

UNDERAGED ASYLUM SEEKERS IN SERBIA: AT THE VERGE OF DIGNITY

Miroslava Jelačić, Jovana Zorić, Rastko Brajković, Marko Savković



The number of persons caught in crossing borders of Serbia illegally is constantly increasing. In the period between January and March 2011, a total of 417 persons declared intention to apply for the asylum in Serbia, which represents a five fold increase if compared to the same period in 2010. Among them there are a significant number of male and female underaged persons. The normal life of these children was disturbed; they were separated from their family and have run away from their country of origin. Finally, they are facing more risk of being exposed to human trafficking, sexual and other types of abuse.

Article 15 of Serbia's Law on Asylum regulates the principle of special care about asylum seekers with special needs, among which are the underaged persons. At the same time, the challenges of migration flow management are highly rated in the agendas of the political decision makers in Brussels, which means that improvements in this area represent one of the prerequisites for further negotiation on joining the EU. It seems that the state bodies of the Republic of Serbia were surprised by the quick rise of asylum applications. These facts, as well as the interviews held within a broader research about the status of asylum seekers in Serbia motivated the authors of the following analysis to focus especially on the position of the underaged asylum seekers.



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Introduction

The Republic of Serbia (RS) lies on the pathway of a large number of illegal migrants from African countries, Afghanistan and the Middle East migrating to the Western European countries. In recent years, we have witnessed an increasing trend of cases in which persons detained while attempting to illegally cross the RS border expressed the intention to apply for asylum. The scale and momentum of influx of new migrants, especially in the months of political turmoil in Northern Africa, has caught Serbian authorities off guard. A significant portion of the incoming migrants are under age.¹

From April 1, 2008, when the Law on Asylum came into force, until the end of 2010, there was a constant growth of evidenced asylum seekers in Serbia. In 2008 there were 77 requests recorded, 275 in 2009, while the total number of registered asylum seekers in 2010 was 522.² The proof that this trend is continuing is the fact that between January and March 2011, 417 persons expressed the intention to apply for asylum in Serbia, which is **five times more than in the same period in 2010** (when 81 people expressed the same intention).

The current institutional and infrastructural capacities in Serbia were adequate for the number of applications in the period before 2009, while today there is not enough capacity to respond to the new wave of migrants, i.e. asylum seekers.

In the near future institutions have to be created to be able to respond to the challenges of the situation in the field, organised according to standards imposed by the EU in this area. The challenges of migration flow management that Serbia is facing are highly rated in the agendas of the political

¹ "An unaccompanied minor shall be understood to mean an alien under 18 years of age who was unaccompanied by parents or guardians on his/her arrival in the Republic of Serbia, or who became unaccompanied by parents or guardians after arriving in the Republic of Serbia." The Law on Asylum (Official Gazette of the RS, no. 108/07), article 2

² Source: UNHCR office in Serbia.

decision makers in Brussels, which means that improvements in this area represent one of the prerequisites for further negotiation on EU membership.

In accordance with international standards, article 15 of the Law on Asylum sets the principle of special care for asylum seekers with special needs, including the minors. Minors represent a group which is especially exposed to risks. Children suffer after their normal lives have been ruined, and experience severe traumas due to the persecution of their families and escape from the country of origin. In these situations families separate, bringing unaccompanied children to an especially difficult position and exposing them to potential risks of becoming victims of human trafficking or sexual abuse. These facts, as well as the interviews held within a broader research about the status of asylum seekers in Serbia have motivated us to focus especially on the position of the minor asylum seekers.

The System Relies on the Enthusiasm of Employees

Since April 2009, the reception of underage asylum seekers has been conducted in the Centre for Accommodation of Underage Aliens Unaccompanied by Parents or Custodians,³ one of the units within the Institution for Education of Children and Adolescents, better known as the Vasa Stajić centre in Belgrade. The Centre has the accommodation capacity of 12 people. Presently, the Institution for Education of Children and Adolescents in Niš is being renovated and it will have the unit for accommodation of underage aliens, with the accommodation capacity of only 5 people. Officially, the accommodation is provided only for male underage aliens between 7 and 18,⁴ since there is no special section for female underage aliens.

³ The Centre is a separate unit, founded according to the Decision on Social Protection Institution Network of the Government of the Republic of Serbia (Official Gazette RS, no. 51/08).

⁴ Majority of the accepted persons says that they are aged 15 to 16. If these persons do not have personal documents to prove that, there are no other mechanisms to determine their real age. Very often people who are obviously not underage claim that they are.

From April 8, 2009, when the first minor was accepted, until December 31, 2010, a total of 159 beneficiaries were accepted, including 158 male and only one female. Due to the lack of special rooms for female beneficiaries, she spent the nights in the premises of the Reception Unit. From January 1 to April 1, 2011, 15 beneficiaries were received.

The Institution is partially funded by the Ministry of Labour and Social Policy, and partially from the Voždovac Municipality budget, i.e. the city of Belgrade. However, the resources were not allocated directly for the unit for accommodation of underage aliens. **Since the decision to form the Centre for Accommodation of Underage Aliens Unaccompanied by Parents or Custodians was made, budget resources have never been allocated for its opening, equipment and work. The centre is not allowed to open new jobs.**

How is it possible then to have 5,212 overnight stays in the Centre since 2009? First of all, with the new job classification in the Institution, four employees have been transferred to the Centre for Underage Aliens. It has been decided to mandate volunteers and interns for supporting its work. The resources for the functioning of the Centre are provided by the allocation of resources planned for other units, which is negatively reflected on the quality of services provided to other beneficiaries of the Institution. In such conditions, six people instead of 10 take care of 60 children without parental care. Donations, even though low in volume,⁵ play a significant role. However, **due to the lack of resources, the capacities are down to 8 people.**

The procedure is set and respected

Generally, the state bodies abide to regulations, and the underage persons are brought to the Centre accompanied by the social worker appointed as a temporary custodian by the Centre for Social Work.

⁵ Donor resources are provided on an ad hoc basis, and most commonly they provide food, clothes and other goods.

During the reception no detailed medical checkups are planned for minors, but only basic medical examinations are performed. Health care is not provided. They usually come in bad shape, most commonly with skin diseases. The expenses related to purchase of medicines, checkups and medical treatment are covered by the Institution and budget resources are not allocated for this service.

After the reception, a temporary custodian is assigned to them. The authorised centre for social work – Voždovac Centre for Social Work, designates the employees of the Institution as temporary custodians, most commonly social workers and rarely special pedagogues.

Immediately after reception, minors are informed about their rights and obligations during their stay in the Institution. In case they express intention to seek asylum, which majority of them does immediately after the admission⁶, they are provided with interpreter and given the possibility to consult with the representatives of the non-governmental organisation which provides free legal assistance APC (Asylum Protection Centre) within the shortest possible terms. The expenses of interpretation used to be covered by the Centre, but nowadays all expenses are covered by the UNHCR. No budget resources are allocated for interpretation.

According to the asylum procedures, after they express the intention to apply for asylum, the underage asylum seekers are taken to the police – i.e. to the Department for Foreigners in Belgrade, where the authorised employees of the Asylum Office implement all activities prescribed by the first instance procedure. Firstly the applicants are registered, afterwards they are issued identity cards, and then interviewed, after which they are given the possibility to apply for asylum. It is required that the legal representatives, representatives of the UNHCR and the interpreter are present during the interview of unaccompanied minors. This rule is applied in practice.

⁶ So far, all foreign underage citizens admitted to the Institution have expressed their intention to seek asylum, except for the Albanian citizens. Source: Dragan Rolovic, Director of the Children and Youth Institution `Beograd`.

Lack of Capacities is the Reason for Longer Periods of Stay

After the asylum application is filed, the conditions for transfer of underage asylum seekers to the Asylum Seekers Reception Centre in Banja Koviljača are met. **On average, the underage asylum seekers remain in the Centre** for underage unaccompanied aliens **for 38 days**, and that period is gradually becoming longer. **The 15 beneficiaries who were received in the Centre at the beginning of 2011, stayed there for two and a half months. The reason for such a long stay is the lack of accommodation space in the Asylum Seekers Reception Centre in Banja Koviljača.** The additional prolongation of their stay in the Centre for underage unaccompanied asylum seekers is the inadequate procedure of the Centre in Banja Koviljača, which does not give reception priority to unaccompanied underage persons. The expenses of transportation to Banja Koviljača are covered by the Institution, for which (again) no budget resources have been allocated.

Upon the reception in the Banja Koviljača Centre, the underage asylum seeker is supposed to be assigned the legal representative. The Loznica Centre for Social Work is authorised for appointing the legal representative.⁷

If they refuse to apply for asylum (which, until now, has been the case with underage citizens of Albania) the Centre is in charge of their transportation to the border crossing. **The transportation costs are also covered by the Institution, and no budget resources have been allocated for this activity.**

The Government has not regulated the standards for the equipment the Centre needs to fulfil, thus the technical approval of the premises has never been carried out. However, the conditions provided by the Centre are satis-

⁷ Due to the “slow administration”, which includes the time needed for the Centre for Social Work to appoint the legal representative to the underage asylum seeker, the deadlines for bringing the first-instance decision are not respected. The Law on Asylum does not define the special deadline, thus the 60 day deadline has to be applied, according to the Law on Administrative Procedures. However, in practice, the first-instance procedure sometimes lasts for up to 90 days.

factory. Within one unit, there are two rooms in which the underage persons are accommodated (one is adapted for eight persons, and one for four persons), as well as premises intended for joint activities. They also have different creative programmes at their disposal, as well as a TV with satellite channels, a gym, sports facilities and other contents.

The cleanliness and hygienic conditions are satisfactory.

The minors are provided with 3 meals and a brunch a day, all prepared taking into account the restrictions/principles of food consumption patterns for certain nations.

Underage aliens are given the possibility to move freely only within the yard which is an integral part of the Institution. If they need to leave the enclosed area, they can do so only in the company of a guardian, or some of the Institution employees. Private agency is hired for external security of the Institution. They are allowed to keep their money and personal belongings on them, while their mobile phones are provided upon request.

It is our opinion that the existing system requires urgent improvements, in line with which we have put forward the following **recommendations**:

- 1. To increase capacities of the unit for accommodation of minor aliens unaccompanied by parents or guardians. The space available for adaptation exists within the Institution, but it is necessary to provide funds for this purpose. The adaptation plan should also include room for accommodation of female minor aliens.**
- 2. At the same time, it is necessary to create conditions for employing additional staff for the unit in charge of accommodation of minor aliens.**
- 3. To provide stable financing of the unit for its uninterrupted operating in full capacity. Above all, funds are necessary for providing fundamental living conditions of minor aliens staying in the Institution.**

- 4. To define that the minors staying in the Institution are given advantage over the other asylum seekers for admission to the Centre for accommodation of asylum seekers in Banja Koviljača.**

- 5. To implement the decision of authorised bodies as regards treatment of children, especially minor aliens,⁸ in order to ensure that the situation and the needs of the under aged are well understood, i.e. that during all the activities the principle of `the best interest of the child` is respected.**

⁸ UNHCR recommends revised definition of an unaccompanied minor referring to a person less than 18 years of age and “separated from his/her parents and who is not taken care of by any adult guardian, responsible to do so by law or custom”.

The report on the status of underaged asylum seekers in Serbia is the first product of the work group for asylum, consisted of Miroslava Jelačić (Group 484), Jovana Zorić (Belgrade Centre for Human Rights), Rastko Brajković (Initiative for Development and Cooperation) and Marko Savković (Belgrade Centre for Security Policy). Also, this report was created as a result of a broader research about the status and the exercise of rights to asylum in the Republic of Serbia, as part of the "European-Serbian Cooperation in the Area of Forced Migrations" project conducted by the Group 484. The final goal of the project is the preparation of the thematic policy proposal that will represent the basis for advocacy activities of the civic organizations, be it afore Serbian institutions, be it afore the bodies of the EU. The contents of this publication are the sole responsibility of Group 484 and can in no way be taken to reflect the views of the EU.