedicated to minors. As one boy, Araphan, tells:

When I was in the reception centre, with the other younger persons there were some who protected them from others, because you are in a mass in one place where everyone wants to show their power. I had some difficulties, but I met people who protected me [he smiles].

He explained how difficult it was to be a minor and be in the midst of people much older than him. *It was terrible, that's why I told you that it was a sort of prison, but with invisible bars that you can't see.* Although divided into various categories, the way the staff communicated and related to them made them feel alienated. *They only related to us when they needed you [...]. You signed the ones you had to sign, and away you go. We were placed there like this, like animals in a herd, abandoned like this.*³⁵

Also minors talking to the VULNER team in Belgium described living conditions adversely impacting their health and well-being and their ability to cope. *"I stay in my room all day, I don't talk to anyone, I just come down to eat,"*³⁶ a boy in a large centre with a UAM unit experienced. His stay over time in this large centre where the main spaces of the centre was dominated by other nationalities and people much older than him, made him feel unsafe

33 See e.g. Derleyn et al. (2023).

34 See e.g. Jakobsen et al. (2017); Jensen et al. (2019); Montgomery (2010).

35 Interview conducted by Dany Carnassale, (18 September 2021).

36 Interview conducted by the Belgium VULNER team (Ibrahim 28.09 2021).

and set on the side-line. UAMs placed in provisional or overcrowded centers not only limit their ability to gain care and personal relationship with staff, but also hinder their ability to concentrate on studies or attending school. The state's obligations to provide care, education, and safety to mitigate age-related vulnerabilities then are only partially met.

4.3 *Participation Rights*

The legal status as children is linked to a perceived lack of capacity to assert their own rights independently, but also with an evolving capacity to exercise their rights and to have a say, and that the view of children must be respected.³⁷ Despite the fact that minors are granted participation rights in administrative proceedings related to their lives and situations, their actual influence on decision-making and expression of opinions in asylum and welfare processes is limited. The practice of age assessment serves as just one illustration of this limitation. Another example is the limited say of the minors when it comes to accommodation issues.

The minors interviewed often expressed a need for a person to trust, one who can give advice and reassure them that what they're doing is right, as one girl interviewed in Norway expressed it.

Everything in life is hard. Every time you're alone, you realize it's just you. There's no one to tell you what to do, no one to help you if you make mistakes.³⁸

The quote from this young girl encapsulates the isolation and challenges she faces without a trusted caregiver. This experience of loneliness despite living in a reception center with peers and friendly staff underscores the complexity of relationships and trust even within supportive environments.³⁹

UAMs lack parental guardianship. In accordance with the EU Reception Directive, member states are mandated to ensure that a representative advocates for and supports minors, allowing them to fully exercise their rights and responsibilities (Article 24). The representative shall safeguard the minor's individual rights, the best interests, and ensure that additional needs are met.

37 See e.g. Eekelaar, J. (1994) *The Interests of the Child and the Child's Wishes: The Role of Dynamic Self Determinism*. In P. Alson (ed.) *The Best Interests of the Child: Reconciling Culture and Human Rights*. Oxford, Oxford University Press; Tobin (2015).

38 Norway – interview conducted by Lidén. See also Lidén et al. (2020).

39 See Eide et al. (2019); Gupta (2019); Clayton (2019).

This designated representative is tasked with ensuring both protective rights and provisions such as access to fundamental care, education, and healthcare.

When comparing systems of guardianship in the four countries, notable disparities emerge in terms of access to representatives, the timing of assignment, and the autonomy of these representatives within the system. Belgium and Norway provide UAMS with legal support from the outset, while Germany and Italy exhibit substantial gaps in providing independent representatives to all UAMS. These differences largely stem from the capacity and organization of guardianship systems to provide minors with dedicated representatives well-versed in protection, welfare procedures, rights, and equipped to address the specific interests and challenges faced by each child. The extent to which representatives possess specialized knowledge to support the minor's asylum case and process also varies. Additionally, concerns are raised by the national teams, as well as other researchers across all four countries, about the limited engagement of guardians responsible for numerous minors. This dynamic results in fragile relationships and lack in support due to insufficient attention to individual needs and a lack of trust between guardians and minors.

The role of a guardian becomes particularly crucial for those minors who have limited stays until they reach the age of 18. As previously mentioned, in countries like Germany and Italy where the permit is tied to their status as minors, specific avenues exist for applying for an extended stay permit. The guardian can provide assistance with the application process, but their authority extends only until the minor turns 18, as their responsibilities are confined to the period of minor status.

5 Implication of Aging Out

The process of 'aging out' refers to the loss of rights as a child upon reaching the age of 18. For unaccompanied minors, this transition to adulthood can be starkly different from the conventional experience of young people, who typically undergo a gradual transition to adulthood marked by increased autonomy and responsibility.

This transition is particularly challenging for two categories of minors.⁴⁰ Firstly, those who have been granted a temporary permit as minors which

⁴⁰ See EMN (2022) and PICUM (2022) *Turning 18 and undocumented: Supporting Children in their Transition to Adulthood*. picum.org/wp-content/uploads/2022/04/Turning-18-and-undocumented_EN.pdf for details in conditions in various EU countries. For the situation in UK, see also Chase (2021) and for the situation in Italy, see ISMU Foundation

expires upon turning 18. This results in the loss of deportation protection and the right to unconditional accommodation. Those who are unable to convert their temporary status into a new permit face the prospect of becoming undocumented migrants, with limited access to support and welfare services. The second group for whom the transition is particularly challenging includes minors with pending applications, who face different protection criteria as they are evaluated as adult asylum seekers without due regard to their experiences as minors and their age-related vulnerabilities. This can particularly impact male minors, as the discourse on vulnerability shifts to one that perceives young men as capable of withstanding harsh conditions such as deportation and return to internal flight alternative without a supportive network. In contrast, UAMS undergoing an ordinary asylum procedure with a positive outcome and a secure residence status before they turn 18 have a relatively smoother transition to adulthood. However, even they may experience significant changes in the organization and level of support, which can directly impact their everyday lives.

When assessing access to a secure residence status upon reaching adulthood, the four countries have different approaches, as mentioned above. Norway offers limited options for those granted a temporary permit as minors, often resulting in deportation or an assisted return when turning 18.⁴¹ They also immediately lose their right to education. An updated vulnerability assessment of new compound precarities are not part of the deportation procedure. In contrast, Germany and Italy provide temporary residence permit options, primarily for education or vocational training, but conversion to more secure permits can be subject to delays. Belgium offers the option to convert to permanent residence if particular vulnerabilities lead to humanitarian permit or a 'durable solution' is identified before turning 18.

The transition to adulthood affects accommodation and financial support in all the countries. In Germany, minors can request the Juvenile Court to extend social services' custody until age 21. Italy offers the possibility of extending stay for up to six months or until age 21, depending on regional practices. However, many former unaccompanied minors face a lack in support long before turning 18, and prefer to find solutions on their own, often working in the informal sector without legal support or adequate housing conditions. For many,

(2019) *At a crossroad, Unaccompanied minors and Separate Children in their Transition to Adulthood in Italy*. UNICEF, UNHCR, IOM.

41 Lidén et al. (2021).

support from organizations such as parishes or voluntary associations can play a crucial role in their transition to adulthood.⁴²

In essence, the journey to adulthood for unaccompanied minors is intricate and shaped by factors such as their legal status, reception regulations, and the availability of support networks. The abrupt shift from a child to an adult status carries significant implications for their well-being, access to services, and future prospects.

An important aspect that demands attention is the evaluation of vulnerability during this transition. Initially, it's imperative to consider how age intersects with various forms of victimization, a factor that should already have been taken into consideration during the assessment of asylum claims and the establishment of reception conditions. In practice, however, we see this is only assessed systematically through the adapted measures in Belgium arrival procedure. Moreover, a critical issue arises in determining whether these conditions remain recognized and emphasized when assessing asylum applications and housing facilities after the individual turns 18.

6 Vulnerability and an Age-Sensitive Approach to Protection and Assistance

When examining the rationale and consequences of practices that employ young age as a criterion for additional protection and provision in the four countries, a paradox comes to the forefront. Treating UAMS as *refugees* and integrating them into the international protection process inherently underscores the imperative of identifying age-specific risk factors acknowledged in the asylum assessment. A child-sensitive approach necessitates fine-tuning the risk threshold, the burden of proof, and the assessment of credibility. Minors who are granted protection are more likely provided with improved care and living conditions, and a more secure future. This option, however, relies on the prompt evaluation of their protection needs and a commitment to upholding a child-sensitive approach within the confines of the legal framework.

Conversely, recognition UAMS primarily as *minors* – a particular vulnerable group that can be defined exclusively by reference to a child's age – assumes that children share a common and immutable characteristic. This finds support in non-discrimination principles and the recognition in international law that age is a protected category for discrimination purpose. Treated within a

42 See e.g. PICUM (2022), ISMU Foundation (2019).

separate provision system – such as when youth welfare services oversee housing and care for minors – this results in improved conditions for minors in the context of *seeking* asylum. However, the status as minors do not lead to better hearing procedures, as the findings expose. Additionally, when their status as minors imply a temporary status that expire when turning 18, unresolved status when transiting into adulthood may cause additional problems and uncertainty.

The element of temporality emerges as a significant factor. Swift initiation and a streamlined child sensitive asylum processing period present advantages, at least for those with protection needs. A critical concern revolves around the access to and quality of the hearing procedure, which is vital for identifying various risk factors and comprehending how these factors intersect to amplify vulnerabilities. In Norway, for example, treating UAMS as mainly refugees means that UAMS benefit from specific regulations and guidelines that delineate procedures attuned to children's needs and the assessment of their claims, including dedicated units responsible for the asylum decisions involving UAMS. Case workers equipped with training in matters specific to children evaluate their cases, and a guardianship system ensures that minors have representation from their arrival. Customized information for children is available, and UAMS receive additional legal aid, all contributing to better quality of hearings involving minors.

When primarily treated as minors, and given temporary permit based on objective criteria as a child, there is a greater potential for a prolonged and less consistent asylum process, with unintended consequences for minors' rights to protection. My concern is that in such cases, child-sensitive procedures for international protection might not be sufficiently developed or operationalized. As Arnhold (2018) argues, the reluctance to view children as capable of exercising agency in respect to their civil and political rights can be found both in the dominant discourse on children in legislation placing them as objects of the law and because of limits in the scope of rights while *seeking* asylum. A slow assessment procedure, due to available resources and priorities, additionally increases the possibility that a minor could reach the age of 18 before a decision is rendered, which means an evaluation based on criteria applicable to adults. Italy, for example, have a low number of UAM asylum applications in relation to *all* UAMS arriving in the country, which may reflect prolonged process leading to overage at the time of decision, as well as minors' skepticism about the expected outcome of applying for protection. However, this scarcity of applications could also stem from limited efforts and insufficient supports and resources to guarantee a child-specific approach and support in the

asylum system that safeguards children's protection rights. For some, a more structured and child-specific approach to addressing their complex protection needs could have offered a more secure future.

Additionally, temporality is intricately tied to legal status, particularly during periods when the issuance of temporary permits becomes a prominent aspect of immigration policy measures.⁴³ As numerous studies have indicated, the act of granting temporary stay tends to amplify feelings of uncertainty.⁴⁴ Vulnerability factors often aggravate under uncertain circumstances, and the interaction of such vulnerabilities could amplify precariousness. As discussed previously, several factors contribute to the intricate situation surrounding minors, with global conditions and the scale of migration being one notable impact on their daily experiences. During periods of high arrivals, for instance, the quality of reception conditions deteriorates, leading to more instability in their daily lives – relocations to new centers, less qualified staff, diminished access to welfare services, extended procedure times, and more minors facing unresolved legal statuses upon turning 18. Further, country-specific political attitudes and resource allocation to the asylum or welfare system available for minors influence the conditions for UAMS, adding another layer of complexity – reflecting the intersection of systems and regulations vital for the legal status of minors.

Certain ambivalences arise from these diverse and occasionally conflicting considerations. Norway is one example of an ambivalent policy on vulnerability, exhibiting a generous inclusivity toward refugees while concurrently upholding stringent control and deportation measures for those not granted a stay, including a high threshold for granting humanitarian status for those with compounded vulnerabilities, including former UAMS.⁴⁵ However, this control dynamic raises questions about who qualifies and deserve refugee status, potentially overlooking more complex vulnerabilities and the type of inequalities that minors might encounter.⁴⁶

The argument here is not to neglect the establishment of provisions that provide to their unique requirements of care and support as minors, but rather to advocate for an approach that takes into account also their former and present exposure to harm and discrimination, well documented in studies on

43 Schultz, Jessica (2002). *The Temporary Turn in Norwegian Asylum Law and Practice*. Bergen: Chr. Michelsen Institute (CMI) Report R 2022 (5).

44 See e.g. Alsopp and Chase (2017); Gregg and Williams, (2015).

45 See e.g. Lidén et al. (2021, 2022). The argumentation and new regulations are clearly set in the white paper of the Norwegian Ministry of Justice and Public Security (2016) Prop. 90 L (2015–2016).

46 See Fassin (2012); Tickin (2006).

UAMs living conditions.⁴⁷ This ‘age plus’ approach may be particularly fitting when multiple factors intersect with the child’s age and legal status. Within this approach, it’s imperative to allocate adequate attention to addressing protection needs as well, since a refugee status can significantly impact their future conditions and rights.

The growing awareness of child-specific forms of persecution underscores the necessity of considering factors beyond age when assessing eligibility criteria for refugee status. Legal scholars address the misrecognition of refugee children, advocating for a comprehensive interpretation of existing legal frameworks to ensure that the rights of migrant children are upheld. Both Arnhold (2017) and Pobjoy (2017) argue for a better understanding of how Convention on the Rights of the Child (CRC, 1989) can complement and expand interpretations of the Convention Relating to the Status of Refugees (CSR, 1951). In addition, other scholars argue for the potential to use CRC as an independent authority and crucial legal support when determining children’s vulnerabilities and protection claims. For example, Sandberg (2015) demonstrates how vulnerability factors are already implemented in the CRC and the CRC General Comments.⁴⁸ Tobin (2015) emphasizes the danger that a vulnerability paradigm may aggravate protectionist agendas that are difficult to resolve with the evolving capacity and principle of child participation that underpin the child rights. In essence, this evolving understanding of child-specific persecution acknowledges the need to account for a range of factors that mutually influence each other in assessing a child’s eligibility for refugee status, considering their vulnerabilities, knowledge and unique rights. A broader perspective will better ensure that the state fulfill their obligations to guarantee equal rights for migrant children.

In conclusion, how different countries treat UAMs has profound implications for child-sensitive protection and provision – on various levels. The implication of how age and legal status intersect can be outlined in the political stands and tensions in the discourses and practices to meet the state obligations towards UAMs as a vulnerable group of protection seekers, as well as the structural aspects when organizing welfare provision and asylum procedure for this group. As discussed, the intersection of the specific political context and structural dimensions of the four countries asylum and welfare systems has a vital impact on the minors’ everyday lives, when defining the nature of the relationship between their specific sets of social relations.

47 See e.g. Clayton (2019); Derluyn (2023); Jensen et al. (2014, 2019).

48 See particularly CRCGC no. 4, 6, 12, 14, 15, 18, 22, 23.

The paradox lies in the fact that designating UAMS as minors may not guarantee a comprehensive child-sensitive approach in the long run, while treating them as refugees could lead to a more thorough evaluation of their vulnerabilities and long-term protection needs, but also increase their insecure position when leaving the UAM with an unresolved legal status or a final rejection upon turning 18. The balance between providing sufficient reception conditions for minors versus ensuring protection and security in the long term creates ambivalence in both systems. Moreover, the timing of these procedures greatly influences outcomes.