

Jakob Junghans/Winfried Kluth (eds.)

Exploring Asylum Seekers' Lived Experiences of Vulnerability in Germany



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of Vulnerability in Germany**

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Prologue

People seeking refuge usually experience situations of personal, legal and social uncertainty. Applications for international protection are made with the aim of seeking safe refuge and to overcome these experiences of vulnerability. However, arriving in Germany after the strains of flight often does not mean the beginning of a recovery phase. Rather, asylum seekers face new challenges here that exacerbate their vulnerability or cause new forms of vulnerability.

Providing adequate housing for asylum seekers – especially those with vulnerabilities – should therefore be a core component of receiving asylum seekers and processing their applications. Yet large-scale accommodation centres, many of which exist in Germany, are not places of safety. They are oppressive environments that provide very little space, afford neither privacy nor protection, and prevent any sense of inclusion. When the VULNER research initiative conducted interviews with asylum seekers across Germany in 2022 and 2023, it became clear that large-scale accommodation centres isolate their residents from society, hinder inclusion and even foster violent behaviour. In Germany, insisting that asylum seekers live in such centres, which entail isolation, a lack of privacy and exposure to violence, thus significantly contributes to their vulnerability.

The restructuring of the German reception procedure since 2015 has favoured these negative effects rather than remedying them. And the current efforts to reform the Common European Asylum System are likely to further strengthen this development. Therefore, it is even more important to keep an eye on the interdependencies of asylum law and experiences of vulnerability of those affected. This requires an interdisciplinary approach, as it is the case in the present analysis.

Halle, Juli 2023

Jakob Junghans & Winfried Kluth

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Executive Summary

This research report has been published as part of the EU Horizon 2020 VULNER research project (www.vulner.eu). The VULNER research project is an international research initiative with the objective to reach a more profound understanding of the experiences and vulnerabilities of migrants applying for asylum and other humanitarian protection statuses, and how they could best be addressed. This report therefore makes use of a twofold analysis, which contrasts the study of existing legal and bureaucratic norms and practices that seek to assess and address vulnerabilities among migrants seeking protection, with migrants' own experiences.

Our first report examined the vulnerability assessment processes developed by state authorities in Germany, including how these processes are implemented on the ground through the practices of public servants.¹ Due to the country's federalist administration system, the German asylum procedure is uniformly regulated on the federal level (*Bund*) and the accommodation of asylum seekers is left to each German state (*Land*). The legal obligation to identify vulnerable asylum seekers is done on the federal level and by the German states and municipalities (*Kommunen*). Together they have to identify vulnerable individuals and address their special needs.

However, despite some efforts made to train decision-makers of the Federal Office for Migration and Refugees regarding issues pertinent to vulnerable asylum seekers or the introduction of protective measures to assess and address vulnerabilities in reception centres, our first research report found that Germany inconsistently implemented the European provisions towards vulnerable asylum seekers – as they are established in the EU Asylum Procedure and Reception Conditions Directives – which require the EU Member States to address the specific procedural and reception needs of vulnerable asylum seekers. The German federal Asylum Act only briefly mentions the obligation to identify vulnerable people and passes the responsibility to the German states (*Länder*). Consequently, the legal framework differs widely in each German state. Thus, vulnerability is only addressed in non-binding policy documents, administrative regulations, or protection plans against violence (*Gewaltschutzkonzept*). These definitions often merely address minimum standards, such as room occupancy in collective accommodations and gender-separated toilets. Whether and to what extent the special needs of vulnerable asylum

1 W. Kluth, H. Heuser, and J. Junghans, *Addressing Vulnerabilities of Protection Seekers in German Federalism – Research Report 2020 on the Identification and Assistance of Vulnerable Persons in Asylum and Reception Procedures and Humanitarian Admission*. 2021. VULNER Research Report 1. doi: 10.5281/zenodo.5497309.

seekers are considered thus depends primarily on the commitment of individuals in the respective administration, social service or counselling centre. So far, identification of vulnerable asylum seekers and needs-based support is not seen as an integral part of the asylum and reception procedure in Germany. Also, the federalist administration leads to unequal assistance for vulnerable people depending on the respective state and municipality they were distributed to.

For the second part of the research, we shifted the analytical perspective to the lived experiences of asylum seekers regarding the protection procedures, in order to shed light on the impact of the bureaucratic framework regarding vulnerabilities.

To that end, our research fieldwork included 28 interviews with asylum seekers during the period of March 2022 to January 2023. Additionally, our researchers made observations, and had informal interactions with some asylum seekers and other actors (NGOs, social workers, activists). To address the German federalism, we interviewed participants in various German states. The participants were at various stages of the asylum procedure and had different legal statuses.

The research findings are presented in three main chapters. The first chapter analyses, through a *micro* perspective, the personal circumstances of vulnerability. It demonstrates how compounded vulnerabilities arise out of the intersection of multiple factors to shape one's experience of vulnerability. To this end, we first focus on specific individual vulnerability factors such as sexual orientation and gender identity, gender, mental and physical health and age, and then examine how these intersect with and are compounded by other individual circumstances or family and community factors. The experiences of the asylum seekers we interviewed revealed how greatly the different factors of vulnerability are interrelated. It was also possible to show why the categorisation of factors should not be strictly followed. Family and community factors in particular can change and merge over time. This is especially relevant for vulnerable groups who are also excluded from social networks because of their sexual identity, gender, or illnesses. The definitions and understanding of family and community are often different for asylum seekers than the definitions recognised and imposed by the state. When such recreated social bonds are not recognized and disrupted, by relocation for example, this can further increase a person's vulnerability.

In the second chapter, we adopted a *meso* perspective and focussed on administrative and situational vulnerabilities which are caused by a precarious residence status and the dependence on state actors. Here we have identified structural factors of situational vulnerability such as legal techniques (an authority's margin of discretion), or institutionalised spheres of mistrust created in interactions with authorities. We also looked at the negative impact of restrictions on freedom of movement on vulnerability experiences. In contrast, relationships with social workers,

foster families and peers turned out to be important for creating a sphere of trust and for promoting asylum seekers' agency.

In the third chapter, we took a *macro* perspective on how certain policy decisions can increase and/or decrease the vulnerabilities of asylum seekers. Due to German federalism, there are large differences in the municipalities that influence an asylum seeker's situation. The type of accommodation and the municipal approach to integration determine much about an asylum seeker's situation. But also, the federal policy instruments, which we looked at in relation to the Covid-19 pandemic and Ukrainian refugees, had a major impact. We have shown that uncertainty is a central feature of migration management – both in terms of increasing informal regulatory approaches without binding and transparent regulations, and in terms of sanction mechanisms for illegalised residents who, however, cannot be deported. Having in mind that a safe place is the core aim for asylum seekers, the insecurity and uncertainty associated with the accommodation system is an essential part of the administrative vulnerability of asylum seekers in Germany.

Zusammenfassung

Dieser Forschungsbericht wurde im Rahmen des EU Horizon 2020 VULNER-Forschungsprojekts veröffentlicht (www.vulner.eu). Das VULNER-Forschungsprojekt ist eine internationale Forschungsinitiative, die darauf abzielt, ein tieferes Verständnis für die Erfahrungen mit der Vulnerabilität von Geflüchteten zu erlangen und wie diese am besten adressiert werden kann. Das Forschungsprojekt stützt sich daher auf eine zweifache Analyse, bei der die Untersuchung bestehender Rechtsnormen und Rechtspraktiken bezüglich vulnerabler Schutzsuchender mit den eigenen Erfahrungen der Geflüchteten konfrontiert wird.

Im ersten Forschungsbericht wurden die von den staatlichen Behörden in Deutschland entwickelten Mechanismen zur Bewertung der Schutzbedürftigkeit untersucht, einschließlich der Frage, wie sie vor Ort durch die Praxis der Sachbearbeiter:innen umgesetzt werden. Aufgrund des Föderalismus ist das deutsche Asylverfahren einheitlich auf Bundesebene geregelt, während die Unterbringung von Asylbewerber:innen den einzelnen Bundesländern überlassen ist. Die gesetzliche Verpflichtung, schutzbedürftige Personen zu identifizieren betrifft hingegen sowohl die Bundes- und Landesebene als auch die Kommunen. Gemeinsam müssen sie schutzbedürftige Personen identifizieren und auf ihre besonderen Bedürfnisse eingehen.

Trotz einiger Verbesserungen bei der Schulung von Entscheider:innen des Bundesamts für Migration und Flüchtlinge oder der Einführung von Schutzmaßnah-

men für Schutzbedürftige in Aufnahmeeinrichtungen hat unser erster Forschungsbericht ergeben, dass Deutschland die europäischen Bestimmungen für besonders schutzbedürftige Asylsuchende nicht ausreichend umgesetzt hat. Das Asylgesetz erwähnt die Verpflichtung zur Identifizierung schutzbedürftiger Personen nur kurz und verweist ansonsten auf die Zuständigkeit der Länder. Der rechtliche Rahmen unterscheidet sich somit von Bundesland zu Bundesland. So wird die Schutzbedürftigkeit nur in unverbindlichen politischen Dokumenten, Verwaltungsvorschriften oder Gewaltschutzkonzepten angesprochen. Dabei geht es oft um die Zimmerbelegung in Unterbringungseinrichtungen und um Mindeststandards, wie etwa geschlechtergetrennte Toiletten. Ob und inwieweit die Bedürfnisse von besonders schutzbedürftigen Asylsuchenden berücksichtigt werden, hängt damit in erster Linie vom Engagement einzelner Personen in Verwaltung, Sozialdiensten und Beratungsstellen ab. Die Identifikation von schutzbedürftigen Asylsuchenden und eine bedarfsgerechte Unterstützung werden bisher nicht als integraler Bestandteil des Asyl- und Aufnahmeverfahrens gesehen. Auch führt der Föderalismus zu ungleicher Unterstützung für besonders schutzbedürftige Asylsuchende je nach Bundesland und Kommunen, auf die sie verteilt wurden.

Im zweiten Teil der Untersuchung verlagerten wir die Analyseperspektive auf die Erfahrungen von Geflüchteten mit den deutschen Asyl- und Aufnahmeverfahren, um die Auswirkungen des Rechtsrahmens auf die Erfahrungen von Vulnerabilität zu ergründen.

Zu diesem Zweck umfasste die Forschung 28 Interviews mit geflüchteten Menschen im Zeitraum von März 2022 bis Januar 2023. Darüber hinaus wurde die Forschung ergänzt durch Beobachtungen der Forschenden sowie informellen Gesprächen mit einigen Asylsuchenden und anderen Akteur:innen (NGOs, Sozialarbeiter:innen, Aktivist:innen). Angesichts des deutschen Föderalismus suchten wir Interviewteilnehmer:innen in verschiedenen Bundesländern. Die Teilnehmer:innen befanden sich in verschiedenen Phasen des Verfahrens und hatten einen unterschiedlichen Aufenthaltsstatus.

Die Forschungsergebnisse werden in drei Hauptkapiteln vorgestellt. Der erste Abschnitt analysiert aus einer *Mikro-Perspektive* die persönlichen Umstände von Schutzsuchenden. Es wird gezeigt, wie aus dem Zusammentreffen mehrerer Faktoren, eine intersektionale Vulnerabilität entsteht. Wir konzentrierten uns zunächst auf spezifische individuelle Gefährdungsfaktoren wie sexuelle Orientierung und Geschlechtsidentität, Geschlecht, psychische und physische Gesundheit sowie das Alter, um dann zu untersuchen, wie diese mit anderen individuellen Umständen oder familiären und community-Faktoren zusammenwirken bzw. sich gegenseitig verstärken. Die Erfahrungen der von uns befragten Schutzsuchenden machten deutlich, wie sehr die verschiedenen Faktoren der Gefährdung miteinander verknüpft sind. Es konnte auch gezeigt werden, warum die Kategorisierung der Fak-

toren flexibel bleiben muss. Insbesondere familiäre und community-Faktoren können sich im Laufe der Zeit verändern und verschmelzen. Dies ist besonders relevant für bestimmte soziale Gruppen, die z.B. aufgrund ihrer sexuellen Identität, ihres Geschlechts oder ihrer Krankheiten aus diesen sozialen Zusammenhängen ausgeschlossen sind. Außerdem unterliegt die Definition von Familie oder Community bei Schutzsuchenden oft einer anderen Bestimmung als durch staatliche Stellen. Dieser Umstand kann die Vulnerabilität erhöhen, wenn solche neu geschaffenen sozialen Bindungen z.B. durch das Verteilungsverfahren gestört werden.

Im zweiten Kapitel haben wir uns mit einer *Meso-Perspektive* auf die administrative und situative Vulnerabilität konzentriert, die durch einen prekären Aufenthaltsstatus und die Abhängigkeit von Behörden und Sachbearbeiter:innen entsteht. Hier haben wir insbesondere strukturelle Faktoren der situativen Vulnerabilität identifiziert, wie z.B. rechtliche Techniken (Ermessensspielraum der Behörden) oder institutionalisierte Sphären des Misstrauens, die in der Interaktion mit Behörden entstehen. Wir untersuchten auch die negativen Auswirkungen von Einschränkungen der Freizügigkeit auf die Erfahrungen von Vulnerabilität. Im Gegensatz dazu erwiesen sich die Beziehungen zu Sozialarbeiter:innen, Pflegefamilien und Peers als wichtig für die Schaffung eines Vertrauensverhältnisses und die Förderung der eigenen Handlungsfähigkeit (agency).

Im dritten Kapitel haben wir mit einer *Makro-Perspektive* untersucht, wie bestimmte politische Entscheidungen die Gefährdung von Schutzsuchenden erhöhen und/oder verringern können. Aufgrund des Föderalismus gibt es große Unterschiede zwischen den Kommunen, die die Situation von Schutzsuchenden beeinflussen. Die Art der Unterbringung und kommunale Ansätze zur Integration spielen dabei eine zentrale Rolle. Aber auch politische Maßnahmen auf Bundesebene, die wir im Zusammenhang mit der Covid-19-Pandemie und den ukrainischen Schutzsuchenden untersuchten, haben einen großen Einfluss. Wir haben gezeigt, dass „die Erzeugung von Unsicherheit“ ein zentrales Merkmal der Migrationssteuerung ist, sowohl hinsichtlich zunehmender informeller Regelungsansätze ohne verbindliche und transparente Rechtsregelungen als auch im Hinblick auf Sanktionsmechanismen für illegalisierte Personen mit einer Duldung. Wenn man zudem bedenkt, dass ein sicherer Ort von Anfang an ein zentrales Ziel für Schutzsuchende ist, trägt das Unterbringungssystem und die damit verbundene Gefährdung, Isolation und Desintegration von Schutzsuchenden maßgeblich zur Vulnerabilität von Asylsuchenden in Deutschland bei.

Abbreviations

AnKER	German Reception Centres for Arrival, Decision-making and Return (Zentrum für Ankunft, Entscheidung und Rückführung)
ATD	European Alternatives to Detention Networks
BAföG	German Federal Law which governs Support in Education
BAMF	Federal Office for Migration and Refugees
CEAS	Common European Asylum System
CJEU	European Union Court of Justice
ECtHR	European Court of Human Rights
EMN	European Migration Network
EU	European Union
EU+	EU-member states and Iceland, Liechtenstein, Norway and Switzerland, which are associated to the Schengen zone
EUAA	European Union Agency for Asylum
EUCFR	Charter of Fundamental Rights of the European Union
EU-LISA	European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice
HIV	Human Immunodeficiency Virus
IDC	International Detention Coalition
IOM	International Organization for Migration
LGBTQI+	Lesbian, Gay, Bi, Trans, Queer, Intersex, and more
PICUM	Platform for International Cooperation on Undocumented Migrants
SOGIESC	Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics
UMA	Unaccompanied Minor Asylum Seekers
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
VG	Administrative Court
VGH	Higher Administrative Court
Wi-Fi	Wireless Local Area Network

I. Introduction

The concept of „vulnerability“ is complex and has different meanings and interpretations across different disciplines. While vulnerability can be seen as an inherent characteristic of human existence, it can also be shaped by external factors such as situational and administrative conditions. For us, vulnerability should be understood beyond the ontological sphere,² which refers to an individual's intrinsic characteristics, and instead it should be recognized that vulnerability is often imposed upon individuals by societal perceptions based on personal characteristics. For example, groups identified as vulnerable by international and European protection tools are categorized as such due to societal perceptions rather than their inherent vulnerability.

It is important not to essentialise vulnerability by reducing individuals to one dimension or establishing hierarchies between different categories based on personal characteristics. Vulnerability is a complex and context-dependent phenomenon shaped by the interaction of multiple factors – including individual attributes, institutional, political, economic, social, and relational factors. Therefore, vulnerability is mostly situational and shaped by various forms of interaction, such as social and economic factors, interpersonal relationships, or life events.³

The theory of intersectionality, introduced by feminist scholars like Kimberlé Crenshaw, helps to delineate the structural and dynamic consequences of the interaction between multiple forms of discrimination and oppression on the basis of gender, race, nationality, social class, sexual orientation, and other grounds.⁴ Vulnerability is strongly related to the theory of intersectionality, as it recognizes the interdependence of different forms of oppression and their impact on an individual's vulnerability.

People seeking refuge usually experience situations of personal, legal and social uncertainty. When focusing on such situational vulnerability, in this report we want to emphasise the conditions of vulnerability that could be connected to an administrative condition of uncertainty such as being an asylum seeker whose application for asylum has not been decided yet. In addition, people can experience other forms of vulnerabilities that can be caused by uncertainty related to their legal status--such as being undocumented, stateless, in detention, in reception centres far from the communities and social/care resources. In these cases, there can be many factors

2 E. Boubilil, 'The Ethics of Vulnerability and the Phenomenology of Interdependency', *Journal of the British Society for Phenomenology*, 2018. 49:3, 183–192, DOI: 10.1080/00071773.2018.1434952.

3 *Ibid.*

4 K. Crenshaw, 'Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color'. *Stanford Law Review*, 1991. 43 (6): 1241–1299.

that exacerbate a situation of vulnerability: the fact of being dependent from the authorities, limited access to medical and care assistance, or limited contact with family and mediators. To emphasise these structural factors of vulnerability we speak about administrative vulnerability as a form of situational vulnerability when examining the relationship between experiences of vulnerabilities and the legal and bureaucratic framework. As will be shown, the different conditions cannot be strictly separated from each other, and can be deeply interrelated.

It is important to note that while external factors can contribute to an individual's vulnerability, the individual is not simply a passive recipient of vulnerability. Rather, individuals have agency and play an active role in their experiences of vulnerability. For instance, an individual may have agency in seeking out support systems or resources to mitigate their vulnerabilities, or in advocating for their rights and needs. Furthermore, individuals may resist or challenge the systems and structures that contribute to their vulnerabilities. Recognizing the agency of individuals in their experiences of vulnerability is crucial for understanding the complexity and nuances of vulnerability, and for developing effective strategies to address it. It is also important to acknowledge that vulnerabilities are constantly evolving, and this temporal aspect is crucial to understanding the lived experiences of vulnerability.

Certain groups are identified as vulnerable by international and European legal instruments aimed at providing them with adequate protection during the process of seeking protection, thus forcing the German legislation to implement these measures into the national asylum and migration system. However, as we demonstrated in our first report, which focused on the analysis of state mechanisms developed to identify and address the vulnerabilities of people seeking asylum in Germany, the term „vulnerability“ is in fact almost non-existent in German asylum and migration legislation. There are no legal provisions on vulnerable asylum seekers, thus no binding regulations from the federal state. Therefore, the concept of vulnerability is mostly informal and only referred to in administrative regulations towards certain groups, for instance in reception centres.

Moreover, as Germany is a federal state, the responsibilities of assessing and addressing the vulnerabilities of asylum seekers are shared between the federal state, the German states, and the municipalities. Thus, there are no unified practices, which consequently produces unequal treatment of individuals depending on the localities they are assigned to or they arrived at.

For the second phase of the research, we shifted the perspective from the state regulations and practices, to the lived experiences of vulnerable asylum seekers in relation to the asylum and reception procedures in Germany. The goal was to analyse how experiences of vulnerabilities are shaped and sometimes even produced by the legal and bureaucratic framework.

To this end, the report uses three intertwined analytical concepts as a guideline to analyse asylum seekers' individual and situational vulnerabilities with regards to the German system. Throughout the report, we define the *agency*⁵ of asylum seekers as their ability to make their own independent and free choices, and to utilise existing rules and structures to achieve their own personal objectives. A person's agency can hereby be understood as mitigating their risk factors of vulnerability through self-reliance and resilience. We also give importance to the concept of *temporality*, understood in this report as the temporal aspect of vulnerabilities' constant evolution and the spatial organisation. Lastly, the concept of *intersectionality*, in its empirical sense, is also at the core of our research since vulnerable positions of asylum seekers are the product of a combination of interconnected and diverse, social and personal circumstances.

Following the introduction of our research methodology and contextualizing the legal and bureaucratic environment in Germany, this report presents our research findings in three main chapters. Chapter IV adopts a micro perspective approach by examining the complexities of vulnerabilities associated with the personal circumstances of asylum seekers, which can be attributed to a range of determinants, some of which reveal themselves as resilient factors while others pose a risk. Chapter V takes a meso-perspective approach and explores vulnerability in the context of protection and administrative procedures related to the asylum application in Germany. Finally, Chapter VI analyses various processes and shifting policies that are part of the national migration management, and their relationship to the vulnerabilities experienced by individuals seeking asylum in Germany, thus taking a macro-perspective.

5 A. Triandafyllidou, 'Beyond irregular migration governance: zooming in Migrant's agency', *European journal of migration and law*, 2017. doi 10.1163/15718166-12342112.

II. Methodology

The aim of this second research report is to analyse the experiences of asylum seekers within the German asylum procedure based on our fieldwork. We focus on how individuals experience their own vulnerability and independently use their agency to overcome vulnerable situations. This report thus explores the process of becoming vulnerable, the experience of being vulnerable and overcoming vulnerability as an asylum seeker. The data for this report was collected using empirical research methods. The following section explains the methodological choices made in this study.

For a better understanding we used the commonly known term “asylum” in this report referring to the more accurate legal term of “international protection”. International protection covers two legal statuses: refugee status, provided for by the Geneva Convention of 28 July 1951, and subsidiary protection status, which is based on the European Union Qualification Directive 2011/95/EU. Even if the rights deriving from these two legal statuses tend to be similar, these two concepts have fundamental legal differences, particularly in their purpose and regime limiting access to certain procedures. This research also refers to “asylum seeker” in a generic sense, without distinguishing whether the person has applied for asylum, is still in the procedure, has received a negative decision or suspensive measure.

Whereas our first research report⁶ analysed the German legal framework and state practices towards people searching refuge, this report seeks to amplify the voice of asylum seekers who navigate the corresponding administrative procedures. The report pays particular attention to forms of vulnerability created or maintained by the asylum procedure itself. Through our interview partners’ observations, we aimed to investigate the discrepancies between official regulations and their implementation in practice.

In view of the German federalist system, we searched for interview participants in various German states. In total, 28 asylum seekers participated in our study from March 2022, to January 2023, using semi-structured non-representative interviews. We conducted our research in three small towns in Bavaria, Baden-Wuerttemberg and Thuringia, one village in Lower Saxony, four towns of different sizes in Saxony-Anhalt, as well as in the capital Berlin. As it was not possible for us to conduct our research in reception centres, we focused on people who have already been distributed to the municipalities. In doing so, it was important for us to record the effects of the asylum decision for the following time period, so we searched for people with both negative and positive outcomes of the asylum pro-

6 W. Kluth, H. Heuser, J. Junghans, *Addressing Vulnerabilities of Protection Seekers in German Federalism*, op. cit.

cedure. This also allowed us to capture our interviewees' perspectives on the temporality of their vulnerability, how it evolved over time (during the asylum process as well as afterwards), and which factors were particularly burdening or supportive in retrospect.

1. *Fieldwork challenges*

As we had a special focus on housing in our first research report, we initially searched for asylum seekers who were still obliged to live in state-run reception centres. We took a twofold approach to finding these asylum seekers. On the one hand, we tried to gain access via the state authorities and district administrators with a top-down approach in Bavaria, Baden-Wuerttemberg and Saxony-Anhalt. In parallel, we also tried to establish direct contact with residents and social workers. Unfortunately, several attempts to conduct our research in such reception centres failed. We were not granted permission to enter the facilities with regard to Covid-19-restrictions, or concerns our research would overburden the staff.

We wanted to conduct interviews in municipal collective shelters, but were unable to do so due to general bans on visitors. In one instance we navigated around this ban by interviewing a person who lived in a collective shelter in a nearby private flat belonging to his friend. This approach was difficult to expand however, because the hurdles to reach people were very high. Therefore, our field researcher Jakob Junghans attended several events in front of collective shelters and participated in counselling dedicated to help refugees equipped with contact forms for potential participants. Information events for people without residence status were also used to get in touch. However, this method also proved problematic in some instances: in one municipality in particular, it turned out that many people were afraid to participate in the study because they had organised a demonstration some time ago and shortly afterwards received increased sanctions from the Immigration Office (working bans and food vouchers). Another difficulty was that at these information events our researcher was also involved in other tasks, so there was often no time to get in touch with people. Information flyers and contact forms were created, but no one used these forms. These attempts therefore also ultimately failed in reaching potential interviewees.

Parallel to the focus on people in large-scale accommodation centres, attempts were made to find interview partners through counselling centres. During our first research report conducted in 2021, we had no success in establishing contact with trafficked asylum seekers. As already mentioned, women's shelters were explicitly excluded from the research. But the expansion of the search via specialised counselling centres for other vulnerable groups and via lawyers in 2022 were unsuccessful as well. This was mainly because these actors did not want to indicate even

implicitly, through their power position towards that participation in the study was required or legally recommended. that people should participate in the study.

Therefore, the interviews happened primarily through personal contacts and connections with social workers.

Other factors arose that led to interviews being organised but ultimately not being conducted. Sometimes people broke off contact with us, became ill or did not show up for the meeting. In instances where interviews were to be conducted in cities outside our base of research, they could not be made up. In particular, there were difficulties with the most vulnerable people such as those who had been trafficked or had serious diseases, as the interview had to be rescheduled several times due to hospitalisations and did not take place in the end due to the limited research period.

With regard to the interviews themselves, the circumstances were sometimes unfavourable for talking about stressful events, such that the researchers chose not go into further detail on certain topics. This was the case, for example, with victims of serious violence who had to pick up their children from kindergarten directly after the interview. Also, one interviewee expressed the desire to have another individual interview during a group discussion. When we did so, a different translator was present (of a different gender and age) and the interviewee felt uncomfortable and did not want to talk further about his illnesses.

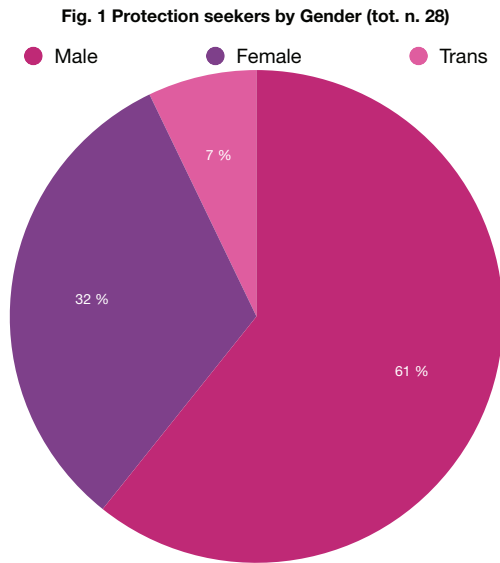
The bureaucratic hurdles required to pay a translator also did not fit the circumstances of how the interviews were conducted. Since the interviews often occurred spontaneously when connection had been made, translators in the interviewees' environment were used. This had the advantage that the interviewee and the translator knew and trusted each other. However, no financial compensation could be offered without an invoice, and thus often translators went without being paid. Especially in the case of longer or multiple interviews this meant that the translators were not willing to spend several hours without compensation.

In addition, there were also obstacles with regard to attracting interviewees once contact was made. Some potential interviewees expressed interest in an expense allowance, which we were unable to give, and therefore they refused to participate at all. Additionally, because many contacts were arranged privately, it was sometimes not easy to distinguish clearly between the researcher's private supportive/advisory role (at events and in the context of private contacts) and their official research role. This was mitigated by the researchers providing an overview of counselling services on various topics without offering any support of their own. Nevertheless, the separation between support and research could not always be strictly avoided. Sometimes the clarity of this delineation was misconstrued through translation difficulties, such that the researcher had to stop the interview because the participant assumed that he or she would receive support in communicating with

the Immigration Office. As these points address ethical issues as well, we will describe our ethical foundations in the following.

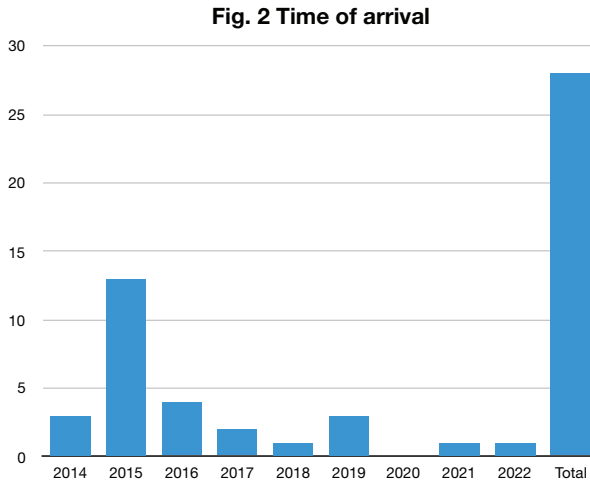
2. Features of the interviews and participants selected

Having in mind the obstacles we faced in finding participants due to the Covid-19 pandemic and the limited resources of our researcher regarding access to people of different gender in 2022, we were not able to meet our goal of reaching a balanced number of male and female interviewees. For example, all UMA we interviewed were male. To mitigate the gendered dimension, we conducted a separate research period in January 2023 to interview three queer people in Berlin.



Despite this research period, the selection of interviewees was not based on membership to a specific vulnerable group, but only on the reference to the asylum application. People fleeing the war in Ukraine were explicitly excluded, for they benefit from a distinct legal status (temporary protection), which could be obtained through a specific process different from the asylum process. The selection of participants was less influenced by specific criteria established by our researchers, than by the willingness of counselling centres to collaborate and the researchers' posi-

onality. For example, we decided not to interview people, who lived in women's shelters as we only had a male researcher in 2022. In Bavaria, we sought to mitigate the gendered skew in the data by conducting the interviews with a female research assistant.

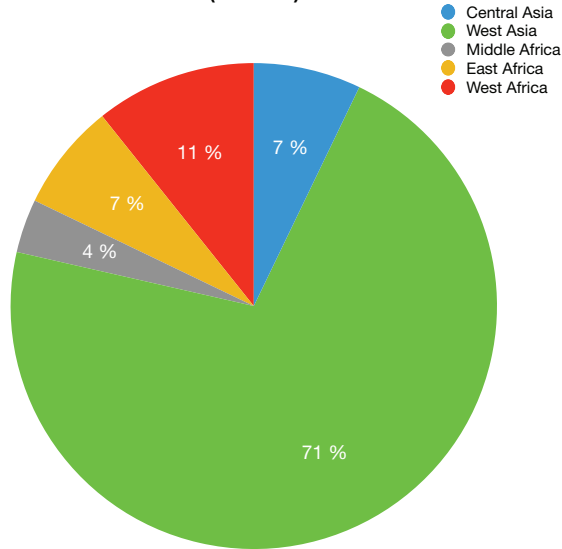


In our research report, we look at the differences in how protection procedures are applied during certain periods of time, which means that the time of arrival also has an influence on the interviewees' experiences with the respective administrative procedures as the legislation and procedures have changed over the years.

61% of our participants arrived in 2015–2016 (17 out of 28). This strong trend additionally indicates that we do not have a balanced picture with regard to the countries of origin. Of our total of 28 interview partners, 20 came from Syria alone. More than 70% of our interviewees came from the Middle East.

With regard to residence status, the result is slightly more balanced. Two people were still in the asylum procedure at the time of the interview and therefore had an authorisation to reside until the asylum procedure was completed. More than half of our interviewees had a temporary residence permit, including ten with refugee status and three with subsidiary protection. 25% of the interviewed persons lived illegally in Germany and only had a temporary leave to remain. We were also able to interview four people who already had a permanent right of residence that enabled them to apply for citizenship.

Fig. 3 Interviewees by Macro-Geographical Area
(tot. n. 28)



Of the seven people we interviewed and stay illegally in Germany, six live in Saxony-Anhalt. Of the persons interviewed in this German state, only slightly less than one third had a legal residence status. In contrast, in the other German states (Berlin, Lower Saxony, Thuringia, Baden-Württemberg and Bavaria) the percentage of persons we interviewed in possession of a temporary or permanent residence was over 85 %. This is likely because it is more difficult to get in touch with illegalised persons, as they often have to live in large-scale accommodation centres where researchers and visitors are not allowed to enter, but due to our geographical proximity and better networks in Saxony-Anhalt, it was possible to reach people there with great effort. In other German states, the hurdles were too high and the time resources too scarce.

Four of the five people we interviewed from East and West Africa have a *Duldung* (temporary leave to remain) and therefore have to live with the fear of deportation.

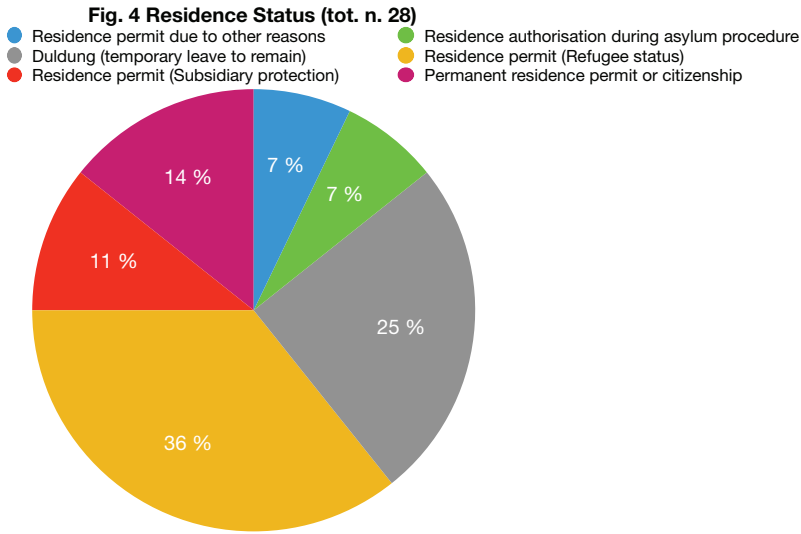


Fig. 5 Country of Origin

Country of origin	Afghanistan	Syria	Palestine, Iraq, Saudi-Arabia	Cameroon	Kenya, Eritrea	Gambia, Nigeria, Burkina Faso	Total
Number of interviewees	2	17	3	1	2	3	28
Arrived as UMA	2	2			1		5

Regarding the interviews on the vulnerability of Unaccompanied minor asylum seekers (UMAs), we decided to speak only with people who arrived in Germany as UMAs, but who had since turned eighteen. In doing so, we intended to reduce the influence of our interviewee's dependency on their legal guardian on our conversations. Also, we intended to pay particular attention to the transition to adulthood, which implies the loss of the special support given to UMAs.

Most of the interviews took place through personal contacts of the researchers with the interviewees and through connections with social workers. One resulted from the "snowball-effect", and two were arranged by local authorities and a re-

fugee council. Two interviews resulted from talks one researcher had with people in the context of local events for refugees.

The interviews were either conducted in the participants' private flat or in the offices of local social workers. One interview was held in the researcher's office. In addition to the records, we produced data based on observations and informal conversations before and after the actual interview. Also, we cross-checked our participants' experiences with official materials and documents.

Generally, individual interviews were conducted in German or English. In some cases, translation was needed, which was spontaneously organised through participants' acquaintances or friends. Three interviews were conducted simultaneously with two people who had a friendship or family ties. In addition, there was a group interview with four people, which resulted in an individual interview with one participant afterwards.

3. *Ethical foundations*

All people's names mentioned in this report take into account the choice made by the participants through the informed consent form that was filled in before the interview. Some pseudonyms were chosen by the researchers when the participants wanted their identity to remain anonymous. To guarantee our interviewee's privacy, we decided not to mention specific towns, but only the German state where our participants live.

We abide with the common ethics strategy that was established for the VULNER project.⁷ Each interview began by providing information about the research and publication process and a reminder about the participant's freedom to refuse to answer any question. However, sometimes the researchers had the impression that their function as researchers was not fully understood by participants, e.g., because of the participant's work at the university, the voluntary context in which interviews took place, or the researcher's training as a lawyer. In these cases, it was specifically pointed out that no counselling was able to be provided and that no benefits arose from participation; if these miscommunications continued, the interview was terminated.

7 For further information see: <https://www.vulner.eu/106307/Ethics>.

III. Vulnerability Assessments in the German Asylum and Reception Procedure

Our first research report examined how vulnerability is addressed in the asylum and reception procedure in Germany and how corresponding provisions of EU law are implemented. Because of Germany's federal structure, a distinction must be made between the asylum procedure, which is regulated and implemented uniformly at the federal level, and housing, which is regulated differently in each German state.

With regard to the asylum procedure, two approaches should be mentioned that address the vulnerability of asylum seekers within the responsibility of the Federal Office for Migration and Refugees (BAMF). Introduced as a pilot project in 2018, asylum procedure counselling (*Asylverfahrensberatung*) was set up according to § 12a Asylum Act. This counselling gives to asylum seekers the opportunity to point out their own vulnerability in the form of a first group discussion and a second individual counselling, which take place in reception centres. In our previous report, we concluded that this counselling does not meet the requirements of a comprehensive vulnerability assessment. For example, it is carried out by case officers who work as decision-makers at the BAMF, and the group discussions do not allow for a proactive identification. It is therefore important to mention that the law has been amended in the meantime, so that counselling is no longer provided by the BAMF, but instead by independent welfare organisations that have been given the mandate to identify needs for special procedural guarantees or safeguarding in accommodation.

The BAMF also trains special representatives (*Sonderberichterstatter*), who act as decision-makers on the asylum application made by asylum seekers who were identified as having special needs. There are BAMF representatives for gender-specific persecution, unaccompanied minors, victims of torture and traumatised persons, as well as victims of human trafficking. Even if there is no legal obligation to assign the file of an asylum seeker with special needs to a 'special representative', judges are more likely to conclude to a procedural error when this wasn't the case.⁸

Regarding housing, two levels have to be distinguished, again because of federalism. There is a first accommodation in large-scale state reception centres (*Aufnahmeeinrichtung*) that are in each German state, followed by a distribution to the municipalities. In the municipalities, the accommodation can be in collective shelters (*Gemeinschaftsunterkünften*) or in private flats. Vulnerable asylum seekers can benefit from specialised collective accommodation, before and after their dis-

8 Cf. VG Berlin, Judgement of 30 March 2021 (31 K 324/20 A), § 22 et seqq.

tribution to the municipalities. With regard to the assessment of vulnerabilities, § 42a Asylum Act refers to the obligation of the German states to identify vulnerable persons, but there is no German state that has a binding, comprehensive approach. The only standardised screening in the registration process in the state-run reception centres is a medical check-up that screens asylum seekers for diseases. There are some pilot projects testing standardised screening in state-run reception centres, e.g. for trafficking victims. Otherwise, vulnerability is only addressed in non-binding policy documents, administrative regulations, or protection plans against violence (*Gewaltschutzkonzept*). This often concerns room occupancy in collective accommodations and minimum standards, such as gender-separated toilets. Whether and to what extent the special needs of asylum seekers are considered thus depends primarily on the commitment of individuals in the administration, social services, and counselling centres.

These inconsistencies result in the fact that the provision of needs-based assistance to vulnerable people varies greatly between the German states. This is also seen in the different approaches of (informal) cooperation in the context of the reception procedure: Some German states refer to their internal counselling in the collective accommodations for adequate assistance, others refer to external counselling centres. In addition, three states have a comprehensive identification procedure involving all relevant authorities and counselling centres, while one third of all German states do not have any method at all.⁹ Thus, the situation for vulnerable asylum seekers in Germany varies greatly. Whether they have access to adequate housing, counselling services, or medical care often depends on which German state or municipality they are distributed to. We will further explore these differences from the perspective of asylum seekers in this second research report.

Since 2015, the federal asylum procedure and the reception procedures of the German states have been increasingly interlinked through various amendments to the law and informal administrative cooperation. The establishment of large-scale reception centres for several thousand residents has increased this interconnection, as the BAMF and the competent state authorities cooperate more closely with each other in these centres. The above-mentioned asylum procedure counselling was introduced as part of the creation of these centres. In parallel, informal policy instruments were introduced to select asylum seekers. For example, state authorities decide on the basis of a person's strong or weak prospect of remaining in Germany (*Bleibeperspektive*) whether they will be distributed to the municipalities or have to stay in the state reception centres, and whether they will be given access to integration courses. This identification can be decisive for whether one receives an employment permit. In making this identification, state authorities refer to the re-

9 H. Heuser, J. Junghans, and W. Kluth, *Der Schutz vulnerabler Personen im Flucht- und Migrationsrecht*, Hallesche Studien zum Migrationsrecht, 2021, p. 84.

cognition rate of the BAMF for refugee status based on the applicant's country of origin. The decisive factor is whether the recognition rate for a particular country of origin is lower or higher than 50%. The housing situation, availability of support and integration, which is the responsibility of the German states, and the federal asylum procedure are thus increasingly interlinked on an informal basis.

Unaccompanied minor asylum seekers (UMA) are excluded from this reception procedure. Unlike other vulnerable groups, they are excluded from the migration ratio and placed on an equal footing with domestic unaccompanied minors regarding accommodation and social welfare. This also changes the responsibility of authorities. When an UMA is identified by German authorities, the local Youth Welfare Office is responsible to take him or her into preliminary custody, according to § 42a Book VIII Social Code (Sozialgesetzbuch – SGB VIII). The first and foremost aim is to find relatives or legal representation, and assess whether the distribution of the UMA to another German state might be contrary to the best interest of the child. Due to this different procedure, UMAs do not fall under the scope of the Asylum Seekers' Benefits Act and they are not accommodated in reception centres. UMAs can be accommodated in shelters, in private flats with special assistance, or with a foster family.

The primacy of youth welfare includes the responsibility for age assessment, initial care, and accommodation. Therefore, the age of the minor in question is estimated by the Youth Welfare Office, and must be done according to a mandatory order (§ 42 f. Social Benefit Code VIII). To determine the age of a minor, initially identity papers of the minor must be examined. However, the 'primacy of self-disclosure' also applies, according to which the person's statement of their age has to be accepted generally. If these steps do not lead to a conclusive age identification, the Youth Welfare Office carries out a qualified inspection (*qualifizierte Inaugenscheinnahme*), in which the state of development and physical appearance of the minor is assessed in a conversation. In this step of the procedure, social workers have a great leeway. If there is still any doubt, a medical examination is carried out.

The vulnerability assessment regarding UMAs is thus more formalized compared to other vulnerabilities. However, the qualified inspection legally requires a well-founded and individual justification and may therefore not be based solely on questionnaires or generalised adoption of information from other authorities (e.g., EURODAC searches). This leaves a great leeway to the staff of the Youth Welfare Offices.

IV. Vulnerabilities and personal circumstances

In this chapter, we will focus on the personal circumstances of an asylum seeker that contribute to generating experiences of vulnerabilities. In our interviews, we particularly focused on the challenges since the interviewee's arrival in Germany. Referring to the International Organization for Migration's (IOM's) Determinants of Migrant Vulnerabilities model (2019),¹⁰ we identified four factors of vulnerability: individual, familial, community-based, and structural. These factors may interact and affect each other, so the model is not meant to define strict categories.

Individual factors relate to personal characteristics like age, gender, race, disability and mental health. *Familial* factors include the relationships and status of individuals within households. *Community-based* factors relate to the broader sociocultural contexts of individuals and families (including social and educational institutions), ethnic relations, discrimination, and harassment. *Structural* factors of vulnerability are created by historical, economic and political conditions and are embedded in societal institutions, belief systems, political regimes, and legislation. The purpose of this model is not to define strict categories of factors, but rather to facilitate a structured examination of how multiple factors intersect and thus to understand lived experiences.

The latter factor will be mainly developed in chapters V. and VI. As mentioned *supra*, we understand all these factors as contributing to situational vulnerabilities, which are the focus of our empirical enquiry.

It is important to stress that personal circumstances are not *per se* vulnerabilities, but they rather become vulnerabilities through social interactions within society. Based on our field research and the vulnerability categories referred to in Art. 21 Reception Conditions Directive¹¹ (e.g. UMA, single parents, persons with serious illnesses), we decided to further analyse some specific personal characteristics that generally contribute to generating experiences of vulnerabilities. Thus, we firstly examined a compound of vulnerabilities resulting from the intersection of multiple factors for LGBTQI+ people, women, and people with mental or physical health conditions. Secondly, we analysed the personal circumstances resulting from experiences of vulnerability for UMA. We examined their situation in a distinct section, as they are subjected to different legal frameworks.

10 IOM, *Handbook on Protection and Assistance to Migrants Vulnerable to Violence, Exploitation and Abuse*, Part 1: The Determinants of migrant vulnerability, 2019, p. 4–8 <https://publications.iom.int/books/iom-handbook-migrants-vulnerable-violence-exploitation-and-abuse>.

11 Directive 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).

1. *Compounded vulnerabilities: The intersection of multiple factors*

In this section on vulnerability and personal circumstances we demonstrate how compounded vulnerabilities arise out of the intersection of multiple factors. We do so by focusing on specific individual vulnerability factors such as sexual orientation and gender identity, gender, mental, and physical health, and how these intersect with, and are compounded by, other vulnerability factors such as other individual circumstances, family and community.

We are conscious that all asylum seekers may face stigmatisation and/or abuse and exploitation depending on the context, nevertheless we chose to explore in more detail the personal circumstances influencing the experience of vulnerability for certain groups that reflect the spectrum of our field research.

a. *Compounded vulnerabilities faced by LGBTQI+ asylum seekers*

LGBTQI+ asylum seekers¹² face significant challenges and vulnerabilities, including discrimination based on their sexual orientation or gender identity, rejection from family and community, and a lack of understanding and support in the asylum process.¹³

These individuals are at higher risk of abuse and exploitation, including hate crimes and violence, and they may struggle to access specialised support and services. Three of our interviewees identifying as queer have been victims of repeated racist or/and homophobic and transphobic attacks leading to severe physical and mental injuries. In some cases, these attacks were perpetuated by members of their own community, understood as ethnic or cultural. For LGBTQI+ asylum seekers, rejection from family and community can exacerbate their vulnerability, leaving them without a support network and increasing their risk of abuse and exploitation. As they may also face stigmatisation, persecution, and discrimination from their own communities, it is even more difficult for them to access protection and support. Furthermore, rejection from family and cultural communities can have significant impacts on an individual's mental health and well-being, including feel-

12 LGBTQI+ is an abbreviation for lesbian, gay, bisexual, transgender, queer, intersex, "and more". These terms are used to describe a person's sexual orientation or gender identity. Language is constantly evolving, and the "+" seeks to reflect the full diversity of sexual orientations, gender identities and expressions, and sex characteristics – not only those who identify as lesbian, gay, bisexual, transgender, queer or intersex, that the letters describe. We use the acronym "LGBTQI+" for ease of understanding as it has become a commonly used term, but we use it in reference to SOGIESC (acronym for sexual orientation, gender identity, gender expression and sex characteristics) that in our opinion is a more inclusive and accurate term.

13 C. Danisi, M. Dustin, N. Ferreira, and N. Held, *Queering Asylum in Europe: Legal and Social Experiences of Seeking International Protection on grounds of Sexual Orientation and Gender Identity*, Openaccess, 2021, <https://doi.org/10.1007/978-3-030-69441-8>.

ings of isolation and loneliness, decreased self-esteem, and increased risk of depression and anxiety.

Therefore, LGBTQI+ people rely substantially on the re-building of relationships within the LGBTQI+ sphere. This community can play a critical role in providing support, acceptance, and a sense of belonging, especially in the face of rejection from family and ethnic or cultural communities. This is particularly important for individuals who may have experienced violence, abuse, or discrimination based on their sexual orientation or gender identity, as it can provide a safe and supportive environment where they can begin to heal and rebuild their lives. The importance of LGBTQI+ community for asylum seekers is crucial for balancing rejection and support.

Ahmed¹⁴: “But at the end, most of the support you get for legal advice, language classes, and even medical health was through, organisations and networks, like queer¹⁵ people, queer community. [...] Without their support, I will never survive.”

The asylum process itself can increase the vulnerability of LGBTQI+ asylum seekers, due to a lack of specialised support and services, a lack of privacy and confidentiality, and a lack of understanding from decision-makers. For example, the distribution procedure¹⁶ within Germany can be deeply disruptive for LGBTQI+ asylum seekers since they rely greatly on their community’s support, which is mostly present in larger cities.

I don’t understand the system, it’s really crazy. I have a friend. She is one of my best friends from Syria. She’s trans. They send her in the last part of Germany. A small, small village. And she is a trans. She needs a doctor, therapist, and a community. She has nothing. And this kind of people, they are really vulnerable. They put them at the end of the world.”

One of our interviewees resisted the relocation, and as a result they weren’t eligible for state support for one year, after which their casefile was transferred back to Berlin where they had originally registered. In this period they had to provide for themselves, resorting to sex-work. This lack of understanding from state-representatives of the importance of being located close to a support system led to the aggravation of our interviewee’s situation of vulnerability.

14 The name has been changed to protect the interviewee’s privacy (MLU-MD-0001).

15 The term “queer” is often used to express a spectrum of identities and orientations that are counter to the mainstream. Queer is often used as a catch-all to include many people, including those who do not identify as exclusively straight and/or those who have non-binary or gender-expansive identities. This term was previously used as a slur, but has been reclaimed by many parts of the LGBTQI+ movement.

16 Cf. chapter V.4. for further details on the internal distribution procedure in Germany.

Moreover, the difficulty of the asylum procedure can be exacerbated for LGBTQI+ asylum seekers by the interaction with authorities and state-representatives due to the intersection of multiple individual factors, for example, due to the constant misgendering¹⁷ of transgender applicants but also due to their origin.

Qamar: "I always faced this attitude towards me like: 'I don't belong here!' At some point I stopped focusing on which discrimination they focus on. Because in some places my queerness works in my favour because I am not a stereotypical refugee, I don't look like one. So, for some instances my queerness is seen as integrative and sometimes my queerness is seen as a horrible thing."

One of our interviewees explained us that she was afraid to start the asylum process because they refer to her with her "dead name"¹⁸ and misgender her. Also, it is difficult sometimes to understand why people are reacting or behaving to her in a certain way. She is petrified of further stigmatisation, and reluctant to tell her story again.

In addition, finding general information about the asylum system can be difficult. It appears that our interview partners with a good level of English were able to more easily navigate the system even though they were often pressured to speak German by the authorities:

Ahmed: "Du bist in Deutschland, du musst Deutsch sprechen. You are in Germany; you should speak German."

What is also highlighted by our field work is that LGBTQI+ asylum seekers find information and resources about the German system independently or through their LGBTQI+ community:

Ahmed: "The state doesn't offer a lot of things: They offer a lot of things in theory, but they don't inform you at the Immigration Office [...]. You should discover it by yourself. If you don't, then there is a punishment."

As queer migrants they face multiple discriminations based on their sexual orientation and gender identity, but also based on their origins and their position as migrant:

Ahmed: "You look by yourself; no one will help you. [...] If you are a refugee, not European, queer, you have double, like racist, discrimination. It was not my thing at all. A lot of stress, a lot of fights, homophobic people, racist people."

17 To be understood as using the wrong pronouns or other gender-specific words when referring to or speaking to someone, especially a transgender person.

18 The term or expression "dead name" to name used by a trans person before transitioning.

b. *Compounded vulnerabilities related to gender*

The experiences of vulnerability of female asylum seekers are shaped by multiple factors, including gender-based violence and discrimination, mental and physical health concerns, the impact of family and community, as well as the structural impact of society. Gender-based discrimination and violence are common occurrence across all societies. Female asylum seekers who are forced to flee and find themselves in unfamiliar environments are at an even higher risk of experiencing sexual harassment, physical violence, abduction, rape, and other forms of violence.¹⁹

It is also important to note that the recognition of women as members of a “particular social group” might lead to the problematic homogenous characterisation of all female asylum seekers, thus failing to recognise the specific experiences of gender-based discrimination and violence that are faced by lesbian and bisexual women, whose asylum applications remain examined through the prism of sexual orientation rather than that of gender.²⁰ Therefore, in order to understand their experiences of vulnerability, we must take an intersectional approach and take into consideration the intersection of multiple individual factors. The impact of family and community can also be a source of support or additional vulnerability, depending on personal circumstances.

*Lina*²¹ came to Germany with her brother, but since their relationship doesn’t correspond to the category of the nuclear family, they were separated in the camp:

“I have brothers but even that. I’m not allowed to or it’s hard to stay all together in the new place. Here because we are just brothers. I didn’t know that. The Mum and the dad, and then the brothers, they are not on the same level in the family! I didn’t understand that!”

As she explained us, she was really close to her family in Syria, they supported each other but in Germany due to this separation she had to get by and sustain herself alone:

“I left my family, left my mum, my little sister, my dad, all my big family. Because we are really connected with the family. [...] We live in this way. But here, it was for me a really hard. To just live alone with my brother and to care for myself and him. It was

19 A. B. Johnsson, ‘The International Protection of Women Refugees A Summary of Principal Problems and Issues’, *International Journal of Refugee Law*, Volume 1, Issue 2, 1989, p. 225, <https://doi.org/10.1093/ijrl/1.2.221>.

20 M. Dustin, C. Querton, ‘Women in Refugee Law, Policy and Practice: An Introduction to The Refugee Survey Quarterly Special Issue’, *Refugee Survey Quarterly*, Volume 41, Issue 3, September 2022, p. 351, <https://doi.org/10.1093/rsq/hdac023>.

21 The name has been changed to assure protection of the interviewee’s privacy (MLU-JJ-0011).

not easy but in the same way it was not a big deal. Because you will do it, in all that cases.”

Furthermore, she was assigned to a mixed apartment in the camp that she shared with a man. She felt really insecure and needed the support of her brother:

“That guy who was living in the same apartment try to hit me or do something really. I was really shocked and shouting and scared because I didn’t feel safe. I’m not safe. You feel maybe more danger than during war. Because you know that person is not good and he’s living with you in the same apartment and he want to do something wrong for you.”

“These are the things, which are not really nice in the camp. Even to share the bathroom. really horrible things. [...] I have to take my brother with me to the bathroom to feel safe to do the shower! Even to share the kitchen! Because you see a lot of people, and you don’t know everyone how he thinks or how he can act or he is safe or not safe. I had a lot of bad experience with the people in the camp. The people were really horrible. Not all, but the most. Really. Most of the guys were a danger for me. I was not feeling safe.”

Navigating the asylum and bureaucratic system can be difficult and another source of stress where support from family and community is crucial, especially for single woman:

“For me a big difference is how the paper work is done here. For example, at the Job Centre, all the things. It’s a big difference in this country. And for me it was really shocking or hard. [...] Until now it’s really hard for me. I can’t do things without help. And maybe I need more years to be able to do it alone.”

Moreover, for many asylum seekers, having to tell their story over and over again triggers mental health issues and revives their traumas. One of our interviewees was reluctant to appeal against her negative asylum decision, as she didn’t feel able to tell her story another time. She felt misunderstood and disbelieved, thus aggravating her vulnerable situation by exacerbating her traumas:

“No, I can’t do more, because first time my story was too much too. Always saying, why I’m gone, I don’t want to talk about that again. It hurts very much. Until today I’m not one hundred percent healthy about that. [...] That hurts, the big hurts, but still, nobody trust in me. [...] Nobody don’t trust you. Is like you are playing, you are a liar. [...] nobody believes me.”

As a Syrian single woman, our interviewee faced multiple discriminations due to her gender and her ethnicity. She was the victim of a racist attack in the street of Chemnitz, a German town located closed to the Czech border, where someone hit her with a bottle of beer. There were witnesses of the attack but nobody intervened, which was a big shock for our interviewee. These attacks and the constant feeling

of being unsafe affected her mental health, and generated a feeling of complete despair to the point that she stated she would rather go back to a war-torn country:

“It was not that easy for me. Because you travel all this way to Germany. And you almost die in the sea and see really bad things before you arrive. When I arrived, I saw more things. I thought, if whole Germany is like this I would go back. [...] I don’t want to stay like this. If something bad will happen again or someone will catch me and slap me because I’m different, I will go back to my country and will die there and its okay. It felt like this.”

c. *Compounded vulnerabilities faced by asylum seekers with a physical and/or mental health condition*

Asylum-seekers are considered to be a highly vulnerable group, with an increased risk of developing mental illnesses. Research studies conducted internationally indicate that anywhere from 30 to 70 percent of refugees suffer from trauma-related disorders, such as post-traumatic stress disorder (PTSD), depression, and anxiety.²² Our research also revealed instances of serious mental health issues.

In October 2022, one of our interviewees decided to go to a psychiatric clinic upon her arrival in Germany, since she didn’t feel strong enough psychologically to start the asylum procedure. She was hoping to get medication and treatment for her mental health. Her decision to leave Greece and seek asylum in Germany was also influenced by her mental health, as she couldn’t receive the necessary support due to difficulties in accessing adequate health care in Greece. She tried two times to be admitted to the emergency room of a hospital in Greece but they did not admit her.

Ahmed had a different experience when he arrived in Germany in 2018:

“When I arrived in Berlin, I was in a very, very bad psychological situation and I had a really bad time. And I went to Schwulenberatung [gay counselling NGO] in Berlin. And through the psychotherapist there, I just went and talked with him and then he held me and said like: No, you have very bad traumas and anxiety, I prefer you to go to hospital to stay, because you need some medical support. So, they sent me to the hospital here in Berlin in Kreuzberg. The diagnosis was post-traumatic stress (PTSD). I got anti-depression and then I spent 14, 15 days there in this hospital.”

22 B. Hanewald, et al., ‘Addressing the Mental Health Challenges of Refugees – A Regional Network-Based Approach in Middle Hesse Germany’, *Int. J. Environ. Res. Public Health*, 2022, 19, 13436, p. 2, <https://www.mdpi.com/1660-4601/19/20/13436>.

Physical health is another concern for asylum seekers, as they may have experienced illness or injury during their journey, and then may also lack adequate medical care in the country they are seeking asylum in. In some cases, they may also have pre-existing medical conditions that require ongoing treatment. *Qamar* and *Lili*²³ have both been diagnosed with chronic diseases, respectively HIV and Hepatitis B.

According to a recent article published in the *Journal of Immigrant and Minority Health*, HIV-positive asylum seekers face a range of challenges that threaten their fundamental human rights and exacerbate their already vulnerable situation. These challenges include poverty, isolation, stigma, and discrimination, which are compounded by a lack of access to appropriate medical care and support. These factors can further stigmatise and marginalise individuals who are already fleeing circumstances that threaten their very existence.²⁴ Chronic diseases can also have significant impacts on mental health, including increased stress and anxiety, feelings of isolation and stigma, and a decreased sense of control over one's own life and health. *Lili* reported that she was deeply worried about her chronic disease. She feared she would not be treated, and that she would die as a result.

Health issues aren't only about the health condition itself, which can be more or less serious, they are also about stigmatisation. Health-related stigma is typically a social process characterised by exclusion, rejection, blame, or devaluation that results from experience, perception, or reasonable anticipation of an adverse social judgement from a person or group. In all parts of the world, people with epilepsy are the target of discrimination and stigmatisation due to misconceptions and misunderstandings about the nature of the disease thus leading to mis-medical-treatment. For example, in many African countries, people with epilepsy are commonly believed to be possessed by demons or bewitched, leading to social exclusion and isolation from their communities as well as rejection from their family.²⁵

*Kofo*²⁶ fled Gambia to seek treatment for epilepsy. He was not diagnosed with epilepsy in Gambia even though he was suffering from seizures and no treatment was available:

“When I had seizure, my mother was bringing flowers, an herb bush in the cooking pot, and then I drank it. But it did not help. [...] I went to the hospital, in Gambia,

23 The names have been changed to protect the interviewees' privacy (MLU-MD-0002 & MLU-MD-0003).

24 G. Palattiyil, D. Sidhva, 'HIV, Human Rights and Migration: Narratives of HIV-Positive Asylum Seekers in Scotland', *J. Hum. Rights Soc. Work*, 268–276, 2021, <https://doi.org/10.1007/s41134-021-00167-z>.

25 International bureau of epilepsy, *Advocate's Toolkit For Reducing Epilepsy Stigma in Africa*, 2022, <https://www.ibe-epilepsy.org/wp-content/uploads/2022/09/IBE-Africa-Stigma-Toolkit-Final.pdf>.

26 The name has been changed to assure protection of the interviewee's privacy (MLU-JJ-0006).

they gave me sleeping pills. When I took the tablet, I slept all day. I couldn't even eat. And my mother told me, she doesn't have money for the treatment."

His sister also suffered from seizures and therefore died, provoking intense stress and fear for our interviewee when he started having the same symptoms. Because of misconceptions surrounding the disease, our interview partner is being socially excluded by his community and is ashamed, or afraid, to reveal his medical condition:

"In Gambia, if someone has an epilepsy seizure, all people run away from you. After one month of being in the camp in Karlsruhe, I had a seizure. But I did not talk to the people, I did not tell that I have epilepsy. I am closer to the white people, because my people from Gambia, they run away from me. So, for me, I don't have contact with any Black people".

Exclusion or rejection from community is particularly difficult for people suffering from epilepsy as they need a lot of support:

"[The doctor] told me I should to make an operation. I said I have no family here in Germany. [...] Now, I am 80% disabled. If the surgery goes bad, I will have 100% disability. My family is not here, I can't do that."

Moreover, the asylum procedure can have an impact on the epilepsy of applicants suffering from it, as stress is a major aggravating factor that increases the frequency of seizures. Also, stigmatisation can impact health conditions, as individuals may face discrimination and negative attitudes from others due to their disease, including from healthcare providers. This can result in feelings of shame and decreased self-esteem, and may discourage individuals from seeking necessary medical care and support.

It is important to recognize and address the intersection of chronic disease and mental health for asylum seekers, in order to support their overall well-being and ensure that they have access to the care and assistance they need. This can involve measures such as providing accessible medical care, addressing language barriers and stigma, and ensuring that individuals have access to mental health support and resources. For example, an asylum seeker who is experiencing mental health challenges, such as anxiety or depression, may be further impacted by the added stress and uncertainty of the asylum process, leading to a worsening of their mental health. Similarly, individuals who have experienced violence or abuse in their home country may also face challenges accessing medical care and support, exacerbating their physical and mental health needs.

2. *Being an UMA– between enablement and dependency*

As mentioned before, we decided to analyse the personal circumstances related to the experiences of vulnerabilities for UMAs in a separate section, since UMAs benefit from a systematic vulnerability assessment process in Germany. Furthermore, Germany is one of the main host countries for unaccompanied minors in the EU. The number of unaccompanied minor asylum applicants increased greatly in the years 2015–2016. In 2014, 4398 UMAs sought asylum in Germany, in 2015, there were 22.255 applicants and in 2016, 35.939.²⁷ Since then, the numbers are decreasing. The main countries of origin in 2021 were Afghanistan (44,6 %), Syria (28,5 %) and Somalia (6,9 %).²⁸

Our interviewees were from Syria, Afghanistan and Kia. Even though their experiences overlap in many regards, it is striking that the time of arrival in Germany had a great impact on their situation. 2015 and 2016 were marked by a high number of asylum applicants, thus leading to the setting-up of emergency accommodation and administrative overload. Four out of five of the UMAs we interviewed came to Germany at this time. Although the legal framework in Germany excludes unaccompanied minors from the ordinary migration ratio and provides special regulations for unaccompanied minors, the interviewees told us how these rules didn't apply in practice. Either they were not recognised as minors, or the fact that they were minors rather postponed their asylum claims as they did not have legal representation. Even though their experiences overlap in many regards, it is striking that the time of arrival in Germany had a great impact on their situation. 2015 and 2016 were marked by a high number of asylum applicants, thus leading to the creation setting-up of emergency accommodation, and an overburdened and administrative overload administration system. Four out of five of the UMAs we interviewed came to Germany at this time. Although the legal framework in Germany excludes unaccompanied minors from the ordinary migration ratio and provides special regulations for unaccompanied minors, the interviewees told us how these rules didn't apply in practice. Either they were not recognised as minors, or the fact that they were minors rather postponed their asylum claims as they did not have legal representation.

The situation of UMAs arriving in a host county is shaped by the condition of being in between societies while trying to establish themselves, and it can be de-

27 J. Tangermann, P. Hoffmeyer-Zlotnik, *Unbegleitete Minderjährige in Deutschland: Herausforderungen und Maßnahmen nach der Klärung des aufenthaltsrechtlichen Status; Fokusstudie der deutschen nationalen Kontaktstelle für das Europäische Migrationsnetzwerk (EMN)*. Working Paper 80, BAMF 2018, p. 20.

28 BAMF, 'Migrationsbericht 2021', 2022, p. 90.

scribed as a “condition of liminality”.²⁹ This liminality is characterized by situational vulnerability as UMAs are obligated to relying on others to act in their best interest. The issue of trust and mistrust thus becomes highly relevant.³⁰

a. *The wrong age – not to be heard as a minor*

In 2015 the siblings *Ali* and *Jaafar* came to Germany as unaccompanied minors. They were eleven and thirteen years old. They were born in Afghanistan but grew up in Iran, as their parents already fled Afghanistan when they were infants. Arriving in Germany, they were arrested by the federal police in Munich and transferred to a reception centre close to Hannover, as the principle of accommodation and custody at the municipality of first arrival was abolished in 2015 (§ 42a Social Benefits Act VIII). When the siblings left Munich, no one told them where they were being taken. Thus, already the first phase of their asylum process and time in Germany was characterized by lack of information and lack of agency. *Ali* and *Jaafar* stayed in a reception centre for three months, although they were legally entitled to be accommodated in a collective shelter for minors.³¹ They weren't asked about their age, or informed about the fact that the Youth Welfare Office was responsible for them. On their own, they informed themselves about the possibility of searching for a foster family.

Sami had the experience that many asylum-seekers face of not being treated as a minor. He arrived in Germany three months before turning eighteen. The only time he was asked about his age was at the beginning of his asylum interview with the Federal Office for Migration and Refugees (BAMF). Due to his age the asylum interview was cancelled. But instead of being transferred to the Youth Welfare Office, he was sent back to a camp and had to wait one year for his next appointment with BAMF – during which he was treated as an adult. He received no support, especially on his asylum application. He felt like the authorities put off his procedure until he was eighteen in order to prevent him from claiming family reunification as a minor:

“Near to the border to Switzerland we came to a big refugee camp [...]. Unfortunately, I was under 18 and that caused so many problems. That time is just like being in prison.

29 K. Eide, H. Lidén, et al., ‘Trajectories of ambivalence and trust: experiences of unaccompanied refugee minors resettling in Norway’, *European Journal of Social Work*, 2018, 23:4, p. 3 doi: 10.1080/13691457.2018.1504752.

30 *Ibid.*, p. 4.

31 Collective shelters (*Gemeinschaftsunterkünfte*) offer space for a couple of dozen residents. But they differ widely with regard to their specifics (e.g. size, furniture, privacy). They are operated by the municipalities and must be distinguished between normal shelters for asylum seekers and those that serve as special protection accommodation for vulnerable persons, e.g. for minors.

Do you understand what I mean? So, time doesn't count. You wait, but you don't know when a date for the next interview will come. [...] And this one year does not count as my stay here in Germany. I did nothing during that year, nothing at all. I wasn't allowed to go to school, I wasn't allowed to do anything, nothing at all. I understand that there were so many refugees. So many, it was chaos. But still: Anyone who is under 18 has had this problem until now. If you are under 18, you have to forget one year of your life. I don't understand why. [...] Now after seven years, my heart still hurts when I remember it. A year of just doing nothing. [...]

This property used to be American barracks with about 18 buildings. And we had to struggle to find a room there as well. Every day people were transferred. They were sent to other towns. And you should look for yourself who goes out. You are supposed to look at the list that is pinned up. About 20 people get out every day and you have to go and see who is leaving and ask them for their room number. And you're supposed to run to get the bed. Yes, I did that, for me and my cousin. [...] I didn't know I was supposed to fight. I thought they would allocate us, take our names, where you come from, your date of birth, whether you are single, questions like that. But you're on your own and you ask yourself, where am I going to sleep? They told us there is a mosque, go there and find a place."

As mentioned previously, the situation of UAMs differed depending on their year of arrival in Germany. Although UAMs are not obliged to live in state-run reception centres, and fall within the competence of the Youth Welfare Office (§ 42 Social Benefits Act VIII), three of our interlocutors described that this law wasn't applied in practice. Unlike Sami, Khaled arrived in 2019 in the course of family reunification. He first lived for six months with his brother who had already settled in Germany. When his brother moved to another German state, Khaled immediately got in touch with the Youth Welfare Office. In Khaled's case, the challenge was not the authority's not treating him as a minor, but rather their approach. He was transferred to a collective shelter for unaccompanied minors, but he was unhappy with the living conditions, which reminded him of the dangerous refugee camps in Greece, where he had stayed previously. This demonstrates that shelters especially designed to provide safe accommodation, didn't meet adequate living standards. We will examine this issue further in Chapter VI.1. Khaled protested, but he was not heard, so he left the accommodation and followed his brother to North-Westphalia. He received a phone call from his legal guardian two days later, saying that they would find another place for him to stay. This marked a turning point in his life, as he was sent to a youth welfare organisation, where he lived in a shared flat with other minors and received assistance from social workers. He learned German, received coaching, and became interested in a career as a social worker.

b. *Ambivalent situation as a minor*

The views of our interview partners towards their status as minors is mixed. On the one hand, they acknowledge the benefits of being minors, in terms of the support structures available to them. For example, Khaled told us about his positive experiences with the youth welfare organisation. He could establish personal trust in his relationships with the social workers. He described the important support he got, such as homework supervision. The development of these social connections can be analysed as a strategy to face his condition of liminality and compensate the loss of home and family.³²

Similarly, Ali and Jaafar appreciated their chance to live with a foster family. They discussed the agency they had in shaping their futures, in contrast with the situation of adults who are obliged to live isolated in reception centres.:

A2: *“It was definitely an advantage for us. We could go straight to school, the others couldn’t, they had to wait. [...] For us, for young people who came to a foster family, everything was different at once. [...] We went straight to school and the others were still there. They had no future. [...] We wanted it that way. We didn’t want to stay there. We were in the camp for three months. We did the same thing every day, slept until 2 p.m. [...] But we wanted to go to school, we wanted to develop.”*

On the other hand, the interviewees also see the limitations that come with being recognised as a minor. In Sami’s case, this meant waiting a whole year before being interviewed. He summarized: *“They just burnt a year of my life.”* His cousin, who fled and arrived in Germany with Sami, received a residence permit one year earlier than him.

“He learned German, he did it so quickly. I needed more time. Because he got the residence permit about a year earlier. I had to wait longer. We were sent away from the camp in November 2015. And that day, he only needed one more day to turn 18. I needed about half a month more. And on that day, some of us get an invitation for the interview. He got an invitation, because he only needed one more day until he was of age, but I didn’t. And that’s why he got his stay so much earlier than me.”

Khaled described the relationship with his legal guardian as excessively constraining, such as needing permission to do sports. Ali’s and Jaafar’s dependency on their guardians were intensified by living in the countryside, where a driving license is necessary for accessing activities or visiting friends. For all of these interviewees, the transition to adulthood and independence was crucial especially concerning mobility: Khaled moved to his own flat; Sami was able to continue his delayed asylum procedure, received asylum, learned German and searched for high school

32 K. Eide, H. Lidén, et al., *op. cit.*, p. 3, 6, 7.

programs elsewhere; and *Ali* and *Jaafar* bought their own car, which increased their mobility in the countryside.

Our interlocutor's experiences of ambivalence in regards to independence and support are echoed in the work of Heide, Liden, et al., who conducted fieldwork among UMAs in Norway, and who found that their interview partners simultaneously wanted to be cared for and wanted to live independently.³³ The transition into adulthood thus becomes relevant for UMAs in the sense that their independence increases on the one hand, but on the other hand also the support they received was terminated. For example, *Khaled's* desire of becoming a social worker at the same youth welfare organisation can also be seen as the attempt to continue the social links and personal relationships he established during those years.

c. Family reunification as a key purpose

An important goal for our UMA interlocutors was to be integrated in a social community, be it a community of their own relatives, youth organisations, or foster families. Decisions to trust their social workers or foster families can be seen as a method to resolve the tensions and ambivalences of their situation and thus a way of exerting their agency.³⁴ These social links are important to face the condition of liminality which is connected to the loss of family at a young age. In this context, a supportive community could help them to achieve their objectives.

The relationships UMAs had with their transnational families remain crucial, however. As one may only apply for family reunification after receiving a final and positive asylum decision, there is a permanent tension between efforts to integrate in the host country, and concerns about one's family members. This tension also reveals the temporariness of our interlocutors' experienced situation, as the state of trying to re-build their social bonds in the host country remain the same for years. *Ali* and *Jaafar* described their ongoing concern for their family members after living in Germany for seven years, and how they tried to help them by saving money from their first arrival:

A2: "We couldn't sleep. Family means a lot to us. [...] Brother and sister, we are all one. They called us that they have no money and food. Of course, you are sad then, you can't sleep, you think about what you can do. And I was just twelve, what could I do? I wasn't even allowed to work. I was always waiting for my pocket money to transfer it."

33 Ibid., p. 7.

34 Ibid., p. 9.

A1: *“Yes, we also got Christmas money from our foster family as a present. We didn’t want any presents, so we asked for cash [...] to help our family. Also, on our birthdays.”*

A2: *“Our foster father also sometimes added a bit to our birthdays. He knew that we transferred it. He gave us another 50€ and said: ‘Send something from me, too’.”*

The emotional bond *Ali* and *Jaafar* had with family members in their home country remains highly relevant. They also feel obliged to support them. In the interview, they proudly described saving 23.000 € since age 12 by saving their pocket money and sending it to their siblings. After the death of their mother and brother, they described an even heavier sense of responsibility, and tried to bring their siblings to Europe.

But their attempts for family reunification were unsuccessful for many years, despite the assistance of a lawyer whom they hired in Germany. As their siblings could not get visas for Germany, they came to Europe on their own, crossing the sea from Turkey to Greece. After five years of bureaucracy and legal battles they finally were able to bring their relatives from Greece to Germany. The process was long and very stressful, but their foster family provided support throughout, e.g., they visited their siblings on Samos, when they were waiting for their asylum decision:

A2: *“I think they were there for a year. We visited them there; we flew there ourselves with our foster father. We visited them for a week, they slept on the street. There was a forest with 20,000 people. Refugees, Arabs, Africans, Kurds, from everywhere. They camped there. Dirt was everywhere and rats. [...] I’ve never seen before rats like that. Rubbish everywhere. Nobody [...] cared about it. It was just so dirty, they treated them like dirt, that’s how it was. In Greece.”*

A1: *“After a while, they were transferred to Thessaloniki. They lived there for two years. Then they got Greek passports, residence permits. Then they could leave the country and came to Germany.”*

For *Khaled*, family reunification was not possible due to his residence status:

“I was under 18, I wanted to bring my family, but the authorities didn’t help me because I still don’t have refugee status. [...] I only have subsidiary protection. [...] I said the first time, no I don’t want that, I want the three years as a refugee so I can bring my family here. We have lodged an appeal. I also asked for that when I renewed my residence permit, but I wasn’t successful. I then accepted it because I need the residence permit for the tenancy contract. The guardian and the youth organisation have already helped me, for example with school, with the Sparkasse [bank account], with the flat. But it was complicated with the asylum. [...] I don’t know. I always think they didn’t help me. [...] But it’s not really up to them either, it’s up to the immigration office. They are so slow, much too slow.”

Khaled's doubts of whether the social workers and his legal guardian helped him sufficiently with family reunification relate to the ambivalent process of building trust, which is affected by the distrust developed during the asylum procedure.³⁵ These doubts also reflect the ambivalent role of social workers who are giving support while also enforcing state regulations.

3. *Concluding reflections on asylum seekers' experiences of compounded vulnerabilities*

In this chapter, we analysed the complexity of asylum seekers' experiences of their vulnerabilities by focussing on individual factors. This allowed us to show the impact family and community networks have on one's experiences of stigmatisation, and more generally on the challenges of confronting an unfamiliar society and legal framework. There are a wide range of vulnerabilities related to individual factors, which may vary greatly depending on each individual's specific situation and position. For our research, we decided to focus on UMAs, LGBTQI+ people, single women, and people with mental and/or physical health issues. Our choice was guided by the existing norms at the German, EU, and international level, which consider such personal characteristics in assessing vulnerabilities and identifying special needs.

Family and community appear to have a great impact on asylum seekers' experiences of vulnerability. Family and community support can provide a crucial source of emotional and practical support during a time of great uncertainty and stress. This was shown, for example, by the support *Ali* and *Jaafar* received from their foster family.

However, in some cases, family members may also contribute to the vulnerability and abuse of an individual. This is also true for communities – understood in a broader sociocultural context and in regards to ethnic relations. On the one hand asylum seekers' social network may offer emotional and practical support. On the other hand, it can also be a source of discrimination and persecution, as is often the case for LGBTQI+ asylum seekers. Single women also face struggles within their communities, when living without a husband or male “supervision”. Risks of stigmatisation and exclusion exist for certain diseases, like epilepsy. Thus, family and community can be as much a resilience and supportive factor, as a risk factor.

Throughout the process of seeking asylum, asylum seekers' understandings of their family and community undergo significant transformation, and even merge

³⁵ *Ibid.*, p. 7.

to some extent. Asylum seekers require significant social support throughout their journey. The traditional family (such as the nuclear family) and community (based solely on culture or ethnicity) are no longer sufficient. As many asylum seekers arrive at their destination country without family members and experience discrimination and rejection from their community, they thus develop new forms of family and community, which converge to provide the crucial social support. This phenomenon is particularly relevant to LGBTQI+ individuals, who ameliorate the lack of support from traditional family and community structures by recreating it within the LGBTQI+ social sphere. Regarding UMAs, this recreation of community was built within foster families and youth welfare organisations.

Structural factors can also shape asylum applicants' experiences of vulnerabilities. The case of *Sami* demonstrates how his categorization as a minor did not lead to special support, but on the contrary increased his vulnerable situation by postponing his asylum application for one year. In general, all of our minor interviewees reported at various stages a lack of participation in administrative procedures, which increased their dependencies and made it harder for them to achieve their objectives. The experiences of vulnerability can be interrelated and compounded, leading to a vicious cycle of increased risk and harm. If a vulnerability is not met with adequate protection measures, this may further aggravate the vulnerability of the applicant. One vulnerability can often lead to or exacerbate another, making it more difficult for individuals to overcome their challenges and re-root in the host country.

State authorities only recognize the nuclear family, not instead of the emotional bonds that one can have with other family members, such as siblings or cousins. This leads to separations during the asylum procedure, and restrictions on family reunification. Authorities take even less account of the bond with communities. This becomes more relevant considering the fact that LGBTQI+ people often re-balance the lack of support from their family and community by rebuilding their own supporting network with other LGBTQI+ people. When ignoring the protective factor of these communities, for example by distributing individuals them to peripheral cities without a LGBTQI+ community, the state increases the risk of isolation and psychological distress as people lose their sole source of social support. Similarly, assigning single women to mixed-gender facilities create an unsafe environment, putting them at risk of abuse and thus exacerbating their vulnerability.

Our interview partners shared numerous instances of discrimination that they experienced and explained that it was often difficult to determine on which particular characteristic these experiences of discrimination were based on, and whether it was an isolated act of one individual, or more systemic. This ambiguity and lack of clarity surrounding the discrimination one is facing can lead to significant stress

and anxiety, causing uncertainty about one's social position in Germany. This, in turn, can result in individuals becoming socially isolated thus limiting their agency and their ability to make life plans and integrate in the host society.

Additionally, it is essential to recognise and empower asylum seekers to exercise their agency and to make their own independent and free choices. As already mentioned, our interlocutors reported a lack of participation in administrative procedures and a lack of access to information. Accordingly, paternalistic decisions were encountered – and met with resistance. This is illustrated by *Khaled's* resistance to the decision he be sent a collective shelter for unaccompanied minors, which led the administration to overthrow their previous decision and ultimately offer him a place in a youth welfare organisation, where he could live in shared flats with other minors. This paternalism and resistance are also be illustrated by the reluctance of *Qamar* to relocate outside of Berlin, and their choice to stay close to their support network and self-created family/community, which also led the administration to change its decision and to allow them to stay in Berlin. Furthermore, the ambivalent process of trust-building through relationships with social workers or peers demonstrates how our interview partners exercised their agency in a condition of liminality.

V. Vulnerabilities and the asylum procedure

This chapter explores experiences of vulnerabilities and how they relate to the decision processes of the state and other related issues, such as the reception conditions for asylum seekers. While in the last chapter, we left out the structural factors that contribute to producing experiences of vulnerabilities among asylum seekers, they receive particular attention here.

Vulnerabilities are constantly evolving and changing over time. Inner characteristics and personal circumstances such as those described in the previous chapter are also part of how societal norms and the practices of state actors will ultimately impact the experiences of vulnerabilities among asylum seekers. These personal circumstances shape not only the persons' being in the world at a basic and personal level, but also in relation to other (state) actors. However we also asked our interviewees how their vulnerabilities increased or decreased in relation to the asylum procedures and how they were affected by street-level bureaucrats³⁶ (social workers, aid workers, and public servants who are in direct contact with the asylum seekers), other asylum seekers, and other relevant stakeholders (e.g. N.G.O. case-workers and lawyers). By focusing on 'administrative vulnerability' factors, we examine how vulnerabilities evolve as a result of the existing administrative measures. By analytically looking at these administrative vulnerabilities, we intend to better understand which legal techniques and administrative conditions also influence vulnerability among asylum seekers.

Since we have already seen in the last chapter how critical support networks at the family and community level are for asylum seekers, we will first examine family reunification in this chapter, with a stronger focus on the procedure itself.

Moreover we will examine additional burdens of the asylum procedure. Our research participants frequently identified the precarity of their legal status as one such burden, a feeling that also persisted for rejected asylum seekers who benefit from a temporary leave to remain (*Duldung*). We will examine these circumstances in detail using the case of *Konfé*, who received a negative decision on his asylum application, and who is still living illegalised as an undocumented asylum seeker in Germany. We will then compare his experiences with those of other interviewees, whose asylum applications were also rejected and who are similarly living illegally in Germany.

We will also take a closer look at the interactions asylum seekers have with different state actors that are relevant during the asylum procedure and beyond. Although the BAMF is the main significant actor for the asylum procedure, the

36 See further on the concept of street-level bureaucracy: M. Lipsky, *Street-Level Bureaucracy: Dilemmas of the Individual in Public Service*. Russell Sage Foundation, 2010.

Immigration Office and other state authorities are relevant after the asylum procedure has ended. Looking at the interactions with these other state actors allows us to see how the interactions with the authorities evolve at different stages of the migration journey. Lastly, we will focus on asylum seekers who are recognised as refugees in Greece but who have subsequently moved on to Germany. As these individuals went through the procedures twice and thus experienced two different legal systems, they can shed light on the temporal aspects of vulnerabilities.

1. Family reunification

As already mentioned in Chapter IV.2., the interviews we conducted with UMAs showed the importance they attach to being reunited with their families. The family reunification procedure requires an individual to have a regular residence status. Therefore, it can only be initiated subsequently to the recognition of the refugee status. UMAs can benefit from family reunification with their family members who are abroad, without having to declare financial stability. Since recognition as a refugee is declaratory, the decisive factor for such entitlement is whether the person was a minor at the time of filing the asylum application.³⁷ In the past it was common that if an asylum procedure was delayed or postponed, such that the minor came of age in the meantime, the reunification was no longer possible anymore. This practice deprived various applicants of a reunification with their relatives, and the ECtHR and CJEU held that this administrative practice violated the ECHR and the EUCFR³⁸.

Ali and Jaafar, who arrived in 2015, had to wait two years for their residence permits. Their aim to bring their mother from Iran to Germany failed, as she died one week before their residence permits were granted:

“It really sucked that it took so long with our residence permit. My mother had asthma. She could have survived here with the medical care. My mother died and one week later I got my permit. If it had been granted earlier, I would have been able to bring my mother immediately after two or three weeks. Because reunifying mother and children can be done quickly. In contrast, reunifying siblings is difficult. [...] That still shapes me to this day.”

As their older brother and father had been murdered, *Ali* and *Jaafar*'s other siblings were left alone in Iran after the mother's death. *Ali* and *Jaafar* independently searched for a lawyer to introduce a reunification procedure, using their pocket

37 CJEU, Judgment of 12 April 2018, C-550/16, EU:C:2018:248, paragraph 53 et seqq.

38 ECtHR – *Germany v. XC.* (C-279/20), 1 August 2022; CJEU, Judgment of 12 April 2018, C-550/16, EU:C:2018:248, paragraph 53 et seqq.

money. However, they were disappointed as no progress was made: “[The lawyer] didn’t even call the Iranian authorities to see if it was possible to bring them to Germany.” The lawyer didn’t answer their emails and even lost their file with important documents. With the support of their foster family, the brothers tried then to bring their siblings to Europe through other methods:

“We sent money to Iran; they should just come to Turkey on their own. We went to German authorities for family reunification. We thought maybe that would work. That didn’t work either. When they were in Turkey, the authorities said, if they would come to Greece, then we can reunite families. Because of an EU-contract or something like this. So, we told them to go to Greece. They were in Samos for a while, they slept there under a tent.”

All in all, it took five years until their siblings arrived in Germany. The precarity of their family, caused by delays in administrative procedures, thus shaped the vulnerabilities of Ali and Jaafar. These procedures and the corresponding increase in vulnerability lasted for several years, although the brothers already had residence permits as refugees and were focusing on finishing school and apprenticeships. On the one hand, they were in a situation in which they could build their own future, but on the other hand, they still had an ongoing fear for their siblings trying to reach safety.

Another example of how uncertainty is caused in the context of family reunification is that the eligibility for reunification differ depending on the applicant’s residence status. People with subsidiary protection can only make limited use of family reunification. This was the case of *Khaled*, who was not able to bring his relatives to Germany, because he was not recognised as a refugee. Recognised refugees are entitled to family reunification (§ 36 I Residence Act), while for persons with subsidiary protection access to family reunification is at the authority’s discretion and is subject to a cap of 1000 visas per month (§ 36a Residence Act). Additionally, the federal government passed in 2016 the “Asylpaket II”, which suspended family reunification for people with subsidiary protection for two years. Until then, only 0.7% of all applicants for international protection (1707 persons in 2015) received subsidiary protection. Thus, it was justified that family reunification for this category would not be widely utilized. However, immediately after the change in the law, the decision-making practice of the BAMF was modified and led to a significant increase in the number of persons who were granted subsidiary protection instead of the refugee status.

The practical effect of this interplay of administrative decisions and legal changes can be illustrated by the example of *Sami*. He came to Germany in 2015. As we reported above, his asylum procedure was postponed for a year because he was a minor at the time of the asylum hearing. At that time, Syrian asylum seekers were much more likely to be granted refugee status because the procedures for

refugee recognition were simplified for them. While waiting for his new hearing, the family reunification for subsidiary protection beneficiaries was suspended and the BAMF modified its practices. In June 2016, 46% of all decisions for Syrians resulted in subsidiary protection. This was also the case for *Sami*. If his hearing had been conducted with the support of the Youth Welfare Office back in 2015, it would have been more likely that he would have been granted refugee status and would have been entitled to family reunification. The consequences of this law thus only became fully apparent through a change in the BAMF's decision-making practice that could not have been foreseen by asylum seekers.

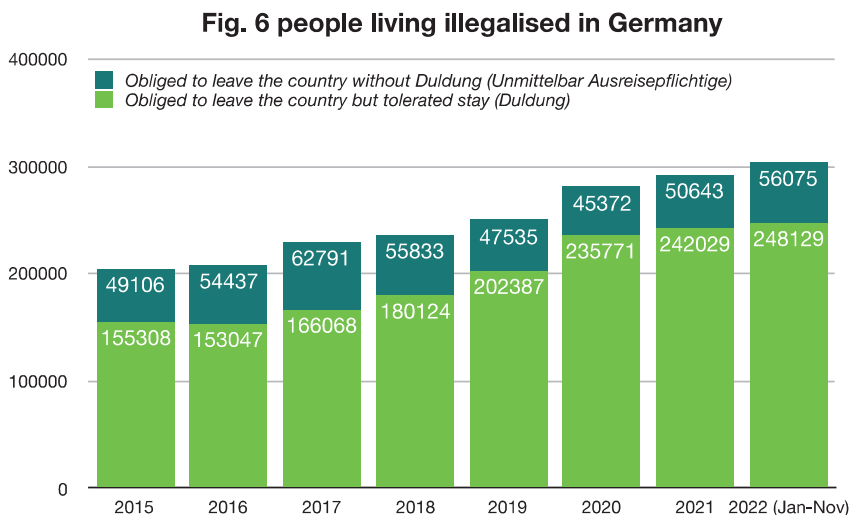
2. *Tolerated but not legalised – Living in limitless temporariness after receiving a negative asylum decision*

About one fifth of our interviewees have received a negative asylum decision and have been living in Germany without a residence permit since then. It occurs frequently that rejected asylum seekers remain in Germany, as they cannot be deported. Obstacles to deportation can be related to legal reasons (deportation bans based on circumstances in the country of destination) or factual reasons (e.g. health conditions or missing passport). In such cases, a residence permit can be granted, if the disappearance of the obstacles is not to be expected (§ 25 V Residence Act). Otherwise, the person concerned receives a *Duldung*, defined by law according to § 60a Residence Act as a “temporary suspension of deportation (toleration)”. It establishes a temporary leave to remain, but does not amount to a legal residence permit. Since deportation regimes have expanded since the 2000s, (although non-deportability remains a common, rather than exceptional phenomenon,) policy instrument which officially recognise the stay of asylum seekers without legalising them have become increasingly important.³⁹ But the *Duldung* addresses also other sub-target-groups: As a political and legal instrument, it has been frequently applied in the past decades, not only to rejected asylum seekers, but also to certain “undesirable” groups who do not fit into the dichotomy of deportation and right of residence (*Ibid.*, 8,9).⁴⁰ The Return Directive aims to overcome this by demanding Member States to end illegal residence either by deportation or by granting a residence permit (Art. 6 IV RD). However, in Germany the legislator failed to adapt a transparent and certain regulation legalizing people with a *Duldung*. Accord-

39 T. Schütze, ‘The (Non-)Status of ‘Duldung’: Non-Deportability in Germany and the Politics of Limitless Temporariness’, *Journal of Refugee Studies*, feac056, 2022, p. 1, <https://academic.oup.com/jrs/advance-article-abstract/doi/10.1093/jrs/feac056/6827876?redirectedFrom=fulltext>.

40 For example, minorities (e.g. Rom:nja), stateless persons, certain nationalities, criminal asylum seekers, foreign students, unaccompanied minors.

ingly, the number of people who have to live in such an intermediate situation has continuously increased since 2015.



Source: Bundestagsdrucksachen 18/3987, 18/7800, 18/11388, 19/633, 19/27007

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This has led to people living for decades without a residence permit, having families and jobs, but with no prospect of regularising their residence status. In the following, we will look at how such temporary policy instruments shape our interlocutors' vulnerability.

a. *The challenges of proving one's identity – the case of Konfé*

In this section we will discuss the case of *Konfé*, who described in detail the challenges he faced in obtaining a residence permit. His experiences exemplify the difficulties associated with irregular stay. He comes from Burkina Faso and arrived in June 2015. At that time, the obligation to stay in state reception centres was still limited to a few weeks, so he was transferred to a municipality in Saxony-Anhalt in Eastern Germany after just a month. He then had to stay again in a collective shelter, since his asylum application was denied and he was only granted a *Duldung*. This document is granted only for a few months, so he continuously has to renew it, pay 33 € for each renewal, and take leave from his work.

What complicated *Konfé's* struggle for a regularization was his lack of a passport. A passport is a legal necessity for granting a residence permit (§ 5 Residence Act), as well as for deportation. If a person does not have a passport, there is a multi-stage process to clarify their identity with other documents. In general, asylum seekers have a duty to cooperate in this process. Failure to comply with this obligation has negative consequences for the person concerned. In 2019 there was an amendment to the federal law (§ 60b Residence Act), to lay sanctions on those who cannot be deported due to their “own culpable failure” to clarify their identity. This instrument, called *Duldung light*, imposes various sanctions, such as a work ban or a residential restriction. On the other hand, the authority has a duty of information regarding the steps people are required to take as part of their cooperation. The local authorities' interpretation of the law varies greatly in the different German states, as well as the information given to asylum seekers. This is especially true in the German state of Saxony-Anhalt, where *Konfé* lives: In 2021, 39,9 % of persons with a *Duldung* in Saxony-Anhalt received such sanctions compared with 8,9 % of those who received such sanctions in all of Germany.⁴¹

As *Konfé* has no passport, he tried to prove his identity with other documents. He asked his relatives in Burkina Faso to send him his birth certificate, which he submitted to the Immigration Office along with other documents. All documents had to be notarised and translated. After two months he was asked again to provide a passport as proof of identity, as the birth certificate was not considered sufficient. He visited the embassy of Burkina Faso in Berlin twice to request a passport. They denied his request, as his citizenship had to be verified again. He thus consulted a lawyer in Burkina Faso to verify his citizenship but he didn't get any answer, and his relatives were unable help him. At the request of the Immigration Office, *Konfé* had all the correspondence with his relatives and lawyer translated, which was very expensive. However, in the end, the authorities still did not accept his efforts:

“At that moment I had the job. I got a lawyer through a counselling centre who said that we should try again to contact my relatives because we might need another letter as proof. It was really hard. After that I got another letter from the authorities saying that I might soon be banned from working. [...] They always say you have to declare your identity, but I already presented my birth certificate, school report, several letters from my home country to the Immigration Office. [...] I have submitted, submitted, submitted ...”

Beside his precarious residence status, passport. *Konfé's* efforts were accompanied by the fear of what could happen when he finally acquires a passport. During the

41 Refugee Council of Saxony Anhalt, ‘Duldung light: Rechtsauffassung des Innenministeriums und Beratungshinweise’, 18 February 2018, <https://www.fluechtlingsrat-lsa.de/2022/02/duldung-light-rechtsauffassung-des-innenministeriums-und-beratungshinweise/>.

interview, Konfé remembered a flatmate from Niger, who had been in Germany for six years and was permanently employed for three years. When he got his passport, he presented it to the Immigration Office. When he later wanted to extend his stay, he was arrested and deported to Niger “without luggage, without anything. He had to leave everything he had here in Germany”. Konfé is afraid of the same happening to him and fears being deported to Burkina Faso. He faces a difficult situation as on the one hand helping the authorities to obtain a passport is important for him to perhaps obtain residence, but on the other hand this could simultaneously lead to deportation. Like his friend from Niger, every visit to the Immigration office can mean deportation. In Chapter V.3., we will have a look on how some municipalities try to prevent this existentially stressful situation.

In the following we examine how the lack of a residence permit has a significant impact on *Konfé's* living situation and how it puts him in an increasingly precarious position.

b. *“Like in prison” – Living in a vicious circle*

Konfé described his struggle to find work without having a legal status: he initially did a one-month internship with prospect of apprenticeship. But in the end, the employer refused to employ him due to his unstable documentation. Afterwards, he cleared out hotels for a furniture hauling service for three months, also as an internship and without employment. At that time, he received the negative asylum decision. But without sufficient knowledge of the German language and the law, he did not recognise the meaning of the letter. He showed it to his German teacher who also wrongly assumed that it was not a relevant letter, with the result that he missed the opportunity to file an appeal. At one point, one employer was able to convince the Immigration Office to grant him a work permit, allowing him to work part-time until 2019. However, when his contract was changed to reduced working hours (*Kurzarbeit*) due to the pandemic, *Konfé* chose to resign and sign a better-paid contract as a warehouse worker with a temporary employment agency. He proudly shares, that in 2020 he even received a permanent contract and was certified as the best employee of the year. In the following, he was able to pay for his own a forklift driving licence. But:

“Here in Saxony-Anhalt, people from West Africa [...] face a very difficult situation. No matter what you do. Maybe, if you are lucky and get an apprenticeship or a job, you might have 80 % chance to stay here, as long as you show your passport. But otherwise, it doesn't matter. Because they don't consider us as normal workers, no matter how many years you have worked. Until today I don't understand that. In the most countries in Europe, once you get a permanent job, it's a huge opportunity. Then you

can soon get a residence permit. But here in Germany you can work for a long time, they always say that's not worth anything. I think that's social discrimination."

Konfé thought the employment would change his situation, but the opposite was true. For example, he was not given access to the kitchen in his collective shelter due to his working hours. He made several requests for access to the kitchen before or after his working hours, but they were denied. He therefore had to buy ready-made food outside and was not able to prepare his own meals. Because of the living conditions of the collective shelter, he asked many times to move to a private flat. The Immigration Office denied his request because of his irregular residence status. Since he no longer received social benefits, he had to pay rent in the collective shelter, equivalent to 380€ per month. Additionally, he had to live with four other persons in a single room of ten square meters. In comparison to his friend, who was allowed to leave the accommodation and was able to rent a whole flat with the same amount, he felt mistreated:

"I want to work to get my own flat. I work and earn my money. I could finance a flat on my own. [...] But I always get the same answer from the Immigration Office: 'You know you're not allowed to stay here in Germany any longer.' [...] I also complained because the price is so different. I think it's unfair. In the month where you worked a bit more and had overtime, you get a bit more money, more pay. In those months I had to pay more for the rent. [...] Unbelievable! They always say we're a democracy and everything has to be in order. Everything must always be in order, but when you see something like this. That's injustice!"

Working provides financial independence but also leads to an increased rent in the collective shelters, which is disproportionate to the rent index and makes financial independence less possible. As there is no possibility to create an individual space within the accommodation, it makes little sense to be financially independent. In this context, the importance of work is limited to the possibility to escape from the accommodation centre and to broaden the chances of social interactions.

Similar cases like *Konfé's* exist in the municipality where he resides due to its restrictive application of existing laws. By comparison, other municipalities encourage individual housing as there is no legal obligation to operate collective shelters. Additionally, the way social benefits and house rules are handled, or protection measures against violence are implemented, is within the municipalities' margin of discretion.⁴² *Konfé* filed another request for relocation after being threatened with a knife by someone in the collective shelter. *"But they say, 'No, you have to stay there!'"* In contrast, he had the experience, that aggressive behaviour can certainly lead to positive changes. His friend once threatened to destroy all the furniture in the kitchen and was subsequently allowed to move out.

42 W. Kluth, H. Heuser, and J. Junghans, *op. cit.*, p. 28 et seqq.

“They seem to like it when you show violence. Then you have a better chance of getting your own flat. I don’t know what kind of mentality that is. If you beat someone at the accommodation, they say, he’s not normal, he has to get out of here and get his own flat. But if you are calm, they say, you don’t have a problem here.”

In Chapter V.1., we will further examine how some of our interview partners had the experience that violence seems to be the most effective resort while being forced to live in accommodation centres. *Konfé* further explains how interethnic conflicts are provoked by a lack of transparent and equal room occupancy:

“In our accommodation, the Arabs are preferred rather than the Africans. I never understood that. Arabs get a single or double room. [...] Only Africans get a 4-bed room. I think that’s a huge discrimination. [...] They told me that I had to change my room. There were so many empty rooms. And there were rooms of the same size as ours with only one or two people inside. But we Africans, we always have to be at least three in one room.”

Wi-Fi is denied and the inhabitants are at the mercy of housing managers:

“Wi-Fi costs about 10 euros per month. But the internet is so bad that, for example, no WhatsApp calls or Google works. If you have a problem with the warden, he just says he won’t sell you Wi-Fi. And to be in an asylum accommodation without WLAN is very, very difficult.”

Additionally, *Konfé* had no privacy, and was often awakened by the security during the night to verify that he was present. *Konfé* describes how this situation deprived him of any rights:

A: *“In the past, they came into the room at 10 pm, turned on your light and you had to get up again. They asked for your name. You’re asleep, you’ve just come from work and you’re so tired but they come [...] and all names have to be written down. The treatment of the people in the collective shelter is like in prison. I never understood that. [...] There are many people who don’t want to talk about it anymore. Some are afraid.”*

Q: *“They are afraid that it will get worse?”*

A: *“Yes. Like with our demonstration. After we did a demonstration, many people suddenly only got vouchers [instead of money]. We have no more rights. And [the authorities] say ‘that’s the law’. But I think the heads of the authorities in Saxony-Anhalt are huge racists.”*

Konfé described his condition as a vicious circle in which every attempt to improve his situation failed. *“We have no life here”*, *Konfé* stated. Such a situation makes it difficult to demand one’s own rights, as these rights are limited in every aspect. Although, for example, there is the right to privacy, home, and freedom of assem-

bly,⁴³ people do not dare to demand them because they fear even more sanctions. The enforcement of one's own rights is also made more difficult by the lack of access to lawyers, by financial hurdles, and by the isolated life in collective shelters.

c. *"They always think you're a criminal" – Being dependent on food vouchers*

In 2020, *Konfé's* situation became worse when the Immigration Office issued him a ban on employment, because it accused him of not cooperating sufficiently in obtaining a passport and thus granted him a *Duldung light*. His employer immediately terminated his contract, leaving him once again dependent on social benefits. In January 2022 he realized that no money was transferred to his savings account and went to the Immigration Office for an explanation. They informed him, that they decided to stop giving him money, but only personalised vouchers for an amount of 20 € each (164 € per month in total). Every time he has an appointment at the Immigration Office, they deducted the cost of a public transport ticket from this amount, leaving him with only 144 € per month.

Since *Konfé* receives these vouchers, he has to show his ID every time he wants to buy something. He does not get any cash back and is only allowed to buy certain products. *"And when people see you like this, they always think you're a criminal."* His freedom is also restricted by the fact that he can only use the vouchers to shop at certain supermarkets. Buying food for his friends and getting some cash in return is the only possibility to pay his lawyer, buy clothes, or tickets for public transport: *"That's how you have to try to go on living."*

Konfé shared with us how he gets in contact with people on social media to exchange some information. His half-brother for example lives in another municipality, where they stopped issuing vouchers during the pandemic. Other municipalities also issue vouchers, but do not personalise them.

"Whenever people ask me where I live and I say I'm from S., they say, oh, that's not good. Or when I talk to people on social media they sometimes say, 'No! You're not telling the truth, that's impossible! Are you in Germany too?' And I answer: 'Yes, I am in Germany, I am in S.' Somewhere else it's enough to show a birth certificate [to prove your identity]. [...] Here, it's a disaster. You can't even describe it."

In his opinion, the bad situation in his region significantly contributes to psychological problems and drug use by the inhabitants of the accommodation and encourages crime indirectly:

43 Recently, the state-wide house rules for collective shelters in Baden-Württemberg were ruled unconstitutional because they violated the right to a home: VGH BW of 2 February 2022 (12 S 4089/20).

“If you smoke or drink alcohol and only get vouchers, then the only option you have is to steal from the supermarket. [...] It’s not good but sometimes you can understand it a little bit. [...] They ruined our lives.”

Konfé’s hope lies with the new federal government, which stated in its coalition agreement that it plans to improve the situation for people with a *Duldung*. In this context, a new law came into force by which certain persons with a *Duldung* can apply for a temporary residence permit while in the process of seeking a longer-term residence permit. This is called the Right of Chance to Remain (Chancenaufenthaltsrecht), § 104c Residence Act. This should create the possibility of breaking the vicious circle described above. However, only persons who have at least five years of uninterrupted residence at 1.3.2023 can apply. On the one hand, this instrument offers an opportunity for some. However, it also maintains uncertainty as it is not a universal instrument, but limited to the specific reference date. Asylum seekers arriving after this date or who do not meet the requirements must hope that the German parliament will pass another such regulation in a few years. Such instruments thus do not reduce the uncertainty as a vulnerability factor, but perpetuate it by not establishing transparent and universally applicable regulations. Also, the assessment of whether one has done everything necessary to obtain a passport is still at the discretion of the local Immigration Office and thus differs in each municipality. This assessment impacts all further issues: residence status, working permit, living condition, and mobility. For now, it remains that *Konfé* is not allowed to work and has to stay in the collective shelter with food vouchers. This case shows how *Konfé’s* vulnerable situation has escalated since his arrival in Germany. After initially hoping for a positive asylum procedure, he tried to reach a regularisation of his residence status through employment. The ban on work and the issuing of vouchers suddenly put an end to this:

“I’ve been here in Germany for almost 8 years now, but it’s like my first day here. Everything I have built up is gone. Now it’s like at the beginning, or even worse, because I’m not allowed to do anything.”

The instrument of *Duldung* thus massively impedes integration with no incentive or prospect of improvement. These include living in isolated large-scale accommodation centres; jobs where leave has to be taken for each renewal of the *Duldung*; the opening hours of the accommodation’s shared kitchens, which do not fit with the working hours; residential restrictions on freedom of movement (§ 61 Residence Act) which only allow one to stay in the respective German state; a lack of access to legal protections; an increased dependence on the Immigration Office, as well as sanction instruments, such as work bans or food vouchers. The aim of this

instrument is to put people in a limbo to keep their stay reversible at any time with the result that their lives take on the character of unlimited liminality.⁴⁴

d. *Uncertainty after getting a negative asylum decision*

After having portrayed *Konfé's* experience in detail, we will put it into a broader context based on the experiences of other interview partners.

First of all, a negative asylum decision leads to the obligation to leave Germany, if no other residence permit applies (§ 50 Residence Act). People thus end up living illegally and are threatened by constant worries of deportation. Temporary protection from deportation becomes a permanent state of legal precarity.⁴⁵ Since the *Duldung* has to be continuously renewed, it also implies a higher dependence on authorities, especially on the Immigration Office, which must be consulted regularly. The situational and in particular administrative vulnerability caused by interactions with authorities (see next chapter) thus increases. *Taisir*⁴⁶ summarises the key factor of this residence status:

“There is no security for our lives. We are afraid every day. We can't do anything because we are not sure that we will stay in Germany. But if you give me a residence permit, I can do or achieve anything.”

The situation deteriorates further if you are accused of not cooperating sufficiently in obtaining a passport. This precarious residence status affects all other aspects of life. *Konfé's* case shows the impact of a work ban and the dependency on vouchers, which leaves him in a state of uncertainty.

Other interviewees had similar experiences. Elyas⁴⁹ stresses the burdensome contact with the Immigration Office, which did not recognize his efforts in obtaining a passport, although he was issued a consular card by the Kenyan embassy. However, he was able to move to a bigger city because of his work. Another example for this situation is the story of *Genet*, who lost her documents on the flight to Germany. She consulted a lawyer to get her a new passport, but to no avail. She has lived in Germany with a *Duldung* for six years and has to renew it every month at the Immigration Office. For almost two years she worked until she was banned from work. Since then, she feels listless and depressed. After three years in Germany, both she and her husband were diagnosed with stress-related diseases. Since the health check back in 2015 did not reveal any health issues, she attributes it to the ban, which has permanently and severely worsened their health condition.

44 T. Schütze, *op. cit.*, p. 13.

45 M. Suerbaum, ‘Embodying legal precarity: Living with ongoing short-term protection in Germany’, *International Migration*, 00, 1–14, 2021, p. 3, <https://doi.org/10.1111/imig.12903>.

46 The name has been changed to protect the interviewee's privacy (MLU-JJ-0002).

“Since 2019, my husband has had nosebleeds and headaches and takes paracetamol every day. [...] The doctor says that his liver has a problem and he has to go to the hospital in Jena. In Jena they did a big check-up and they said he has liver problems because of the stress.”

The health insurance covers the operations or treatments for the symptoms, but the permanent psychological burden remains. Her six-year-old son has started asking questions about why she doesn't work and why they don't go on holiday like all the other children at school? This worries her a lot.

“[When I arrived in 2015] I was still happy. I was new, had no *Duldung*. I had a baby, worked in 2017–2018. I had money. I paid for my own health insurance. But since 2018, I've been stressed, nervous, unhappy. I used to be different from what I am now.”

Even without being banned from working, people who can work must rely on precarious jobs in the low-wage sector, just like *Konfé* through a temporary employment agency. This reveals the political economy of *Duldung*, which can also be seen as an institutionalised way of using the precarious situation of illegalised non-deported persons for economic interests.⁴⁷ Integration is actively hindered as there is no access to language courses. *Genet* for example had to learn German by herself. Making progress in the language often depends on having social contacts, e.g. German-speaking friends. Additionally, it often depends on the housing conditions, as it makes a difference living in collective shelters or in an independent flat. The obligation to live in collective shelters leads to isolation from social and cultural activities and support structures, and often also means a life without privacy and with conflicts that one cannot escape. This creates a continuation of violence from the country of origin to the country of arrival. Even in instances when people with a *Duldung* are allowed to move in a flat, renting a flat can be difficult due to language barriers and limited right of residence, forcing these people to rely on available social housing.

Since almost all interviewees reported their dependence on authorities, we will now turn to vulnerability factors, which are related to interactions with authorities. Even after a positive asylum decision, this dependency remains in part. It even more deeply affects persons without a secure residence status, as they are regularly dependent on the Immigration Office beyond the asylum procedure.

3. Vulnerabilities resulting from interactions with state authorities

When first arriving in Germany, access to information is essential for an asylum seeker's orientation. Most often, the first interaction with official authorities is

⁴⁷ T. Schütze, *op. cit.*, p. 11.

with the Federal Police. One interviewee from Saudi Arabia described the disregard he faced when he arrived at Frankfurt airport after asking to apply for asylum. The police officer took his passport and handed it over to her boss. The boss then told him:

“There are no asylum applications here in Germany, we don’t accept refugees here in Germany.”

This behaviour is in violation to German and European law (cf. Art. 6 Asylum Procedure Directive and § 18 Asylum Act), as the Federal Police must inform asylum seekers where and how they can apply for asylum. Inadequate communication was also experienced by *Ali* and *Jaafar* who were not given information about the state and city they were being taken to.

After being transferred to a specific German state, the contact with the Immigration Office (*Ausländerbehörde*) and the BAMF becomes relevant. As already stated before in reference to the reception procedure, the length and outcome of the asylum procedure depends on the time when the application was filed. Almost all of our interviewees mentioned the length of the process which can range between months and years, as a major source of stress and uncertainty. The unpredictability of the outcome, the dependence on authorities, and the obligation to live in reception centres or collective shelters all contribute to the general burden the procedure entails. In the experience of our interlocutors, it is especially the interactions with authorities which reflect the general strain of the asylum procedure, as there is a lack of sufficient information from both the BAMF and the Immigration Office and decisions are sometimes not translated or explained. This makes it contact with informed supporters indispensable for asylum seekers in order to understand the content of decisions and to be aware of deadlines for appeals.

However, we identified through interviews various specific difficulties for those seeking asylum in specific time periods, such as the high number of applications in 2015–2016, the restrictions related to the Covid-19 pandemic from 2020–2022, and the Ukraine war which began in 2022. We will illustrate these different experiences in the following by describing asylum seekers’ interactions with different authorities.

a. BAMF

Interviewees who arrived in 2015–2016 were confronted with overwhelmed authorities. For example, *Sami* noted in his interview with the BAMF that he was a minor, but instead of being referred to the Youth Welfare Office and receiving special support, he was left in a refugee camp without special care for minors and had to wait a year for his procedure to be continued. He received no information, and

though he was minor he had to rely even more on himself than before. *Omo* also faced challenges as she was afraid, she wouldn't understand the German asylum system and waited three years for her hearing at the BAMF. When she finally received her decision, she also didn't understand its content.

In certain time periods the procedures for asylum seekers were simplified. In 2016, Syrian refugees, for example, were granted refugee protection more quickly, as Germany suspended transfers for Syrians to other EU member states due to the Dublin regulation. However, later Syrians were sometimes only granted subsidiary protection, making it impossible for them to achieve family reunification as in the case of *Khaled*.

The most important interaction for asylum seekers with the BAMF is the asylum interview. In order to comply with provisions of the Asylum Procedures Directive on vulnerable persons, the hearing and decision can be conducted by special representatives when needed e.g., for victims of human trafficking or minors. Our first research report expands on this topic in more detail.⁴⁸ But still the risk remains that vulnerabilities are not being detected by case officers, especially concerning hidden vulnerabilities.⁴⁹

But sometimes, vulnerability is simply ignored: *Aleeke*⁵⁰ lived homeless in France for three years before coming to Germany. She experienced a lot of violence and had to leave two daughters behind in Cameroon, who are being kept from her by her family. While talking about her experience of not being believed by the authorities, she showed us her scars to prove what she had suffered. In 2017 she was interviewed at the BAMF interviewed at the BAMF, but out of shame, she did not reveal all her experiences, which she described as particularly traumatising: “*When people tell you that you would lie, it causes even worse pain than to speak about it.*” Such behaviour should have prompted the caseworker to involve a special representative for trauma or for human trafficking. After a few months, *Aleeke* received a negative decision. Although she was granted a residence permit for other reasons, it is possible she could have received a less precarious residence status had a special representative been consulted.

In addition, many interviewees mentioned that case officers at the hearing would misjudge the situation in the applicant's country of origin, for example about the level of danger one is exposed to if one refuses to do military service. In general, however, in comparison to other authorities, less emphasis was placed on personal interactions with case officers at the BAMF by our interviewees. This is probably due to the fact that personal contact is less frequent, and for most inter-

48 W. Kluth, H. Heuser, and J. Junghans, *op. cit.*, p. 20.

49 J. Junghans, 'Refugee Accommodations in Germany: A Challenge (not only) for Vulnerable Asylum Seekers', *VULNER*, *blog post*, 27 January 2022, <https://www.vulner.eu/90093/Refugee-Accommodations-in-Germany>.

50 The name has been changed to protect the interviewee's privacy (MLU-JJ-0009).

viewees the asylum interview took place a long time ago or had not yet taken place, while contact with the Immigration Office is still ongoing.

A common structural issue reported to us was the loss of documents by the authorities. *Ahmad*, for example, had to give his passport to the police and his identity card to the BAMF. They lost his documents, leaving him without identification papers for two and a half years. Furthermore, when he attempted to renew his international driving licence, the competent office simply kept his license without informing him, under the suspicion that it was a fake one.

“The woman at the driving licence office just thought the photo didn’t look like me, but the photo was about seven years old and I didn’t have a full beard yet. She said: ‘Look, your lips are very thin.’ I thought she was joking at first. But she was serious, so I replied: ‘Yes, please send this to the police, they also still have my passport.’ It has the same photo. I knew that about 300 or 400 passports had been lost in Karlsruhe. Only after two and a half years, when I accompanied a person to the Immigration Office, I saw that a holiday replacement was there for my case officer. So, I asked her again for my passport. She simply opened the drawer and there it was [...]. I had to wait two years.”

The BAMF is responsible for keeping passports during the asylum procedure, but other authorities need them as well. Even though the BAMF admits that “delays may occur”, there are no figures on the loss of documents. The political magazine *Monitor* has launched a survey among municipalities, according to which 74% of have similar problems, many of them speaking of “regular or frequent difficulties”.⁵¹ In *Adil*’s⁵² case, the authorities also lost his documents including a military letter, his identity card, and school certificates. During the asylum interview with the BAMF, he was told that they had none of his papers. As a result, his asylum procedure was protracted and he had to stay even longer in a large-scale accommodation centre. Especially in view of the many problems undocumented asylum seekers have with authorities, there is a risk here of being held responsible oneself for the failure of the authorities, unless there is proof that one has already handed in the documents.

b. Immigration Office

The Immigration Office is responsible for granting and renewing residence permits (in the case of a positive asylum decision), or *Duldungen* (in the case no protection is granted). In *Konfé*’s case, the Immigration Office accused him of not cooperating

51 *MONITOR* of 4 February 2016, ‘Behördenchaos: Das seltsame Verschwinden von Flüchtlingspässen’, <https://www1.wdr.de/daserste/monitor/sendungen/behoerdenchaos-100.html>.

52 The name has been changed to protect the interviewee’s privacy (MLU-JJ-0014).

sufficiently in the process of obtaining a passport and therefore banned him from working, granting only vouchers as social benefits. This happened without *Konfé* being explicitly informed of the necessary steps, although the authority's obligation is to inform him. Based on our interviewees' experiences, the interactions with the Immigration Office are the most problematic. Obviously, one aspect is the difference in interest between the individual interest in protection and the official limitation of migration.

But the worries in regards to the Immigration Office also concern structural aspects. Our interviewees frequently mentioned the long waiting times as a source of stress. In this regard, one person mentioned the lack of employees and translators in the administration. *Nasser* shared with us the challenges of being dependent on the Immigration Office. He attempted to apply for permanent residence, but he was rejected without any explanation. "*I made the experience in Germany that all things have to be on paper.*" However, he was frustrated with the fact that it took eight months to renew his residence permit, which posed a lot of uncertainty and insecurity:

"I'm not making a new asylum application. It's only about the extension. And if you don't get it in time, you don't get any support from the Job Centre. The payments are stopped. They are paid in arrears, but there is no interim solution. If you're lucky, you can at least stay in your flat, but it depends on your landlord. [...] In my case, the BAföG [training assistance] was paused until I could prove that my permit was renewed. I went to the Immigration Office again and said: 'I want a written statement that I still have the right to stay. The BAföG office wants me to prove that, and I don't have any. The proof is up to you.' You always have to go back and forth between the Job Centre, the BAföG office, the Student Service and the Immigration Office. And you call them, but no one answers."

The inability able to book an appointment with the Immigration Office, the long waiting times, and the poor response behaviour were the most frequently mentioned problems regarding the Immigration Office. If the renewal of residence permits takes several months, so-called certificates of fiction (*Fiktionsbescheinigungen*) are issued to act as temporary fill-ins.

Taisir: "*We write letters, we write emails, we make phone calls and we don't get an appointment for the extension, we only get certificates of fiction.*"

Although these certificates prevent people from having an irregular residence status on paper, they may cause serious problems in other contexts. *Taisir* explains that with this certificate, he is neither able to work nor to travel, although he had already booked a vacation with his children. *Naaber*⁵³ said that his friends and ac-

53 The name has been changed to protect the interviewee's privacy (MLU-JJ-0020).

acquaintances face similar problems due to the certificates of fiction: universities require a valid residence permit for enrolment, and do not accept these temporary certificates. One acquaintance almost had to close his restaurant because his residence permit was not renewed in time. Another couldn't re-register his business. The same problem applies to home internet contracts and jobs.

In many decisions, the Immigration Office has a margin of discretion. Even though this discretion must be exercised according to objective considerations, it leads to an increased dependence on one's personal case officer. This case officer can decide restrictively or favourably. This personal dependency is perceived as a high burden for our interviewees, as one has to behave strategically. As Ali⁵⁴ says:

“For us Syrians, a lot depends on the mood of the staff. We don't know the laws. We don't know, for example, if a certain request is made because of the law, or if the staff is racist. [...] Some friends of mine had difficulties with the renewal of their residence permit. Then they didn't get BAföG for three months. It was a real chaos. They got a lot of Mahnschreiben [letters of formal notice] because of that. [...] We always have to be nice to avoid problems, even though some things are our rights. But I am afraid to tell the case officer that I have a claim, because then he might cause me troubles. And then I either don't get a residence permit or I get it with a delay. It's just luck and coincidence which case officer you get.”

Naaber similarly explained that it was necessary to adapt his behaviour to the authority, depending on the case officer. Even if he knows he is in the right, he does not contradict the case officer in front of him to avoid causing trouble. He also always makes two appointments with the authorities in order to be assigned two different case officers, as they often have different views.

Furthermore, the differences between the authorities in different German states and municipalities are perceived as a burden by our interviewees. German federalism leads to a complexity of applicable regulations, which is intensified by language barriers. Nasser stated:

“There are differences everywhere. It is very complicated for us to understand. [...] Applying for a German passport in Bayreuth requires different documents than in Chemnitz. A friend of mine studied here and moved to Dresden last year. He got his citizenship application form from the city of Bayreuth. In Dresden, he had to fill out additional paperwork and have his birth certificate notarised by the German embassy in Lebanon. Here in Bayreuth, you don't need that. It's not necessarily the law that matters, but the regulations of the respective regional authority. Compared to Saxony, things are different here regarding the permanent residence permit or the higher education system. For example, the requested language certificates or diplomas differ. These differences don't exist in Syria. When I wanted to study in Syria, I applied for all the districts. You give the universities a priority from 1 to 20 and that's it. After just one month you get an email or look at the portal. It is made public which university

54 The name has been changed to protect the interviewee's privacy (MLU-JJ-0015).

and which city has accepted you. There is a central office. But here in Germany there is no such thing.”

Sami similarly experienced huge differences between German states. Since he lived first in Baden-Württemberg and then later in Bavaria to study, he saw several basic differences in administrative processes – for example renewing a residence permit takes only five weeks in Baden-Württemberg compared to three months in Bavaria. He expressed the desire to go back to Baden-Württemberg as he felt he was not being treated well in Bavaria, and was waiting for paperwork to process at all times. When he has gone to the Immigration Office in Baden-Württemberg, he said he never had the feeling that they wanted to insult him or give him the feeling that he is a foreigner.

“But here, they don’t even answer when I call. [...] I’ve called their office so many times. I begged and asked so many times. And security is at the door. Are we terrorists? Why is there security at the door? Why?”

Once, he visited the naturalisation office in Bavaria for information and advice. According to the law, naturalisation is possible after eight years of residence. If one completes an integration course, the requirement is reduced to seven years, and if one has a special accomplishment, such as a high language level, it may be shortened to six years.

“I have the highest language level and that’s why they told me in Baden-Württemberg: Come back in six years. Not here in Bavaria. Neither did they consider my language level, nor my studies, nor my voluntary work as a special achievement. Why?”

Naaber had this experience as well, as he applied for naturalisation and waited more than a year. He stated that other people often move to another municipality only for the naturalisation application, as the process only takes four to six months elsewhere. Afterwards they move back to their primary municipality.

Qamar also related their experiences at the State Office for Refugee Affairs (LAF) where the case officer – in addition to the common language discrimination when interacting with state-level bureaucrats that expect immigrants to speak German – did not want to cooperate on providing the financial support *Qamar* was entitled to, arguing they survived financially until now so why would they need money now? Moreover, the personnel were not trained to deal with trans people: throughout these interactions, *Qamar* was constantly misgendered and “dead-named”.

“In a way, [...] they see me as their enemy. And then they don’t want to help you. [...] On the top of being a refugee, I’m a trans-femme, and they look at me like, you know, like a boy in a dress, which is like ‘oh ok, so not only that but also this!’ [...] The responding attitude was always ‘you don’t belong here’. They put people and obstacles

in your way to make you give up. "Give up in terms of what exactly? There is no plan B. As much as I want to give up here, there is nothing I can do. There is no plan B, its already plan A, B, C, D. [...] There is no return."

c. Other authorities

Our interviewees also faced difficulties with authorities whose core functions do not relate to asylum or migration management. Examples include the naturalisation office and the driving licence office, mentioned previously. From the interviews, it is clear that contact with these authorities is marked by prejudices, as evidenced by *Ali's* experience at the Job Centre:

"When I told the case officer that I wanted to study and what I was studying so far, she laughed and said: 'You can't do that, it's too hard for you! You'd better go to an apprenticeship'. Well, she was nice, I don't want to take it personally. But that's the reality. There were only two or three apprenticeships that she offered me. [...] She just couldn't help me. So, I cheated. I only accepted in order to have more time to learn the language so that I could go to university. I managed that, and now I'm at university. What I want to say is that there is no authority or specific place that people can turn to and that helps them with individual plans. We were all sitting in this collective shelter, we all had mobile phones and were looking for information but we couldn't find anything. On social media there is no presence from the Job Centre or apprenticeships. It was complicated."

Lack of information and support is a common issue not only with immigration authorities, but with all authorities. Also, *Nasser* explained, that he *"had difficulties with the bureaucracy. We only got information through social media from people who had difficulties before. But there was nothing directly from the city."* Our interviewees stated were only supported by people in the neighbourhood or through social media. They would have appreciated an official service point to help them connect with relevant authorities or private actors.

d. Interactions with other actors

Lastly, we want to shed light on interactions with other relevant actors, including social workers, NGOs, lawyers, legal guardians and medical staff, and the ways these can impact experiences of vulnerability.

Interactions with legal guardians were not consistently viewed one way or another by all our interviewees. Some of our minor interviewees stated that legal guardians were often not well informed about asylum matters, causing them to question whether their difficult situation was due to specific laws, certain administrative practises, or their guardian's lack of knowledge.

Regarding interactions with medical staff, *Lili* reported difficulties when she tried to seek medical care in Greece, especially as a refugee trans woman from Syria. She faced a lot of transphobic and racist behaviours, and was stigmatised for living with certain infectious diseases. This experience increased her reluctance to seek medical care in Germany, for fear of being treated the same way. *Lili* went through particularly difficult experiences at the psychiatric emergency room in Berlin. When the situation became very difficult, she reached out to the friends that brought her to the psychiatric emergency department but they wouldn't help her get discharged. She was having suicidal thoughts, was hearing voices, and was deeply afraid. She described her symptoms to the doctors, but they told her that since she was living with these symptoms for several years it was not an emergency. Furthermore, she was constantly misgendered by the psychiatrist. Due to the lack of medical support in both European states, our interviewee started self-medicating by using illegal narcotics thus amplifying her vulnerable situation, and putting her in greater risk of abuse and exploitation, as well as increasing the risks of stigma and isolation.

Most of our interviewees did not think of consulting a lawyer for help with their paperwork, mainly due to a lack of information. Only those in contact with social counselling centres or caregivers were considered seeking legal help. Regarding family reunification, *Ali* and *Jaafar*, described their experiences as follows:

A2: *"We started by looking for a good lawyer. We were in Hanover; we were almost everywhere. We searched here and there; then at the end of the day this lawyer came along, a lot of people told us about him [...], we hired him, too."*

A1: *"First, we paid 500 € for two conversations. Then we paid monthly, because we couldn't afford anything at that time. [...] But they didn't do anything. We did everything ourselves."*

A2: *"They fooled us all the time. We wrote to them and called them many times; we're waiting for an answer and paid all the money. In 2019, we went there and said 'show us what you have achieved so far!' And they couldn't even find our documents."*

A1: *"We gave them the Iranian passports so that they could find my little brother and sister in Iran. They even lost it back. We said, show us our file. They were looking and said, we should come back tomorrow. Then we didn't go there again."*

Interactions with lawyers were mostly disappointing to our interview partners, who felt that they were not taken seriously and that they had been cheated of their money. *Elyas*, who arrived as an unaccompanied minor, had three different lawyers, one of whom failed to inform him that he met the requirements for a residence permit due to special integration efforts. When he learned of this through a social worker, he was already too old to apply for it. Another lawyer simply told him that

he should marry a German person. Similarly, Konfé changed his lawyer several times because he was dissatisfied.

In contrast, the interactions with counselling centres, NGOs, and voluntary initiatives were described as vital by all of our interviewees who had such contacts. *Kofo* stresses how important it was to have been in private contact with social workers during the six years he waited for a residence permit. It gave him hope and helped him not to give up. Accordingly, he found it very hard during the Covid-19 pandemic because all leisure activities were cancelled. Another interviewee described how important the help she received at a women's shelter was in making contact with the authorities. A sphere of trust is created through interactions with counselling centres, NGOs, and voluntary initiatives, people receive support and can talk about everyday challenges. The premises of NGOs also serve as meeting points with other volunteers or refugees, enabling social interactions and social activities. These interactions are therefore viewed in stark contrast with interactions with authorities, which are associated with a sphere of mistrust, insufficient information, lack of respect, and racism.

4. *Vulnerabilities resulting from restrictions to the freedom of movement*

The need for a safe place is crucially linked to the freedom of movement. Freedom of movement allow asylum seekers to make decisions about where they want to live that correspond with their personal needs, preferences, networks, and community support. Having in mind the impact of these circumstances on the experiences of vulnerability we examined in the previous chapter, such freedom of movement enhances their resilience and agency.

In the EU, the Dublin III Regulation aims to determine which Member State is responsible to examine an asylum application. It was established to guarantee the responsibility of a single Member State for an asylum application in the EU, and to avoid multiple applications in different states. Therefore, it creates restrictions to the freedom of movement for asylum seekers within the EU borders. In contrast, people fleeing the war in Ukraine have the right to move freely within the EU after being admitted into the territory. They are able to choose the EU country in which they want to enjoy the rights attached to temporary protection.⁵⁵ Since this doesn't apply for asylum seekers, they are often forced to remain in unsafe or unsuitable conditions, exacerbating their vulnerability and putting their physical and mental health at risk.

55 The Council of the European Union, Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, recital 16, http://data.europa.eu/eli/dec_impl/2022/382/oj.

Three of our interviewees introduced a second asylum application in Germany after receiving asylum in Greece. They all had been victims of LGBTQI-phobic attacks, leading to severe physical and psychological injuries, and struggled to access support from the Greek authorities. Moreover, they were all in need of medical and psychological support that they couldn't access in Greece. Even though no legal definition exists for "secondary movement", European institutions characterise it as "*the movement of migrants, including refugees and asylum seekers, who for different reasons move from the country in which they first arrived to seek protection or permanent resettlement elsewhere*".⁵⁶ According to a 2021 Eurodac report, Germany received by far the most applications for protection after so-called "secondary movements" (21.291) these were filed largely by people who already received asylum in Greece (18.397).⁵⁷

In this context, the BAMF decided in 2019 not to process asylum applications from asylum seekers who had already been granted refugee status or subsidiary protection in Greece. In the same turn, it ordered that court rulings obliging the BAMF to make a decision should not be complied with until the BAMF is threatened with a penalty payment.⁵⁸ The BAMF only reversed this decision in April 2022.⁵⁹ But even if the BAMF examines the "secondary movement" asylum application, it does not base its decision on the Greek decision. The different interpretation of one case can therefore lead to a person being granted refugee status in Greece, but only subsidiary protection in Germany. This impacts for example one's opportunity to apply for family reunification (cf. chapter V.1.).

Nevertheless, there has been evolution on this matter. Caselaw at the national and European level consider that an asylum applicant may face "*a whole range of insecurities and risks, triggering their movement to another EU+ country to legitimately seek an adequate standard of life under the umbrella of international protection*,"⁶⁰ even though they already benefit from asylum in another EU+ country.⁶¹ This breach on the restriction of movement prohibiting a subsequent asylum ap-

56 The name has been changed to protect the interviewee's privacy (MLU-JJ-0014).

57 EU-LISA, Eurodac 2021 Statistics, June 2022, p. 23, <https://www.eulisa.europa.eu/Publications/Reports/Eurodac%202021%20Statistics%20-%20Report.pdf>.

58 BAMF, 'Verfahren in der Griechenland-Ablage', 2021, https://www.proasyl.de/wp-content/uploads/20210511_BAMF-internes-Rundschreiben-Griechenland-Ablage-Umgang-Untaetigkeitsklagen.pdf.

59 BAMF, 'Wiederaufnahme Entscheidungstätigkeit Griechenland', 2022, https://www.proasyl.de/wp-content/uploads/20220331_BAMF-an-OVGs-Wiederaufnahme-Entscheidungen-BIPs-Griechenland.pdf.

60 EUAA, 'Jurisprudence on Secondary Movements by Beneficiaries of International Protection: Analysis of Case Law from 2019–2022', p. 12, https://euaa.europa.eu/sites/default/files/publications/2022-06/2022_Jurisprudence_secondary_movements_beneficiaries_EN.pdf.

61 The Dublin Regulation applies among the "EU+ countries", that is the EU member states and four non-EU member states, which are associated to the Schengen area (Iceland, Liechtenstein, Norway, and Switzerland).

plication in another member state was laid down by the CJEU judgment in the *Ibrahim case*.⁶² The Court ruled on the rejection by the authorities of one Member State of an application for asylum as being inadmissible, based on the prior grant of asylum in another Member State, and clarified the standard of proof and the threshold of severity for inhuman or degrading treatment that would lead to the annulment or prohibition of a transfer back to the first country that granted asylum. Since then, national courts have overturned transfers of asylum beneficiaries to countries such as Greece or Hungary due to a serious risk of treatment contrary to Art. 3 ECHR. Therefore, a second asylum application may be examined by another EU+ country, if the treatment of a beneficiary of asylum in the protective Member State doesn't comply with the requirements of the EU Charter, the Geneva Convention, and the ECHR. However, the BAMF still often rejected applications as inadmissible (§ 29 I No. 2 Asylum Act) until April 2022.⁶³

Ahmed reapplied for asylum in Germany in 2018 from a psychiatric clinic and received temporary protection after a year without having to go through an interview. In contrast, in 2018 *Qamar* applied for asylum in Germany though they had asylum in Greece, and had an interview one year later. Although their asylum cases are quite similar, the German state treated them differently. In addition, *Qamar* received a *Duldung* before ultimately receiving a three-year residence permit.⁶⁴

This second protection granted by the German state was granted due to the documented unsafe and unfit conditions faced by beneficiaries of asylum in Greece. These conditions are what forced *Qamar* to flee Greece in order to survive and escape traumatic experiences. However, the period of time before *Qamar* was granted residence permit in Germany and in particular the period where they had a *Duldung* created senses of insecurity and ongoing fears of being deported afterwards. This uncertainty impacted once again their mental health.

Ahmed: “I hate this. To apply for asylum and to go through the process is difficult. It will be the last time. I arrived in Berlin. [...] If it doesn't work, I should maybe die, I shouldn't survive. Because it is enough. We are not welcome anywhere in this world.”

For all of our three interlocutors, the asylum procedure in Greece was quite traumatising, not only due to the conditions they had to live in during the process, but

62 CJEU, Grand Chamber, *Bashar Ibrahim, Mahmud Ibrahim, Fadwa Ibrahim, Bushra Ibrahim, Mohammad Ibrahim, Ahmad Ibrahim, Nisreen Sharqawi, Yazan Fattayrji, Hosam Fattayrji v Bundesrepublik Deutschland*, and *Bundesrepublik Deutschland v Taus Magamadov*, Joined Cases C-297/17, C-318/17, C-319/17 and C-438/17, ECLI: EU:C:2019:219, 19 March 2019, <https://case-law.euaa.europa.eu/pages/viewcaselaw.aspx?CaseLawID=745>.

63 BAMF, *Wiederaufnahme Entscheidungstätigkeit Griechenland*, 2022, https://www.proasyl.de/wp-content/uploads/20220331_BAMF-an-OVGs-Wiederaufnahme-Entscheidungen-BIPs-Griechenland.pdf.

64 For further details on *Duldung*, see chapter V.2.

also due to the interaction with the state-representatives, and the extremely sensitive and personal questions asked during their asylum interview about their sexual orientation and gender identities. Therefore, going through the asylum procedure a second time and navigating yet again another bureaucratic system in another “new” language, triggered their memories from their Greek bureaucratic experiences.

Although these interviewees were able to re-apply for asylum in Germany, they risked being trapped in the German reception system, which imposes restrictions on one’s movement. Due to the domestic distribution procedure (*Verteilungsverfahren*) called *Königsteiner Schlüssel*, applicants who register for asylum are usually distributed to another German state.

The place where one stays during the asylum procedure is especially important for those who are in need of special support. For example, our interviewees reapplying for asylum in Berlin belong to sexual and gender minorities. Their community and LGBTQI+ focused organisations are more developed in bigger cities, and cities often provide better community networks than peripheral localities. We elaborated already on the issue of peripheral and urban localities in our first research report.⁶⁵ The fear of being relocated and the bureaucratic struggle to be able to stay in Berlin had an important impact on the psychological state of our interviewees. Qamar refused the relocation imposed by the authorities and therefore didn’t receive any state support for two years (e.g., financial and health insurance). Thus, Qamar felt compelled to provide for themselves through sex-work. This clearly demonstrates the intersection of situational vulnerability factors – those determined by personal circumstances such as gender identity and community support on the one hand, those determined by structural factors like administrative restrictions to the freedom of movement or work conditions.

Furthermore, the restriction on immigrant’s freedom of movement by the German system does not end once asylum is granted, as demonstrated by the joint cases of Alo and Osso before the CJEU (they received subsidiary protection).⁶⁶ The two applicants were issued residence permits accompanied by an obligation to reside in a particular part of Germany. They both challenged this obligation. According to article 33 of the Qualification Directive,⁶⁷ Member States must allow freedom of movement within their territory to recognised refugees and persons who have

65 W. Kluth, H. Heuser, and J. Junghans, *op. cit.*, p. 40.

66 CJUE, Judgment of the Court (Grand Chamber) of 1 March 2016. *Kreis Warendorf v Ibrahim Alo and Amira Osso v and Region Hannover*. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62014CJ0443>.

67 Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast).

been granted subsidiary protection under the same conditions and restrictions as those provided for other third-country nationals legally resident in their territories. Restrictions on this freedom of movement is only permissible in specific situations, in which serious considerations of immigration and integration policy apply. Germany justified the residential restrictions by stating it would minimise the certain German states and municipalities taking on a disproportionate budgetary burden, and that these residential restrictions would prevent social segregation and enhance integration. The CJEU rejected the first justification, as it is contrary to the requirements of the principle of proportionality for refugees and beneficiaries of subsidiary protection to be treated differently from citizens. Additionally, the Court found the second justification regarding immigration or integration policy considerations was based on abstract grounds and thus not sufficient.

The phenomenon of secondary movement illustrates the importance of freedom of movement for asylum seekers in their ability to choose the most suitable place of residence depending on their individual needs. Asylum seekers flee their country of origin in search of a safe place. Due to the restrictions on freedom of movement imposed by the Dublin III Regulation, they then have to stay for example in Greece. If they finally decide to move on to Germany, they are also confronted with restrictions in their search for a safe place due to the distribution procedure. And even after they are granted refugee status a second time in Germany, restrictions on movement are sometimes still imposed, even though they have the right to freedom of movement. The several decisions of the BAMF not to process asylum applications made by already recognised refugees or to not comply with judgments forcing the BAMF to decide, illustrate how the issue of freedom of movement is contested and politically managed beyond the law.

Ongoing restrictions on freedom of movement reveal also the temporal aspect of this endless journey to seek protection, and demonstrate the trajectories of our interlocutors' experiences of vulnerability. The national restrictions on movement show how experiences of vulnerability persist for years and can be exacerbated even after asylum has been granted, especially if these restrictions are combined with economic precarity due to restrictions on social benefits. This persistent difficulty contributes to our interlocutors' overall mental health and well-being and thus impacts the capacity to exercise their agency.

5. *Concluding reflections*

In this chapter, we considered the factors that contribute to 'administrative vulnerability' among our interview partners. We noticed, in particular, that the length of protection procedures contributes to placing asylum seekers in vulnerable positions, as we have seen in the case of *Ali* and *Jaafar* in relation to family reunification.

For people who sought asylum in Germany after being granted asylum in Greece because of the poor living conditions, this meant going through the stressful (asylum) procedure again. Administrative vulnerability, in the context of our interview partners, meant that they were insufficiently informed by authorities, had poor knowledge of their legal situation, insufficient language skills, and generally experienced difficulties navigating an unfamiliar legal system. This administrative vulnerability also meant uncertainty about the outcome of the proceedings.

Some processes became protracted when authorities lost our interviewee's documents or postponed the asylum hearing due to the applicant's status as a minor. This reveals the temporality of our interviewees' vulnerabilities, such that the vulnerabilities can increase over time when procedures become protracted. Thus, swift asylum processes decrease the uncertainty with which asylum seekers are confronted. On the other hand, when asylum processes are hasty, such procedures don't give enough leeway to generate a sufficient sphere of trust, which allows the asylum seekers to reveal their specific stories and vulnerabilities.⁶⁸ Hastiness in the procedure also stands in the way of a comprehensive assessment of the most complex forms of vulnerabilities, which are the most difficult to detect. This can be observed in the accelerated procedures for asylum seekers from so-called safe countries of origin or regarding the need of a recovery and reflection period for victims of human trafficking.⁶⁹ Therefore, it is important to design protection procedures in a way that allows newly arrived asylum seekers to recover from the flight, and that allows to establish a sphere of trust. This is essential for both detecting certain vulnerabilities and adequately navigating the asylum procedure.

A structural factor for vulnerability we identified for those with a residence permit was the certification of fiction (*Fiktionsbescheinigung*), which is granted when a renewal of documents is not possible due to the authority's delay. Our interlocutors described the negative impact in various spheres of life, such as at university, regarding holidays, at work, or regarding renting a flat.

In particular, the dependence on authorities and individual case officers contributed to administrative vulnerability. In this regard, the interpersonal and discretionary dimension of interactions with state actors particularly turned out to contribute to the specific situational vulnerability of our interview partners. This was expressed in the feeling of not being able to exercise one's rights sufficiently, and having to behave strategically in order to avoid negatively influencing a dis-

68 H. Heuser, J. Junghans, and W. Kluth, *Der Schutz vulnerabler Personen im Flucht- und Migrationsrecht*, *op. cit.* p. 130 et seqq; N. Jack, J. Junghans, *Effektiver Menschenrechtsschutz an den EU-Außengrenzen und für Opfer von Menschenhandel*, Hallesche Studien zum Migrationsrecht, 2021, p. 65 et seqq.

69 Cf. Asylum Information Database, 'Accelerated, prioritised and fast-track asylum procedures', 2017, p. 14; cf. Refugee Council of Mecklenburg-Vorpommern, 'Asylum Package II – what does it mean for refugees and their supporters?'

cretionary decision. State officials' interactions could end up hostile either due to a lack of training with certain groups, such as LGBTQI+ individuals, resulting in misgendering or using their "dead name"; but also due to what can be perceived as a simple unwillingness to provide assistance. Combined with a lack of information about essential rights and procedural steps, this hostility establishes a sphere of mistrust. In this situation, it is sometimes no longer possible to distinguish which decisions are the responsibility of the case officer and in which he or she has no discretion. The different decision-making practices of the Immigration Office due to federalism, makes it even more difficult to accept certain decisions, as they seem arbitrary. This was perceived as injustice in a situation where one is faced with legal challenges anyway. For people without a residence permit, vulnerability increases even more after a negative asylum decision, since several restrictions thus apply to them. The same applies for those who moved further to another state as the positive decision they received in Greece did not prevent them from going through the same procedure once again in Germany. Support networks turned out to be essential for compensating the sphere of mistrust created within interactions with authorities, as well as for enabling asylum seekers to navigate the system by explaining procedural steps, the content of decisions, or deadlines for appeals.

In addition, asylum seekers face administrative barriers that limit their freedom of movement, which ultimately undermines their agency. By restricting their ability to choose their country of asylum and place of residence, these barriers prevent asylum seekers from fully enjoying their agency and hinder their ability to make informed decisions about their own well-being. These restrictions can have negative consequences for asylum seekers as they may be forced to reside in locations that are not conducive to their specific needs or social networks, thus exacerbating their existing vulnerabilities, and undermining their efforts to rebuild their lives.

As we saw in the previous chapter, family and community factors influenced our interlocutors' vulnerability, bringing family reunification to the fore. On this matter, we can now observe the differences that various outcomes in the asylum procedure have on this procedure. While refugees have a legal entitlement to family reunification, those with subsidiary protection are the discretion of the Immigration Office, and those with a *Duldung*, do not have the right to apply for family reunification at all.

Additionally, a high level of stress was caused by the failure of the Immigration Office to answer emails and phone calls, and offer appointments, which increased the uncertainty of our interviewees. Irrespective of our interview partners' residence status, this lack of communication was mentioned over and over. The impact of this poor communication increases for people with no residence permit because they have to renew their *Duldung* at the Immigration Office every few months. For them, the obligation to contribute to administrative procedures (*Mitwirkungspflichten*) is especially stressful in cases where they are not sufficiently informed by

the authority of the contribution that is required. Various administrative measures such as a ban on working, residential restrictions, or granting only food vouchers contribute as structural factors to their vulnerability. These measures are also at the discretion of the Immigration Office, which we have already identified above as a burden. This burden is increased for those with a *Duldung* as this regular interaction has incisive effects on their everyday life. Especially as asylum seekers remain trapped in large-scale accommodation centres and in a precarious status over long periods of time, this administrative vulnerability contributes to a situation where other factors of vulnerability are exacerbated, in particular health issues. This shows the interrelation of different layers of vulnerability. The opportunity to integrate and network is increased by a residence permit.⁷⁰ In addition to the fact that this reduces dependence on the authorities, it also reduces the limiting effect of uncertainty on the asylum seekers' agency and their capacity to make life plans. Those who have to live with a *Duldung* or *Duldung light* are comparatively trapped in the limbo of unlimited temporariness. Having in mind that the instrument of *Duldung* serves also to keep certain groups of asylum seekers in this unlimited temporariness, this emphasizes the intersectionality of this administrative vulnerability.

70 And also by the country of origin you come from (cf. chapter VI.4).

VI. Vulnerabilities and shifting migration policies

Having already focused on vulnerability factors from a *micro* and *meso* perspective, we now adopt a *macro* perspective to investigate how experiences of vulnerabilities are shaped and sometimes even produced by the German legal and policy framework on asylum and migration. We will identify state practices towards asylum seekers that exacerbate vulnerabilities, or even create them – in a nuanced way that goes beyond the overall and obvious finding that migration control mechanisms have the overall effect of producing vulnerabilities.

We will not focus on bureaucratic processes, such as the use of leeway or interactions with asylum seekers that were studied in Chapter V., but we will analyse certain policy developments since 2015 in terms of how they increase or decrease the administratively and legally generated vulnerability of asylum seekers. In doing so, we aim to provide a broader analysis of how current state policies impact asylum seekers' vulnerabilities.

We will first look at the reception procedure, which has been restructured step-by-step since 2015. We will then discuss two shifts in migration policies, which can be observed regarding measures implemented in the course of the Covid-19 pandemic and the war in Ukraine. We then turn to different municipal approaches to integration. In chapter VI.4., we will look at how certain policy choices since 2015 have led to an increased lack of transparency regarding protection procedures.

1. *Vulnerability shaped by the reception conditions*

Although the reception procedure in a narrow sense could be subsumed under Chapter IV, we would like to address it here to show how, through an interplay of static legal framework and a scope for implementation due to federalism, vulnerability factors depend on broader policy approaches.

As explained in Chapter III., in Germany the reception system is divided into two parts: state and municipal accommodation. Since 2015, federal law on accommodation been amended – the period of time which the asylum seekers are required to remain in state-run reception centres has been gradually increased.⁷¹ Spending the first period of time after arrival in large-scale accommodation centres had a high impact on the vulnerability of our interviewees. For example, the violence in dealing with each other was formative. We have already shared *Sami's* experience of having been forced to fight for a room as an unaccompanied minor. A recent study demonstrates how reception centres systematically oppose or vi-

⁷¹ See further: J. Junghans, 'Refugee Accommodations in Germany', *op. cit.*

olate the needs and rights of children.⁷² Nevertheless, large-scale accommodation centres have been greatly expanded since 2015. Thereby, vulnerabilities are produced, such as violence amongst asylum seekers and against them, which the state is responsible for preventing. Living in such accommodation centres ultimately leads to intersecting forms of socio-spatial exclusion.⁷³

Most of the people we interviewed arrived in Germany at a time when accommodation in state-run reception centres was not common. They were mostly accommodated in temporary emergency camps and then distributed to the municipalities. The focus of the following chapter will be therefore on the conditions in municipal collective shelters. The living conditions in the German states and municipalities differ widely,⁷⁴ but structurally the same issues arise, as collective shelters are also a form of large-scale accommodation, aside from those which provide separate flats.⁷⁵ Our interviewees were accommodated in Bavaria, Baden-Württemberg, Lower-Saxony, Saxony, Thuringia, Saxony-Anhalt and Berlin. Our findings from the first research report that none of the German states had adequate protection plans against violence (*Gewaltschutzkonzept*) was also confirmed by the fact that none of our interviewees could reported adequate protection mechanisms in their shelters. On the contrary, as it has already been stated for state reception centres, the experience of violence and insecurity is a constitutive part of the experience in collective shelters, as *Maria's* experiences testify. In detail, we have already heard from *Konfé* how living in such facilities leads to depression, addictions and criminality. He himself was threatened with a knife. According to him, this large-scale accommodation just felt like being in a prison. The experiences of our interviewees are almost identical on this count. We will highlight only one experience in the following.

a. Isolating effects of large-scale accommodation centres

Adil was accommodated in Thuringia. He also described how he felt like a criminal due to the many rules, the presence of security, and the fenced-in area. There were many violent conflicts with the security and the residents. There was no privacy –both in the room where he had to live with eight people in sixteen square metres,

72 N. González Méndez de Vigo, F. Schmidt, T. Klaus, *Kein Ort für Kinder in Not – Zur Lebenssituation von minderjährigen Geflüchteten in Aufnahmeeinrichtungen*, 2020.

73 S. Seethaler-Wari, Z. Yanasmayan, *Unfolding intersecting forms of socio-spatial exclusion: Accommodation centres at the height of the “refugee reception crisis” in Germany*, *International Migration* 2023; 00:1-15.

74 *Ibid.*, p. 12.

75 We gave an overview of different state approaches in our first research report: W. Kluth, H. Heuser, and J. Junghans, *op. cit.*, p. 25 et seqq.

and in the common rooms. He found it particularly stressful that there were only open showers where he had to show himself naked in front of many people.

“For religious reasons it was very difficult for me. We don’t shower naked in front of each other. It’s just a taboo issue. I never shaved, for example. But at that time, I had to adapt my behaviour by having an intimate shave.”

Often, municipal accommodation is characterised by its peripheral location, causing residents to be poorly connected to public transport and urban facilities. Reaching appointments with immigration authorities can thus become an odyssey. For *Adil*, the BAMF, was 2–3 hours away from his accommodation by bus. It was poorly signposted in the middle of the forest, so it was hard to find. Often people needed accompaniment to the BAMF to find it. *“I think it’s pretty stupid to hide something so important for new immigrants who don’t know the area. That is the bottom of the barrel.”*

According to *Adil*, the distribution system is opaque and unfair. Good contacts or violence seemed to be the only way out:

“I was probably only relocated because I freaked out. People from my room moved out all the time. Two Kurds for example had some kind of contact with the Red Cross. Their relocation was accelerated under the table. One always profits from contacts or friendships. I generally can’t understand such things, for me justice is the be-all and end-all. [...] I actually wanted to be nice to people and make friends. But I find it absurd that other people are treated unequally as a result.

When the last distribution list came, I just couldn’t take it anymore. I think it was a Friday. I started running in the camp and screaming. I ran to the administration building and shouted in German: ‘I’ve been here for four months. I want an Arabic interpreter now and the director should come.’ The security tried to calm me down. And I just snapped, banged my head against the wall because I couldn’t take it anymore. Eight people, many of whom came after me, were relocated and I was not. Maybe because I was quiet and didn’t say anything. However, the interpreter came and I told him again in Arabic that I couldn’t bear it here anymore. [...] Well, then they relocated me on Monday.”

Based on the experiences shared with us in the interviews, it appears that the people who were in close contact with social workers, who were able to make friends, or were involved in interpreting or other services, were in a much better position as a result. Also, they had better access to relevant information. The individual’s level of education and access to local integration and language courses had a great influence on whether our interviewees were able to shape their situation to their advantage. These findings correspond with the intersecting forms of exclusion by so-

cial relations “inside” spatially excluded places, pointed out by *Seethaler-Wari/Yanasmayan*.⁷⁶

All in all, *Adil* was relocated to large-scale shelters three times before he was allowed to move in a private flat. Because he supports recently arrived asylum seekers, he has an understanding of various collective shelters in Thuringia. One shelter is an old office building.

“I know people there with whom I was accommodated back in 2015 or 2016. They still live in those offices. How long do you have to endure that? It’s been seven years and the situation hasn’t changed at all.”

He also stated that the situation for physically disabled persons is even more miserable, as they often stay in collective shelters or state receptions centres longer than they legally have to, because the municipality cannot arrange accessible housing. *Adil* referred to the VULNER project and our question about his first impressions when he arrived in Germany:

“Actually, your project focuses on the first phase. Well, this first impression has now lasted seven years for some people. That’s terrible. And to answer your question, there are no significant differences between the shelters. It’s actually always the same: there are only shared rooms and shared kitchens, shared bathrooms and so on. Absolutely no privacy. And strict house rules. Everything is about taking control over people.”

No municipality is legally obliged to run a collective shelter at all according to the § 53 I Asylum Act. It is therefore at the municipalities’ discretion to shape the housing situation, which is closely related to the municipality’s approach to integration. To operate such facilities is significantly related to the practice of limiting the rights of asylum seekers. The isolation effect associated with living in collective shelters thus impedes integration in all spheres of life. In contrast, there are also municipalities that want to attract refugees with precarious residence statuses as workers for local companies and have decided accordingly to abolish collective shelters.⁷⁷ In this sense, *Adil*’s conclusion on the current reception procedure, which he sees both as a “struggle for survival” and a lifelong struggle is:

“It is not possible to put people in one place en masse and seal them off with security and police, thus contributing to alienation and exclusion. It has to be humane. The impression of fear must not be created from the beginning. We all know that there is a housing problem, but in the end, people are relocated anyway.”

As already mentioned, a negative asylum decision cannot be used to make a direct statement about the prospects of remaining in Germany. The BAMF’s evaluation

76 S. Seethaler-Wari, Z. Yanasmayan, *op. cit.*, p. 2.

77 VULNER Interview of 1 December 2022.

report on state reception centres also states that the state objective to deport asylum seekers before distributing them to the municipalities could not be achieved. In fact, 42% of all persons who received a negative decision in the evaluation period were distributed to the municipalities.⁷⁸ This confirms to *Adil's* perception that “*in the end, people are relocated anyway.*” The intended prevention of a distribution to the municipalities can therefore often not be achieved, but integration and arrival is permanently disrupted by people being isolated from society for years in large-scale accommodation centres. This principle applies in the same way to accommodation in municipally-run collective shelters. This state, which lasts for years and in which there is no way back to the country of origin, and no way to a better future in the host country, is causally linked to the health complaints, depression, and uncertainties for the future that some of our interviewees described.

Some municipalities' approach to permanently accommodate people in collective shelters, as well as the extension of the mandatory period of time people must spend in state-run reception centres, thus pursues the goal of permanently hindering integration, in order to be able to easily deport people at any time, while simultaneously failing to recognise that many people nevertheless remain in Germany (similar to the instrument of *Duldung*, cf. Chapter V.2.).

b. Large-scale accommodation centres undermine safe accommodation

Despite the general troubles related to large-scale accommodation centres, protective shelters remain crucial for certain groups of individuals. The concept of specialised protective shelters is already recognised, as there exist shelters for unaccompanied minors (without regard to whether they are migrants or not) or women who experienced domestic violence. These facilities thus serve as a safe space to escape violent situations, offer support, and provide a safe place to stay. Also, LG-BTQI+ asylum seekers are often in need of such places as they experience various forms of discrimination, exclusion, sexual violence, and other forms of violence. As a result, they have specific needs in terms of reception conditions to ensure their safety and prevent such risks. However, safe accommodation is not an integral part of the reception procedure in Germany since it promotes large-scale accommodation centres and thus increases the inhabitant's vulnerability instead of preventing it. Large-scale accommodation *per se* lead to vulnerability. The state's push towards such housing since 2015 has consequently undermined safe accommodation. Although the needs of vulnerable asylum seekers are recognised in various policy concepts and administrative regulations, they remain unimplemented in

78 BAMF, 'Evaluation der AnKER-Einrichtungen und der funktionsgleichen Einrichtungen', 2021, p. 52

practice. Only a few accommodation facilities for LGBTQI+ people or other vulnerable groups exist in Germany, mostly informal. In general, they are operated by non-state actors like Welfare Organisations, churches, or NGOs. For instance, the emergency shelter for LGBTQI+ asylum seekers in Berlin was founded in 2016 and is run by an NGO called *Schwulenberatung*. It is often referred to as the “queer camp” by asylum seekers and refugees.

Like *Qamar*, one of our interviewees, some asylum seekers try to resist being hosted in municipal collective shelters as they have already lived in camps in other European countries, for instance in Greece. Thus, the idea of staying once again in a camp revived their traumas linked to their horrifying experiences in camps. Living conditions in the Greek camps have been widely documented, and the ECHR⁷⁹ has condemned the Greek state on this matter multiple times. As a result, *Qamar* was forced to rely on community to find alternative accommodation arrangements that better suited their needs. However, such arrangements can be financially unstable, leaving people in insecure living conditions and aggravating their psychological distress.

The lack of space in LGBTQI+ emergency shelters deprived *Lili* of access to essential services, such as safe housing, and exposed her to additional risks, such as resorting to sex work. Some asylum seekers who cannot access such camps may end up in large-scale collective shelters where they fear being subjected to discrimination, harassment, and other forms of violence. For example, several of our interviewees refused to stay in a “straight camp” in fear of such violence and found private accommodation with community support. However, the lack of access to essential services due to the lack of space in the “queer camp” made them more vulnerable and exposed them to additional risks.

Another one of our interviewees spent a year in a so-called “queer camp” where, at the time, an acute bed bug infection worsened the already critical sanitary conditions. However, our interviewees main concern was safety. It appeared that, according to him, around twenty or thirty percent of the residents were actually straight cis-gender men, most of them homophobic and transphobic, and some of whom were drug dealers, thus making the camp a scary and unsafe place for other queer residents that isolated themselves from communal areas to avoid communication and conflict with others. The police also had to intervene on a daily basis for drug related incidents. Moreover, the security staff in charge of the shelter was not trained to deal with LGBTQI+ people – they were very hostile towards the

79 See for example:

- ECHR, *M.S.S. v. Belgium and Greece*, 21 January 2011, Application no. 30696/09,
- ECHR, *A.A. v. Greece*, 23 February 2012, Application no. 12186/08,
- ECHR, *M.A. and Others v. Greece*, 28 November 2013, Application no. 52150/10,
- ECHR, *Rahimi v. Greece*, 5 June 2018, Application no. 8687/08.

residents and our interviewee reported several incidents of transphobia, homophobia, and racism from the security.

In addition to the constant feeling of danger, living in a large-scale accommodation centre with many people suffering from multiple traumas and having different lived experiences can provoke tensions and conflicts. For example, one of our interlocutors witnessed a suicide attempt by his roommate who feared the authorities would deport her. This incident had a significant impact on our interviewee's already fragile mental health, and increased his fear of being deported.

Asylum applications are made with the core aim of seeking a safe place. Therefore, providing adequate shelter for vulnerable asylum seekers must be a main component of reception procedures. However, even our interview partners who were accommodated in shelters dedicated to vulnerable people instead of large-scale accommodation centres experienced the opposite. This was shown regarding the lived experience in a queer camp, but also with *Khaled* who escaped from the shelter for unaccompanied minors to be accommodated in a private flat operated by a Youth Welfare Organisation. This suggests that the way safe accommodation is operated within the regular reception procedure cannot serve its purpose due to the focus on large-scale accommodation centres. Such accommodation may be necessary when large numbers of asylum seekers arrive to enable registration and to prevent homelessness. However, the focus on large-scale accommodation centres in Germany since 2015 aims to use centralised mass housing as a control tool to prevent integration. This approach addresses vulnerability only within these huge facilities, while failing to recognise that large-scale accommodation itself produces new and exacerbates existing vulnerabilities. Thus, a coherent approach to enable an effective asylum procedure and protect vulnerable asylum seekers is prevented, which would facilitate decentralised housing and provide safe accommodation.

2. *Impact of the pandemic and the Ukraine war on migration management*

During the research period, two events in particular stood out as influences on our interview partners' perceptions of larger policy changes that directly affected their individual experiences and vulnerability. The first was the Covid-19 pandemic, which resulted in a series of government regulations that affected the situation of asylum seekers. Secondly, several people in the interviews spoke about the changed situation since the Ukraine war and the corresponding migration management in Germany.

a. *Covid-19 pandemic*

The pandemic initially triggered uncertainty and fear regarding physical safety. In particular, it affected those who did not have their own flat but had to live in large-scale accommodation centres. Here it was difficult and partly impossible to comply with the hygiene regulations. The way the German states and municipalities dealt with this varied. In some cases, people were relocated.⁸⁰ In some cases, large-scale accommodation centres were sealed off, which even increased the isolation of the residents, who were for example no longer allowed to receive visitors.⁸¹ Restrictions on the right of visitations are now commonly applied beyond quarantine obligations, although this violates fundamental rights.⁸²

In addition, it was often mentioned as a particular burden that contact with the authorities had deteriorated considerably during the pandemic and resulting lockdown. It was no longer possible to make appointments with the Immigration Office, e.g. for the renewal of the *Duldung* or residence permit. *Khali*⁸³ stated:

“At the time of the pandemic it was really bad. No appointments were given out. [...] The authorities no longer answered emails or responded to phone calls.”

We have already explained above the burden poor administrative communication has on asylum seekers who are dependent on authorities. The already bad situation worsened considerably due to the Covid-19 pandemic since 2020. *Nasser* criticised, among other things, the lack of information on the authority’s website.

“They don’t do anything digitally either. You want to make an appointment, but you’re not allowed to do that since Covid-19. [...] Also, at the time of Ukraine refugees in February, they wrote on their homepage: no appointments, because of the war in Ukraine. And the others have to wait. You are not allowed to call or write an email, nothing at all!”

These experiences were shared with us by interviewees from different German states. Contact with counselling centres and actors in refugee assistance was also

80 Cf. VG Leipzig, Judgement of 24 April 2020 (11 L 269/20.A).

81 Cf. MONITOR of 30 April 2020, ‘Eingesperrt und ausgeliefert: Corona in deutschen Flüchtlingsunterkünften’, <https://www1.wdr.de/daserste/monitor/sendungen/corona-fluechtlingsunterkunft-100.html>; Mediendienst Integration of 6 November 2020, ‘Viele Covid-Fälle in Sammelunterkünften’, <https://mediendienst-integration.de/artikel/viele-covid-faelle-in-sammelunterkuenften.html>; Antirassistisches Netzwerk Sachsen-Anhalt of 26 April 2020, [Corona] Entmündigung trifft auf Widerspruchonline, <https://antiragnetlsa.de/archive/704>.

82 A. Lederer, ‘Grundrechte für Geflüchtete in Gemeinschaftsunterkünften’, *Antidiskriminierungsberatung Brandenburg*, 2018, p. 13 et seqq; VGH Baden-Württemberg, Judgement of 2 February 2022 (12 S 4090/20).

83 The name has been changed to protect the interviewee’s privacy (MLU-JJ-0005).

severely limited during the pandemic, and these actors were sometimes the only source of hope during the long phase of waiting for a residence permit.

On the other hand, some municipalities adapted their administrative practices to the pandemic conditions to the benefit of asylum seekers. For example, we were told that the period of validity of *Duldungen* was extended by two months in some cases or that vouchers were replaced by monthly payments. This again reveals how different the conditions are in different municipalities, and how much one's living situation depends on which German state one is distributed at the beginning of the asylum procedure.

b. The impact of the Ukrainian war

Since Russia's war of aggression against Ukraine on 24.2.2022, 1,055,323 people have fled from Ukraine to Germany.⁸⁴ Already on 4.3.2023, the Council of the European Union has activated the Mass Influx Directive. Accordingly, Ukrainian refugees were not required to go through an asylum procedure, but they were granted a temporary residence permit with considerable bureaucratic simplifications. In addition, they were put on an equal footing with nationals with regard to social benefits, so that they fall outside the scope of the Asylum Seekers' Benefits Act. Ukrainians were also enabled to use local transport free of charge throughout Germany.⁸⁵ In addition, the bureaucratic processes of Ukrainian refugees were prioritized, so that proceedings of persons from other countries were postponed.⁸⁶ Several interview participants reported on how this has affected the situation of asylum seekers who were already in Germany. In some cases, there is a sense of resignation. *Konfé*, for example, reports how he perceives his situation in comparison to newly arrived Ukrainian refugees:

"It all takes so long and with Corona and the problems in Ukraine it gets even worse. Everyone always says there is no place for us in Germany, but everywhere you can just see that Ukrainians are privileged. You can actually notice it on the street, in the city. People stay in the ballroom for a day or two and then they immediately get a flat, a job, everything. They don't need to buy transport tickets and they get everything so

84 UNHCR, 'Ukraine Refugee Situation', online available: data.unhcr.org [accessed 31 January 2023].

85 BAMF, *Unterwegs mit Bus und Bahn*, BAMF website <https://www.germany4ukraine.de/hilfeportal-de/mobilitaet/help-ukraine-ticket>.

86 Tagesschau, 'Ausländerbehörden beklagen Überlastung', 25 August 2022, <https://www.mdr.de/nachrichten/sachsen-anhalt/landespolitik/heftige-kritik-auslaenderbehoerde-magdeburg-gruende-100.html>; MDR, 'Wie Magdeburg internationale Fachkräfte verschreckt', 25 September 2022, <https://www.mdr.de/nachrichten/sachsen-anhalt/landespolitik/heftige-kritik-auslaenderbehoerde-magdeburg-gruende-100.html>.

quickly. I've been here in Germany for almost 8 years now, but it's like my first day here."

For *Qamar*, the different institutional and social responses towards Ukrainian refugees and other asylum seekers made them question the empathy factor in regards to asylum seekers:

"So many refugees coming from Ukraine and they were immediately given papers, housing etc. So, the problem was not actually about the infrastructures. It was more about, what kind of refugee? White? Blue eyes? Christians? When they see them, they are more able to form empathy. You see how suddenly the infrastructure that they pretend doesn't exist actually does. It's quite possible to give refugee resident status, but for other people you conduct interview after interview just to make them tired, to make them give up".

And *Naaber*, who accompanied a Ukrainian flatmate to authorities shared:

"What we did in three years, I did with her in two or three days. Really! [...] I think that's good, but it has to be the same for everyone. I remember another big difference. It took a friend of mine three years to find a free kindergarten place for his child. [...] Although, as far as I know, in Germany it is also the duty of the state. [...] In the case of someone from Ukraine with whom I was involved, it worked out after three months."

In addition, there were also reports of different treatment, e.g., at work. *Nuri*,⁸⁷ who worked at a food bank, reported that her boss posted information in Ukrainian. She asked if they could post the information in other languages as well. But the boss replied that the others had to learn German.

Asylum seekers who had been trapped in the same administrative procedures for years thus saw that their situation was not without alternative, without appropriate political will. *Konfé* summed it up thusly:

"If it's a situation like Ukraine now, there's war, that's always a bad thing. War is never good. [...] But we are all equal, we are all human beings. The law must be there for everyone, not just for certain people. The Arabs or the white people. We are all human beings."

This is also the conclusion of a recent study on the activation of the Temporary Protection Directive for Ukrainian refugees, which argued that double standards must be avoided in the application of European asylum law.⁸⁸ The experiences of our interlocutors testify how certain events can lead to large-scale policy changes

87 The name has been changed to protect the interviewee's privacy (MLU-JJ-0017).

88 S. Carrera et al., *The EU grants temporary protection for people fleeing war in Ukraine – time to rethink unequal solidarity in EU asylum policy*, CEPS Policy Insights, n° 2022-09/ March 2022, p. 32.

in the implementation of existing regulations, but also can have detrimental effects on other asylum seekers.

3. *Filtering down policies: the effects of municipal approaches towards integration*

As has already been discussed throughout this report, municipalities have leeway in implementing federal law. This concerns the issue of accommodation as well as the issue of integration. Both areas are strongly interrelated, as peripheral and isolated accommodation has an impact on how a person can participate in society. Being accommodated in such facilities thus contributes to socio-spatial exclusion, which facilitates legal exclusion, and has detrimental long-term consequences regarding integration.⁸⁹ The regional differences caused by federalism were highlighted several times by our interviewees. In our first research report, we also explained how different, for example, the support structure is in the German states, how accessible counselling centres are, and how well accommodation is connected to public transport.⁹⁰ Thereby, the location of accommodation centres is significant for social exclusion or inclusion, as, for example, the involvement of volunteers often begin at local shelters.⁹¹ There is also no uniform understanding of the concept of integration, so that the view of which approach and which tasks are associated with the integration mandate varies across German states. Insofar as our interviewees had already achieved a right of residence and they were free to move, this was reflected in the fact that they moved to specific German states or municipalities. In fact, in the cases we documented, these moves were less due to family ties than to federal differences.

The German states execute the federal Residence Act in their own authority. Although national administrative regulations have been issued, the local authorities or the respective case officers nevertheless exercise discretion on their own. In particular, this concerns the granting of residence permits and *Duldungen*, as well as imposing work bans or carrying out deportations. In addition, the length of the respective procedures is influenced by regional differences, e.g. the staffing of authorities, the allocation of appointments, or the availability of digital services.

Asylum seekers have a duty to cooperate in administrative procedures, e.g. with regard to obtaining a passport. Failure to comply with this obligation has negative consequences for the person concerned. Nevertheless, the authorities have a duty to inform about the consequences and to specify what exactly is required in this

89 S. Seethaler-Wari, Z. Yanasmayan, *op. cit.*, p. 2 et seqq.

90 W. Kluth, H. Heuser, and J. Junghans, *op. cit.*, p. 40.

91 S. Seethaler-Wari, Z. Yanasmayan, *op. cit.*, p. 3.

cooperation. For example, if a person does not have a passport, the Immigration Office must inform them of the steps they are required to take as part of their cooperation. As we have seen in the case of *Konfé*, this was not done adequately. This has a particularly severe effect if the Immigration Office decides to impose a work ban on the person as a sanction, or only issues vouchers. The way these sanctioning instruments are handled differs considerably from municipality to municipality. Another difference in the municipalities relates to the dilemma that one sometimes can create the conditions for being deported if they successfully obtain a passport.

Considering that the decisions of the Immigration Office have an impact on many other areas of the lives of asylum seekers, there is often a lack of an agency to advise people. The desire for such a contact and counselling centre was mentioned several times in our interviews. The need was expressed not only as a way to have a support network which establishes a sphere of trust in contrast to the sphere of mistrust experienced in interactions with authorities, but also to have a state-run agency, which informs asylum seekers adequately, refers other services and state actors, helps with filling forms, etc. This exemplifies a holistic approach to municipal migration management, which may be seen in the concept of “case management” advocated by some NGOs such as PICUM.⁹²

In one municipality where we conducted interviews, such a migration agency was established some years ago. This agency enables better coordination between the authorities. In this sense, the agency is a cross-sectional authority (*Querschnittsbehörde*) with the aim of reducing external interfaces between different authorities, avoiding any unnecessary duplications of effort, making administrative procedures more efficient, improving the exchange of data, and strengthening the cooperation between different authorities.⁹³ Thereby, this agency is also characterised by the fact that various relevant authorities are represented in one place in order to facilitate easier access for asylum seekers. The internal administrative procedures are restructured in a way that focuses more on thematic areas, rather than official responsibilities or legal systems.⁹⁴ This is to prevent unnecessary routes and continuous referrals to other authorities for asylum seekers. Additionally, an integration officer is responsible to accompany the different processes within the authority and may intervene at various stages. Finally, the administrative restructuring also provides for a better involvement of voluntary and non-governmental actors in the processes.

92 IDC, ATD, PICU, *Implementing Case Management based Alternatives To Detention In Europe*, 2020, <https://idcoalition.org/wp-content/uploads/2021/07/Case-Management-Based-ATD-in-Europe-2020.pdf>.

93 K. Michalak, A. Hemmer, *Adaptive Verwaltungsstrukturen: Querschnittsbehörden als Antwort auf Herausforderungen im ländlichen Raum*, p. 9. (tbp).

94 *Ibid.*, p. 11 et seqq.

Due to the fact that many people with a *Duldung* were accommodated in cost-intensive collective shelters, but at the same time there was a shortage of labour, regulations were created to enable people to move out quickly and to allow them to work. Simultaneously, a municipal directive was issued which qualified efforts in obtaining passports sufficient within the duty to cooperate, preventing people a *Duldung* from being sanctioned. Food vouchers were abolished as well as all regular collective shelters. This example shows how a respective approach towards integration can adequately address many of the issues our interview partners mentioned. This is not necessarily achieved by changing the law, but by changing the organisation of administrative processes within the municipalities' leeways.

4. *Legal techniques and administrative categories as policy choices that create a lack of transparency and uncertainty*

In chapter IV.4. we identified the authorities' margin of discretion as a source of administrative vulnerability. Here we want to highlight discretionary clauses that are built into the legal framework as a policy choice. These discretionary clauses are often justified as a way for legal regulations to be applied more adequately to individual circumstances, they can however also lead to extraneous considerations being taken into account. In fact, these discretionary clauses mean that street-level case officers also function as policy decision makers, as they wield their considerable discretion in the day-to-day implementation of public programs.⁹⁵ In his study Lipsky examines how case officer decisions translate into ad-hoc policy adaptations that impact peoples' lives and life opportunities. He also points out the dilemma that case officers are supposed to make decisions on the basis of individual cases, yet the structure of their jobs makes this impossible. We illustrated this already with our interlocutors' experiences. Structurally, discretion clauses are a risk factor for extraneous considerations and thus also for racist, transphobic and other discriminatory practices. Furthermore, the uncertainty which results from the lack of transparent and strict regulations burdened our interviewees. Although asylum seekers may be informed on their rights, in interactions with case officers they sometimes have to refrain from insisting the observation of these rights, instead, they have to behave strategically to not upset the respective case officer.

Closely related to these discretionary clauses are the use of non-legal informal categories in administrative processes. Since 2015, a central distinction has been that of the "strong" or "weak" prospect to remain in Germany (*Bleibeperspektive*). This concept is not a legal category, as it does not appear in any binding regulations. However this attribution can, for example, be decisive in how long a

95 M. Lipsky, *op. cit.*, p. 13 et seqq.

person is obliged to live in a state-run reception centre. Similarly, access to integration courses is limited to people who are *expected* to reside in Germany legally and permanently, § 44 IV 2 Residence Act. But this whole category is based on a misconception, as a “strong” or “weak” prospect is determined only on the basis of the protection quotas for international protection for different countries. People whose country of origin has a protection quota of over 50 % are viewed by authorities as applicants with “strong prospects to remain”.⁹⁶ From this, however, no statement can be made as to how strong the prospect to remain is. For example, if there is a ban on deportations to that country, one’s prospect to remain in Germany is actually very high, even if no refugee status has been granted.⁹⁷ This selection thus serves to decide which applicants should be given the opportunity to integrate and which should be actively prevented from integrating through isolation in reception centres, and exclusion from integrative measures and community services.

A similar concept was added to the asylum procedure – certain countries of origin with “low protection quotas”, (protection quota < 3%) were designated as so-called “safe countries of origin”. Following a decline in the number of applications from these countries, however, this legal category was generally extended to countries of origin with a protection quota of up to 20%. In contrary to the prospect of remaining, this development was implemented by law, Art. 16a of the German constitution (*Grundgesetz*). The determination of safe countries of origin is thus the responsibility of the parliament. But while the consequences of this designation were initially limited to the asylum procedure, it now also has a significant impact on the reception system. Furthermore, the obligation to live in reception facilities triggers further restrictions such as a ban on work/apprenticeship (§ 61 Asylum Act), a residential obligation (§ 56 Asylum Act), or granting benefits only in kind (§ 3 Asylum Benefits Act). Considering that the consequences for people with a “weak prospect to remain” are the same within the scope of the reception procedure, the use of this concept is an informal political expansion of the concept of “safe countries of origin”, and thus also a circumvention of the legally fixed regulations. This is thus a shift in responsibility from the parliament to the executive, which selects asylum seekers on the basis of their “prospect to remain”.

It is also significant that the category of prospect to remain refers to the *unadjusted* recognition quota. The adjusted quota considers not only formal settlements as the result of asylum proceeding, but also Dublin transfers. Therefore, even if the unadjusted recognition rate for a certain country is below 50%, the adjusted rate may still be above 50%. In addition, in more than one third of all court proceed-

96 This applies to Eritrea, Syria, Somalia and Afghanistan (as of 17.01.2022): BAMF, ‘Was heißt gute Bleibeperspektive?’, 2022, <https://www.bamf.de/SharedDocs/FAQ/DE/IntegrationskurseAsylbewerber/001-bleibeperspektive.html?nn=282388>.

97 Cf. N. González Méndez de Vigo, F. Schmidt, and T. Klaus, *op. cit.*, p. 22.

ings, the BAMF's negative decision on the asylum case was repealed.⁹⁸ As already stated, even if one gets a negative decision, the person still remains in Germany due to bans on deportation. Considering all these facts, the distinction between “strong” or “weak” prospects to remain seem arbitrary, and demonstrates how certain groups of people are treated unequally. This is done without transparent legal regulation, and before a decision is even made on the individual asylum application. Finally, the importance of counselling centres and a supportive network has to be taken into account. They have a huge impact on how well one is prepared for the asylum hearing and talk about traumatic experiences, and facilitate access to specialised counselling services or special representatives at the BAMF. Thus, the isolative impact of this differentiation may also influence the outcome of the asylum proceeding. This shows how through such informal categories the asylum and reception system has been systematically changed and thereby influenced more and more not by legal standards, but by other factors such as the country of origin. Through such non-legal considerations in migration management in order to narrow access to asylum for certain groups more easily, the intersectional dimension of this shift becomes clear, as the asylum procedure is less and less determined by equal legal procedural standards, but more and more by a political differentiation of certain groups of applicants.

Overall, the asylum and reception procedures are thus predicated more strongly on the basis of non-legal selection criteria, which expose certain asylum seekers to considerable restrictions and have increasingly limiting effects on their living situation. These difficulties are perpetuated for years and decades when people have to live in municipal large-scale accommodation centres, receive a *Duldung*, do not get a work permit etc. These measures mean that people are increasingly excluded, both legally and geographically, from opportunities for or access to integration, fair asylum procedures, and essential fundamental rights such education.⁹⁹ This exclusion is meted out through a combination of *de jure* discretion and *de facto* differentiation by authorities. As this interplay of legal and policy categories are brought into migration management, the asylum and reception procedure are made increasingly opaque and arbitrary.

5. Concluding reflections

In this chapter we have looked at different processes that are part of national migration management and how policies have shifted over time. First, we focused on

⁹⁸ Federal Law Gazette 20/4019 from 12.10.2022, p. 1.

⁹⁹ M. Lewek, A. Naber, *Kindheit im Wartezustand – Studie zur Situation von Kindern und Jugendlichen in Flüchtlingsunterkünften in Deutschland*, UNICEF, 2017, p. 17.

the reception procedure, which has been restructured in Germany since 2015, when large-scale reception centres were significantly expanded at the level of the German states. But large-scale accommodation centres are also a common solution at the municipal level. Large-scale accommodation centres isolate asylum seekers from society and make it difficult for them to access to their rights, e.g., through lawyers or counselling centres. Intersecting forms of socio-spatial exclusion produced in accommodation centres negatively impact asylum seeker's ability to exercise their agency. Even though a few specific shelters for vulnerable people exist, we have seen that these do not necessarily offer sufficient protection either. Conflicts are intensified by non-transparent room occupancy and lack of predictability as to when one is permitted to move out. The obligation to live in large-scale accommodation centres thus constitutes a main factor of policy-produced vulnerability.

Every administrative procedure involves uncertainty about its outcome. For many people, however, the outcome of the asylum procedure determines whether they get to build a future after years of flight. At the beginning of the asylum procedure, there is therefore not only the exhaustion caused by the flight, but also the hope that the end result will be security. In these first stages of the asylum process, differentiation among certain groups of asylum seekers decides whether one is distributed relatively quickly to the municipalities, or has to stay for years in peripheral reception facilities with several thousand inhabitants. These state-run reception centres serve to accommodate people until the end of their asylum procedure, preventing their integration into municipalities and finally deporting them directly from the accommodation centres. This approach does not concern itself with the fact people often still remain in Germany for years or decades. The decision to relegate people to these large-scale centres is based on non-legal administrative categories which aim to exclude certain groups of asylum seekers – thus revealing the multifaceted oppressions of German protection procedures.

The vulnerability created in large-scale accommodation centres is further exacerbated by the “*Duldung*” and sanction mechanisms for non-cooperation in administrative procedures (such as *Duldung light*), which miss their purposes if the authorities do not fulfil their duty to inform people accordingly. These policy instruments lead in practice to people sometimes staying in Germany for several decades, while still at constant risk of deportation.¹⁰⁰ For these people, insecurity and uncertainty are not only experienced in a limited period of time when seeking refuge in the host country, but extended for their entire life. Living with such limitless temporariness shows how uncertainty is generated through specific migration ma-

100 K. Wendel, *Kettenduldung – Bleiberechtsregelungen und parlamentarische Initiativen 2000–2014*, August 2014 p. 7, 28 et seqq; cf. also MDR Sachsen, ‘Vietnamesen aus Chemnitz droht nach 35 Jahren die Abschiebung’, 11 February 2023.

nagement. The different ways in which municipalities use these tools has a major impact on the vulnerability of asylum seekers. Beyond the inherent level of uncertainty in any administrative procedure, uncertainty is thus also used as a political tool in migration management through a certain way of structuring procedures and certain legal categories such as the *Duldung*. In contrast, the way in which existing legal instruments have been used to host and integrate Ukrainian refugees illustrates that a different approach is possible.

Further, we observed in the Covid-19 pandemic and regarding forced migrants from Ukraine how vulnerability was increased by the intersection of different factors, such as the dependency on authorities, the obligation to stay in large-scale accommodation centres, and corresponding health risks. Whether the example simplified access to protection for Ukrainians evokes hope or despair for other asylum seekers largely depends on their individual resilience and how long they have already been subjected to administrative and situational precariousness, or whether they have successfully reached a safe destination. In this regard, the temporality of vulnerability is closely linked to one's nationality or possession of a passport.

VII. Conclusion

In the first chapter, we looked at how experiences of vulnerability are shaped by individual circumstances, thus adopting a *micro* perspective. In doing so, we paid attention to how our interview partners made use of their agency, i.e., how they coped with their vulnerabilities and, in some cases, actively freed themselves from vulnerable positions. We noticed that individual vulnerability factors do not *per se* lead to a vulnerable position. For example, being a minor can be perceived as a curse or a blessing, depending not only on the asylum seekers' behaviour, but also on the actions of others, such as case officers.

In the second chapter, we adopted a *meso* perspective and we focussed on the 'administrative vulnerability' caused by a precarious residence status and the dependence on authorities and their employees. We identified structural factors of vulnerability, such as the authorities' discretion, institutionalised spheres of mistrust through interactions with certain authorities, a lack of information, and the issue of certificates of fiction (*Fiktionsbescheinigungen*).

In the third chapter, we took a *macro* perspective and analysed how policy choices can increase and decrease vulnerabilities among asylum seekers. In doing so, we examined how asylum seekers' insecurities increase due to specific legal and policy instruments. Because of Germany's federalism, there are large differences in municipalities, and this may have a positive or negative impact on asylum seekers' position. The type of accommodation and the municipal approach to integration is a factor that plays a major role in shaping asylum seekers' experiences. Federal policy instruments, which we looked at in relation to the Covid-19 pandemic and Ukrainian refugees, also had a major impact. *Uncertainty* is a central feature of migration management, both in terms of increasing informal approaches without binding and transparent regulations, and in terms of sanction mechanisms for illegalised residents who cannot be deported. Having in mind that finding a safe place is the core aim for asylum seekers, the insecurity and uncertainty associated with the accommodation system is an essential part of the situational and administrative vulnerability of asylum seekers in Germany.

The vulnerabilities that are experienced by our interlocutors are of an intersectional nature: various personal, social and structural circumstances are decisive in determining the vulnerable position in which asylum seekers find themselves. We showed how these factors are mutually dependent. Certain countries of origin determine one's selection in the reception process and how one is treated by case officers. If members of your family or community are already in Germany, it can help you to get important information more quickly. In addition, your level of education can determine whether one can get in touch with social workers, get a job, have access to information and legal advice, how quickly one is able to navigate

the German legal system, and sometimes how quickly you are able to move out of accommodation facilities. Intersecting forms of socio-spatial exclusion produced in accommodations centres thus also negatively impact asylum seeker's ability to exercise their agency. Further, a work permit has, for example, an impact on the health status of asylum seekers and it influences the level of support you get.

In terms of temporality, we have seen that the time of arrival can decide which residence permit you get or whether you are allowed to apply for family reunification. Vulnerabilities as such are constantly evolving over time, but the time of arrival has a specific impact on how relevant domestic procedures are applied. For applicants who had to wait for their asylum hearing while being trapped in large-scale accommodation centres, the passing of time exacerbates their vulnerability. In some cases, regulations aimed to protect vulnerable groups have had the opposite effect, e.g., when the asylum procedure for minors was suspended to wait for their adulthood without providing them with adequate support in the meantime. Asylum seekers who received a negative asylum decision are dependent on authorities for years and are often not allowed to work. The desperation to overcome this state has particularly negative effects on their health condition, thus exacerbating vulnerabilities. External circumstances, such as the Covid 19 pandemic, have made this situation even worse, as some authorities were no longer available and residence permits could not be renewed as a result. On the other hand, the passing of time could increase the applicant's resilience, if they were allowed to integrate in society, if they found a job, or if it was possible for them to build social networks.

Nevertheless, we were also able to show how asylum seekers were able to overcome their precarious situations on their own. Our interviewees often exercised their agency to improve their housing conditions. For example, one person in Berlin organised their own accommodation, and one minor refused to move into a collective shelter, which ultimately enabled him to move to a flat. Others independently looked for a foster family and independently facilitated a family reunion. Another way of navigating the legal and bureaucratic framework was to move to another German state to benefit from different administrative practices and institutional settings. The search for improved living standards and experiences with racism were also decisive in these decisions. Finally, one of our interviewees organised a demonstration against poor living conditions in the large-scale accommodation centres, and against food vouchers. Having a supportive network through contact with volunteers, friends, social workers, or NGOs was formative to establish a sphere of trust, which could be identified as strengthening our interlocutors' agency and abilities to navigate obstacles again accessing protection.

The experiences of the asylum seekers we interviewed revealed how deeply the different factors of vulnerability are interrelated. It also demonstrates why the categorisation of vulnerability factors should not be strictly followed. Family and community factors in particular can change and merge over time. This is especially

relevant for vulnerable groups who are also excluded from social networks because of their sexual identity, gender, or illnesses. The definitions and understanding of family and community are often different for asylum seekers than the definitions recognized and imposed by the state.

This circumstance could, for example, increase vulnerability if such recreated social bonds are disrupted by relocation.

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- 10 *Junghans, Jakob/Kluth, Winfried*: Exploring Asylum Seekers' Lived Experiences of Vulnerability in Germany. 2023, ISBN 978-3-86977-259-2

This book analyses the experiences of asylum seekers within the German asylum system based on the fieldwork conducted across Germany for the VULNER project. It focuses on how individuals experience their own vulnerability and independently use their agency to overcome vulnerable situations. Thus, the process of becoming vulnerable, the experience of being vulnerable and overcoming vulnerability as an asylum seeker will be explored.

Although policy and legal frameworks increasingly reference the vulnerability of asylum seekers, this has not led to binding, transparent regulations that actively work to mitigate the challenges they face. For this book, however, the authors shifted the perspective from the state regulations and practices, to the lived experiences of vulnerable asylum seekers in relation to the asylum and reception procedures in Germany. The goal was to analyse how experiences of vulnerabilities are shaped and sometimes even produced by the legal and bureaucratic framework. To this end, the three intertwined analytical concepts of agency, temporality and intersectionality are

used as a guideline to analyse asylum seekers' individual and situational vulnerabilities with regards to the German system.

When focusing on situational vulnerability, this book emphasises the conditions of vulnerability that could be connected to an administrative condition of uncertainty such as being an asylum seeker whose application for asylum has not been decided yet. In addition, people can experience other forms of vulnerabilities that can be caused by uncertainty related to their legal status – such as being undocumented, stateless, in detention, in reception centres far from the communities and social/care resources. In these cases, there can be many factors that exacerbate a situation of vulnerability, e.g. the fact of being dependent from the authorities, limited access to medical and care assistance, or limited contact with family and mediators. To emphasise these structural factors of vulnerability the book uses the term administrative vulnerability as a form of situational vulnerability when examining the relationship between experiences of vulnerabilities and the legal and bureaucratic framework.

