

Unaccompanied minors in Serbia: inadequacy of social protection in a climate of repression

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ABSTRACT

This paper - based on fieldwork conducted during the year 2012 and especially between November 2014 and 2015 - illuminates some aspects of the situation of unaccompanied minors (UAMs) in Serbia. It presents the social protection to which UAMs are entitled to in principle but argue that, in practice, the inclusion of UAMs into the system of social protection is arbitrary. Furthermore, it points out some ethnographic examples in which the inclusion into the system of social protection runs contrary to the best interests of the child. The paper refers to several case studies in order to conclude that the social protection of UAMs in Serbia is inadequate to protect the best interests of the child, precisely because it is couched in the repressive framework of migration policy, whereby protecting the border regime takes precedence over taking care of individual children.

RÉSUMÉ

Cet article - basé sur les résultats d'un terrain mené en 2012 et surtout entre novembre 2014 et 2015 - éclaire certains aspects de la situation des mineurs non accompagnés en Serbie. Il présente la protection sociale à laquelle les MNA ont droit

en principe, mais soutient que, dans la pratique, l'accès des MNA au système de protection sociale est arbitraire. En outre, l'article présente quelques exemples ethnographiques dans lesquels l'inclusion dans le système de protection peut aller à l'encontre de l'intérêt supérieur de l'enfant. Le document fait aussi référence à plusieurs études de cas afin de conclure que la protection des MNA en Serbie ne respecte l'intérêt supérieur de l'enfant, précisément parce qu'elle est appliquée dans un cadre répressif déterminé par la politique migratoire et le contrôle des frontières.

INTRODUCTION

In the summer of 2015, an unprecedented scale and strength of the migrants' movement into the European Union (EU) disrupted the *status quo* of the steady securitisation of borders. In response to this movement, the EU temporarily opened a corridor through the Balkans to allow migrants a comparatively quicker and safer passage¹. In the years preceding 2015, the route through the Balkans was widely traversed by migrants from Africa and Asia whose travel into the EU had been illegalised². Serbia was one of the central points on this route.

In exchange for a liberalised visa regime with the EU for Serbian citizens³, Serbia adopted a series of laws and migration management strategies, which effectively reproduced the EU's largely repressive policies towards migrants⁴. Thus it makes sense to speak of the 'externalisation' of the EU migration policies (see Stojić Mitrović, 2012 for the example of Serbia, and Andersson,

¹ For some reflections on the corridor' and the events of 2015, see Lunaček Brumen and Meh (2016) and other articles in the same publication.

² While it is common in the mainstream discourses promulgated by official documents and the media to say that migrants travel 'illegally', cross the border 'illegally', or even that they are 'illegal', I use terminology shared by critical approaches and say that the travel and stay of migrants have been *illegalised*, and refer to such migrants as *illegalised migrants*. The term *illegalisation* stresses the fact that migrants are not somehow essentially illegal, but that they have been rendered illegal by the migration management laws and strategies. As De Genova (2015) writes: "Migrants only become 'illegal' when legislative or enforcement-based measures render particular migrations or types of migration 'illegal'—or in other words, illegalise them. From this standpoint, there are not really 'illegal' migrants so much as illegalised migrants". See also De Genova (2002, p. 429) and Bauder (2013).

³ Until 2009, Serbian citizens needed a visa to enter the Schengen space. The conditions, which Serbia was supposed to fulfil in order to achieve the liberalisation of the visa regime, are specified in the so-called 'Roadmap' (see European Commission 2008). On visa liberalisation, see Kačarska (2012).

⁴ The Serbian migration policy has two facets. The *overtly repressive facet* involves (i) the Aliens Act, which decrees the conditions for legal entry and prescribes the procedure for treating illegal entry and stay, as well as allowing migrant's detention and deportation, and (ii) the Law on State Border Protection, which is the legal enforcement of the ideas of nation state's right to territorial exclusion of human beings. The application of these two laws directly produces the dire situations faced by the illegalised migrants in Serbia. The *ostensibly protective facet* involves the legislation and policy constituting an asylum system in Serbia. Since 2008, Serbia has its own asylum system, which it developed under the pressures of the EU. People do not seek asylum in Serbia because they expect to obtain it (see last paragraph in section 1, on the virtual impossibility of obtaining asylum in Serbia) – but mostly to temporarily stop and alleviate their illegalisation. It is in this sense that the Law on asylum is a seemingly protective piece of migration management legislation – but what it protects migrants from are rather the dangers of *illegalisation*, as opposed to offering a long-term protection to those who have fled persecution in their countries.

2014 for the example of West Africa), due to which many migrants have been stuck in Serbia and endured substantial hardships⁵. An important part of the migrant population is comprised of children, many of whom are unaccompanied⁶ – and it is precisely the special protection, or the lack thereof, for this category of migrants that is the subject matter of my paper. I will focus specifically on the window of time between 2012 and the summer of 2015, before the conditions of passage changed, if only temporarily⁷.

Serbian law defines an unaccompanied minor (hereinafter UAM) in the 2nd article of the Asylum Act as “a foreigner who has not completed 18 years and who is not accompanied by a parent or a guardian, at the point of entry, or after entering, into the Republic of Serbia”. Being underage, they are entitled to special protection. However, this protection is couched in the generally repressive measures that UAMs receive *qua* migrants in Serbia. “A major problem for children is that they are considered as migrants before they are considered as children – and this automatically lowers their legal protection” (Senovilla Hernandez and Touzenis, 2010: p.xiii). This holds true in Serbia as well: UAMs are affected by structural violence, police repression and daily hardships experienced by their adult counterparts.

In this paper, I want to illuminate some aspects of the situation of UAMs in Serbia that could be identified in the recent period leading up to the summer of 2015. In part one, I present the social protection to which UAMs are entitled. In part two, I use two ethnographic examples to illustrate cases in which an UAM’s inclusion in the current system of social protection is often not in the best interests of the child⁸ and may even run contrary to it. In part three, I show that social protection is not applied systematically to all UAMs, but very arbitrarily. I particularly refer to two case studies,

in which very young UAMs had contact with police authorities, but were not placed under social protection. In part four, I use an ethnographic example to support the conclusion of this article, namely that social protection – even if it were better designed and more systematically applied – would still prove inadequate to protect the best interests of the child, *precisely because* it is couched in the repressive framework of migration policy mentioned earlier, whereby protecting the border regime takes precedence over taking care of individual children. My argument is not only that the particular set up of the social protection of UAMs in Serbia is inadequate, but – more importantly – that, unless the general framework of migration policy changes, the current system of social protection cannot adequately ensure the best interests of the child.

The insights and analysis of this contribution are based on fieldwork I conducted in Serbia between November 2014 and July 2015. While my main focus was the health of migrants in general, I paid particular attention to the health of the so-called ‘vulnerable groups’, such as UAMs. I conducted participant observation twice a week between January and June 2015 as a Persian and French translator for a medical humanitarian organisation providing primary health-care to illegalised migrants. I also visited places where migrants congregate, commonly referred to as ‘jungles’, close to the Subotica dump (near the border with Hungary), some Belgrade parks, the forests around the centre for asylum seekers in Bogovađa and the informal camp in front of the Preševo police station (near the border with Macedonia). In addition, I went at least once a week to a Belgrade park, or to the centre for asylum seekers in Krnjača in the suburbs of Belgrade, where I talked with migrants on my own or with friends, and not in my ‘official’ capacity as a translator. I took notes *post-festum* and I refrained from recording interviews, because

⁵ Little anthropological production exists about migrants in Serbia, of importance is Marta Stojić Mitrović (2012, 2013, 2014). However, there are two recent reports from international NGOs (Human Rights Watch, 2015; Amnesty International, 2015) that deserve mention.

⁶ It is impossible to know exactly how many migrants pass through Serbia, because their travel is illegalised and many do not get apprehended by the police. It is equally difficult to know how many are UAMs. However, according to the statistics on how many people have sought asylum, we could perhaps conclude that around 10% of all migrants are UAMs: in 2014, 16,490 people expressed the intention to seek asylum, of whom 1,563 were UAMs (1,478 male, 85 female).

⁷ The ‘corridor’ was gradually closed, when first all but nationals of Syria, Afghanistan and Iraq were excluded from passing through it since the 18th of November 2015. On the 21st of February 2016 Afghan nationals were excluded too, and on the 8th of March 2016, the corridor was closed completely. It is likely that we will see equally (or more) repressive measures towards migrants on the Balkans route, as *before* summer 2015.

⁸ The 1989 Convention on the Rights of the Child enshrines in its article 3 the ‘best interests of the child’ principle as being of primary consideration in any decision concerning a person under the age of 18. The importance of this principle is echoed in the discourse of institutions, often reproduced by NGO reports – for a Serbian example, see Galonja et al. (2013). The details of how the best interests principle is to be understood, are found in the General Comment No. 14 of the Committee on Rights of the Child (see Committee on the Rights of the Child, 2013). The details of how this principle applies to the unaccompanied and separated children outside of their country of origin are to be found in the General comment No. 6 (see Committee on Rights of the Child, 2005). In the joint UNHCR

I judged this would be an intrusive, impractical and unethical practice in the stressful environment of illegalised settlements. In my experience, formal interviews often generate more repetitive narratives⁹ than do informal conversations. I also visited one of the two institutions specialised in accommodating UAMs – once to meet a UAM who was placed there and once to conduct a semi-structured interview with the Head of the centre. In addition, I conducted an interview with an activist who has had abundant experience assisting UAMs.

1. SOCIAL PROTECTION OF UAMS IN SERBIA

With the increase in the number of migrants passing through Serbia and the development of the migration legislation – in line with EU requirements – a need arose to develop special legal provisions for UAMs. As a result, they have been included into social protection, as decreed by article 41 of the Social Protection Act¹⁰. Following a decision of the government of the Republic of Serbia, the first reception centre was created in 2008 in Belgrade, called the ‘Centre for Accommodation of Foreign Minor Persons Unaccompanied by a Parent or a Guardian’, operating within the framework of the Institution for Education of Children and Youth Belgrade¹¹. Since April 2009, when the first UAM was housed there, this Centre – with a capacity of 12 places – was the only specialised institution for accommodating UAMs in Serbia. In 2011, after an

increase in the number of arrivals, another similar reception facility was opened in Niš, with a capacity of 10 places. Between 2011 and today, the total capacity of specialised institutions designated for housing UAMs has remained 22 places.

The basic duty of the Centre in Belgrade is housing UAMs that find themselves alone in Serbia. It receives children 24 hours a day, 7 days a week and accepts children of all genders and from ages 7 to 18. Since 2009, there have been around 500 UAMs accommodated in the Centre, of whom 8 were girls (7 from Bulgaria and 1 from Switzerland, all of whom were ‘returned’ to their families). The Head of the UAMs unit of the institution stated that around 70% of all UAMs were from Afghanistan, 20% from Syria, and the remaining 10% from Pakistan, Iran, Ivory Coast, Guinea, Congo, Ghana, Somalia, Rwanda, Togo, Eritrea, Gambia, Sierra Leone, India, Algeria, Morocco, Mali, Bangladesh, Palestine, Tunisia, Libya, Bulgaria, Switzerland, Macedonia, Turkey, Romania and Albania. Most UAMs were around 17 years old; only about 10% were between 7 and 14.

It is usually the border police, or the Foreigners department at the police station, that arrest the UAM and – at least in theory – should inform social services. The police determine the identity and age of the children and the Centre does not dispute these conclusions, even though “... sometimes we can see they are older [...] or they even tell us later that they aren’t minors!”¹².

⁹ I believe that during fieldwork, it was the long-term participant observation that allowed me to gain clearer insights into the situation of UAMS than the journalistic-type terrain visits, which mainly focus on collecting interviews. Interviews can be ethically problematic and exploitative, especially when the setting ignores the stark imbalance of power that exists between the interviewer and interviewee. Besides, interviews often only give you insight into the superficial situation of migrants and ignore its *root causes*. As Andersson writes, it is “not enough to simply approach ‘the migrant’ as an object of study”. Instead, it is important to “focus on the system in which illegal migration is both controlled and produced – its configuration, its workings and its often distressing consequences” (Andersson, 2014: p.12). Also, asking migrants to be interviewed often triggers the reproduction of already known and well-rehearsed narratives around migration. This is especially true when there is neither time nor a peaceful environment in which to undertake an in-depth interview. This could be illustrated by a situation, which happened when I was hanging out with a group of young Afghans in a public park. They have just arrived by bus to Belgrade, after having walked through Macedonia and across the border into Serbia. They were telling me about their experiences, describing the path both as something extremely difficult, but also as an adventure. At that moment, we were approached by a group of journalists who, seeing that I could translate for them, asked the Afghans if they would consent to be interviewed. The Afghans looked at me with genuine confusion and said: “What do they want us to talk about? About our problems at home, and why we escaped? Or about the difficulties on the road to Europe?” I felt like they were asking me, which rehearsed narrative do these people want from us? The usual script regarding migrants in the media is well known: just as it is known to the public and the journalists, so it is known to migrants. If migrants’ perspective is included at all in the media reports, they are included as ‘poor refugees’, still persecuted by the mafia (see De Genova, 2015) on their way to the haven of Europe. Even though their stories are in fact much more complex and nuanced, than just “we fled to save our lives” (during in-depth conversation with migrants I often realised that there are other less geopolitically coloured factors, determining the *moment* someone migrates to Europe), or that they “suffered so much on the way and just want safety” (the particular youth in the park spoke of adventures and camaraderie they would never tell journalists about). I find that bringing out a dictaphone and asking migrants to ‘tell about their situation’ puts the focus on the aspects of victimisation, and ignores nuances and complexity.

¹⁰ Zakon o Socialnoj Zaštiti – available on line in Serbian: http://paragraf.rs/propisi/zakon_o_socijalnoj_zastiti.html

¹¹ In Serbian, the Centre is called *Centar za smeštaj maloletnih stranih lica bez pratnje roditelje ili staratelja*; its parent institution is called *Zavod za Vaspitanje Dece i Omladine Beograd*, which also houses Serbian children in need of social protection. I have only visited the Centar for UAMs, which I will refer to in this text, and did not have access to the other parts of *Zavod*.

¹² Excerpt from the interview with the Head of the Centre for UAMs.

There is no regular use of translators, which makes communication more difficult. The Centre, however, gets support from an NGO offering free legal advice to migrants and asylum seekers in Serbia, which sends translators at least for the first meeting with the UAM. There is also information available in Persian, Arabic, Pashtoo, English and French, explaining how the Centre functions, and displayed in a public place – *“this is for the children not to be scared or confused, to understand that this is not a prison, even though there are bars on the windows...”*¹³.

Once UAMs are accommodated in the Centre, they are assigned a legal guardian who is usually one of the two social workers employed there. However, the paperwork needed by the Centre for Social Work in order to formally appoint a guardian takes a minimum of five to seven days on average to be processed. This means that any decision on what will happen to the child must wait until the paperwork is in order.

There are two legal options for UAMs accommodated in the Centre: they can either express that they want to return to their home country, catalysing a return-procedure; or they can express their intention to seek asylum and be transferred to one of the reception centres for asylum seekers¹⁴. Around 80% of all the UAMs that had been accommodated in the Centre since its opening opted to seek asylum¹⁵. Returns to the home country are rare, and usually involve UAMs from one of Serbia’s neighbouring countries.

A third option UAMs often take is to leave the institution. The Centre is not locked and minors can leave whenever they want. *“Sometimes they literally sneak out without anyone noticing! Even though we tell them that it is in their best interests to wait for a few days [to be transferred to the centre for asylum seekers]...”*¹⁶. As we will see in what follows, there are many reasons why children might choose to leave the institution, such as a lack social structures, absence of company with whom they can converse in their native

language, feelings of isolation, and inadequate solutions to their situation by the Centre.

Flight is also the only option if you do not want to seek asylum or to be returned to your country of origin. *“It happened a few times that children, for example Afghans, tell us: I don’t want to seek asylum here, and I don’t want to go back. They tell us that they want to go to Holland. We cannot help them with this and often we say that they can take some time to think about it and tell us after. And they think for a few days or weeks, and then they go. Or they think about it and in a few days they say they want [to seek] asylum”*¹⁷.

While staying in the Centre, UAMs often take the opportunity to decompress after days or weeks of exhausting travel. NGO reports (Galonja et al., 2013; Jelačić et al., 2011), as well as the Centre’s staff say that children most often arrive *“in a very bad condition”* (Jelačić et al., 2011: p.6). Food is prepared according to their religious preferences. The Centre’s staff involves them in creative and recreational activities and they socialise also with the Serbian children residing there.

Given the number of UAMs in transit through Serbia, the specialised reception facilities accommodating UAMS are entirely inadequate. Even though the system of social protection is supposed to look after all UAMs who are identified during illegal crossing or stay on the territory of Serbia, these services can only partially meet the need, given that the total accommodation facilities in the country are limited to 22 beds. They operate on a sort of ‘best practice’ level rather than as a real system of protection. The Centre provides shelter, food and a compassionate smile for a fraction of the UAMs that pass through Serbia. Indeed, it cannot offer children anything other than what the larger migration management framework offers to adults: either return to the home country or take the improbably small chance of getting international protection (refugee status or subsidiary protection) in Serbia. The statistics tell us that, *“a total of 28,285 people expressed the intention to seek asylum in Serbia”*

¹³ Excerpt from the interview with the Head of the Centre for UAMs.

¹⁴ At the end of my fieldwork in July 2015, there were 5 centres for asylum seekers currently operating in Serbia: Krnjača (in the suburbs of Belgrade), Bogovađa (1,5h drive towards the South), Banja Koviljača, Sjenica and Tutin (all several hours drive from Belgrade). For more about centres, see Stojić Mitrović (2014).

¹⁵ Information provided in the interview with the Head of the Centre for UAMs.

¹⁶ Excerpt from the interview with the Head of the Centre for UAMs.

¹⁷ Excerpt from the interview with the Head of the Centre for UAMs.

(Belgrade Centre for Human Rights, 2015: p. 18), between April 2008 when the Asylum Act came into force and the end of 2014¹⁸. During this period “Serbia’s authorities granted refugee status to six and subsidiary protection to 12 people altogether” (*Ibid.*: p.20). As a result, most UAMs – just like most adult migrants – end up leaving Serbia¹⁹.

2. THE INSTITUTION AND THE BOY: ISOLATION AND FAILURE TO PROTECT HIS BEST INTERESTS

While the reception institution’s staff described above how they try their best to ease UAMs’ stay in Serbia, there are some fundamental ways in which they fail to ensure the best interests of these children. Hereinafter, I present two case studies which encapsulate the situation of isolation that UAMs often feel when placed in institutions of social protection.

2.1- 16-year-old Mustafa from Afghanistan

I met Mustafa briefly and did not want to be intrusive with questions, as he was not feeling well. He was 16 years old, had been traveling by himself for months, and wanted to go to Germany. I have met many boys that fit this description in various locations around Serbia. But when I met him, Mustafa found himself alone, accommodated in the Centre for UAMs.

He told me he had arrived from Greece with a few friends. The police apprehended him while his friends ran away. After ascertaining that he was underage and unaccompanied, the police contacted the social services which placed him in the Centre for UAMs.

When we met, he had been in the institution only for 3 days. He had rested and showered, but was feeling unwell psychologically. When he arrived, he was shocked to see that he was the only UAM in the institution – aren’t there hundreds of boys

his age traveling through Serbia? The Serbian kids in the other unit called him by his nationality, and not his name (*hey, Afghanistan!*) – but he still enjoyed playing football with them. He did not have anything else to do and was feeling isolated and misunderstood. He had no phone, as phones are not allowed in the Centre, and thus, no way to contact his friends and to organise his way forward.

As soon as he realised that he was the only non-Serbian speaking person in the facility, he asked to be transferred to a place with other Afghans. The only option then was to seek asylum and to be transferred to a centre for asylum-seekers less than 15 km away. Even though he sought asylum immediately, the bureaucratic procedure took several days, forcing him to needlessly spend several days waiting. Mustafa was angry and frustrated about the delay, and while the staff working there expressed compassion about his situation, there was nothing they felt they could do about it.

2.2- 10-year-old Bashir from Afghanistan

Bashir was younger than most UAMs under social protection. He travelled from Afghanistan with two cousins, 16 and 17 years old, with the aim of reaching distant family members in Western Europe. Close to the border with Macedonia, they got separated. By Bashir’s account, it seemed that his two cousins were caught by the police and imprisoned for a few days²⁰ while Bashir ended up with another group of Afghans in a centre for asylum seekers in Bogovađa. Bashir was terrified that his cousins would leave the country without him, which is ultimately what happened: once liberated from prison and without means of contacting Bashir, his cousins continued their journey without him.

Initially, Bashir was placed in the centre for asylum seekers in Bogovađa. However, once the centre’s director discovered someone so young had been placed in their custody, he

¹⁸ The breakdown of this figure per year is as follows: 77 in 2008; 275 in 2009; 522 in 2010; 3,132 in 2011; 2,723 in 2012; 5,066 in 2013 and 16,490 in 2014. (Belgrade Centre for Human Rights, 2015: p.18)

¹⁹ In fact, even most of the people who got international protection in Serbia have left the country. Serbia has no integration policy to date (Belgrade Centre for Human Rights, 2015: p.50). This, together with the appalling economic situation and bad labour market prospects, make it a rather undesirable destination among migrants.

²⁰ The Aliens Act defines illegal entry (article 10) and illegal residence (article 42) and specifies a fine for illegal entry (article 84 – between 10 000 and 50 000 dinars, equivalent to 100-500€) and illegal residence (article 85 – between 6 000 and 30 000 dinars or 60-300€). For those who have no money, there is an option to ‘pay the fine’ with serving a few days in prison (with one day in prison being almost equal to a 10€ fine). They are placed in district prisons and, from testimonies of migrants who have been detained there, there were reports that sometimes they were placed in prison facilities with people convicted for criminal offenses. Other testimonies speak of bad conditions in the cells. It was mentioned that often tens of migrants are put into one big room, with one common toilet, mattresses on the floor, and a right to shower only every few days.

insisted Bashir be transferred to the Centre for UAMs. The Centre for UAMs is intended for illegalised migrants²¹, not asylum seekers; those UAMs wishing to seek asylum would normally be transferred to the centre for asylum seekers in Bogovađa. But because the director declared that his facility could not accommodate so young an asylum seeker, Bashir was transferred to the Centre for UAMs – despite being an asylum seeker.

Bashir did not feel well in the Centre for UAMs. He could not communicate with anyone, there were no other Persian speakers there. After the initial meeting shortly after arriving to the Centre, there were no translators available. The Centre usually presents UAMs with two options: either return to one's country of origin or be transferred to the centre for asylum seekers. In Bashir's case, while he did not want to return to Afghanistan, he could not be transferred back to the centre for asylum seekers either. He wished to continue his journey to Western Europe and find his cousins, but this was not deemed admissible by the Centre for UAMs or other Serbian authorities – nor was any other viable alternative suggested to him. Alone and isolated, Bashir felt 'stuck' in the Centre and his sense of frustration and desperation grew with each passing day.

While the Centre's staff were unable to offer Bashir a solution, they were also worried that he might run away or use the services of smugglers and thereby fall prey to human traffickers. They initially attempted to limit his use of phones, supposedly to protect him from trying to organise his journey any further. One of the migrant solidarity activists, who visited Bashir regularly, described the situation as follows: *"At first, when he arrived, they did not allow him to call to Afghanistan. When the translator from [the NGO offering legal advice to asylum seekers] came to speak with him at the beginning, Bashir asked to call home, because they had no news from him for weeks. But they ignored his request. When we visited him, we brought a computer and he called his family from Skype. And then when we brought him the phone, it was easier*

to communicate with his family. His father and uncle tried to sort out a way for him to travel further. But that was a big problem [for the social workers]". Bashir was eventually able to use his mobile phone and the Centre's staff turned a blind eye to this.

The staff's fears of what would happen to Bashir, if he ran away, were understandable. Dangers linked to illegalised border crossings are indeed manifold – including serious injury and death²², as well as exploitation and trafficking. These dangers are even greater for young children, especially those who are unaccompanied. Yet, in the absence of legal possibilities of travel, or an alternative acceptable to Bashir, the question remains: what was he supposed to do? What other options were there? Eventually, Bashir disappeared from the institution after his father and uncle had succeeded in organising his journey onward.

Analysing Bashir's stay, we could conclude that the Centre was not able to ensure his best interests and, moreover, the institution's inaction worsened his situation. By initially attempting to limit his use of mobile phones, supposedly to prevent him from contacting smugglers, the Centre also prevented him from reaching his family and compounded his feelings of isolation. In this sense, the 'protection' of the institution went only as far as preventing the boy from using mobile phones (for fear of organising his escape), but did not provide for his needs. In this sense, his supposed protection was ensured through a *denial* of his requests, and not through *proactive steps* to meet his needs.

But besides the critique of this institutional (in)action, we need to speak of the broader structural conditions underlying Bashir's situation. As De Genova writes, the discourses of the dangers of smuggling and trafficking²³ – evoked by the staff of the Centre to justify limiting Bashir's use of mobile phones – identify "the source of the migrants' 'exploitation' as a 'foreign' one, 'smugglers', and the whole 'opportunistic' infrastructure of 'illegal' migration itself. In this way, illegalised migrants are deemed to be in need of 'protection' from one another!

²¹ See footnote 2.

²² As I was writing these lines, I got the news of a Syrian citizen drowned in the river Tisa, trying to cross the Serbian-Hungarian border (Source: <http://www.srbijadanas.com/clanak/nije-imao-snage-da-dopliva-utopio-se-migrant-u-tisi-madarski-granicari-mirno-posmatrali-19-07>).

²³ While smuggling is often equated with human trafficking, there are important differences between the two. Human trafficking is defined in international law as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, [...] deception, [...] to achieve the consent of a person having control over another person, for the purpose of exploitation" (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Article 3). Trafficking thus necessarily includes the use of coercion, threat or deception in order to force someone into exploitation. In its very definition, human trafficking is not based on informed and voluntary consent. Human smuggling, on the other hand, might involve elements of deception, yet it is usually clear to people involved in it what will happen: in exchange for money, they will be transported across a border, the passage through which is 'illegal' for them.

Almost never do such discourses interrogate the larger border and immigration regimes creating the need for precarious and vulnerable forms of ‘illegal’ border crossing, and consequently broadening the space to exploit migrants and asylum-seekers” (De Genova, 2015). Indeed the root cause of UAMs’ vulnerabilities to exploitations are the laws that illegalise migrants’ mobility, including UAMs, and force them to travel illegally, often aided only by smuggling networks²⁴. This is a type of “legal violence” (Menjívar and Abrego, 2012, quoted in Vogt, 2013: p.765) that opens the door for possible future violence, including all the dangers associated with falling prey to human trafficking. But all this takes place *precisely because* the illegalisation of border-crossing creates a very lucrative and entirely illegalised market for facilitating illegal passage across borders. Like any black market, this one is also entirely deregulated and thus enables full-blown exploitation. The structural conditions that enable the thriving of such a robust and lucrative black market lie precisely in the restrictive migration policies and the process of illegalisation. As Vogt aptly puts it: “Laws and policies that govern unauthorized migration from a perspective of national security rather than human rights coproduce vulnerability and violence” (Vogt, 2013: p.765).

3. UAMS IN JUNGLES AND ‘ILLEGALISED’ SPACES

As mentioned above, the number of UAMs that are under social protection is very small. Indeed, during 9 months of fieldwork, I have met well over a 100 UAMs who had not been accommodated in a specialised reception centre. Moreover, meeting 16 or 17-year-old UAMs – who often spend several months or years (and thus ‘grow up’) migrating and having to work for their survival – was so common that at some point, I stopped systematically commenting

about them being underage in my field notes. However, I did meet a few very young children (10-13), who have had contact with the police or state authorities, but were not treated as UAMs and were not placed under social protection. I will here present two such cases. My aim in this section is to illustrate that the system of social protection is partial and operates in arbitrary ways.

3.1- 11-year-old boy robbed by the Police

Perhaps the most shocking case I observed was that of an 11-year-old boy I met in Subotica’s jungle in January 2015. It was extremely cold, the freezing *košava* wind was beating the Panonian landscape while a group of tired, sick, and cold migrants heated themselves by a small campfire. The police had been raiding regularly, often beating people, using pepper-spray, threatening them at gunpoint, stealing all their belongings and burning their shelters and possessions. About two weeks after the latest big raid in which a tent was completely burned down²⁵, I visited the jungles in Subotica.

There were only around 40 people in the jungle, which is relatively few, as sometimes the numbers rise to one or two hundred people. Among them was an 11-year-old boy from Afghanistan. He only spoke Pashtoo, so I could not communicate directly with him. An older man translated a brief exchange between us. The little boy, who did not tell me his name, was rather shy and did not feel comfortable with me asking him questions. He was clearly very young, but in the way he spoke and walked, he had the attitude of an adult, like so many other UAMs I have met.

I did not find out much about how he travelled and where he came from. He said he was in regular communication with his family in Afghanistan, but that he travelled with some of his friends who were also underage. He said he had been in the jungle

²⁴ Resorting to the services of human smuggling, while substantially more costly, can be safer than its alternative, which is finding one’s own way across the illegalised green borders of the Balkans. Migrants who have attempted to cross green borders without smugglers or guides, have testified of the dangers of being left to one’s own devices and a GPS: dangers of getting lost, roaming the forests for days, starving, getting injured or robbed on the way, are ubiquitous. The testimonies of migrants describing the situation on the Serbian borders, while less drastic than on the Latin American route into the USA, nevertheless resonate with Vogt’s analysis of the American context. Vogt writes: “As transportation routes become increasingly controlled [...], migrants depend on smugglers to navigate and pay the appropriate ‘fees’. Those who do not pay risk disappearance or death. Some migrants travel with the same guide across the country, and others are handed off between guides who work segments of the journey” (2013: p.773) Similarly on the Balkans route, as the border controls tighten and repression in the country increases, the migrants resort to smuggling networks, which increase the fees, but might also mitigate some of the dangers. While the journey without a smuggler is substantially cheaper, it is also more dangerous and possibly deadly.

²⁵ For a report of a collective, documenting police violence, see <https://nobordersserbia.wordpress.com/2015/01/19/new-tactics-same-violence-the-police-in-subotica-transferring-people-from-the-jungles-to-the-camps-for-asylum-seekers/>

just over two weeks. The original plan was to stay for only one night, and then continue the journey. He had some money on him and believed he would reach Western Europe soon.

However, the very day he arrived, the police organised a big raid²⁶, and they robbed him of all his money. They robbed everyone and they took 300€ from him alone. Since he now had no money to continue his journey, he had been stuck in the jungle, waiting for some more money to be wired through to him by his family.

3.2- 7-year-old girl, traveling with her 17-year-old uncle and his 17-year-old friend

The case of 7-year-old Shirin is another example of UAMs, clearly in a bad physical and psychological state, having an interaction with the police, yet not being placed under social protection.

Shirin's family had been living in Greece for several years. They lacked a residence status and had barely enough money to survive. Shirin was the oldest of several children, and as the situation in Greece deteriorated, the family was searching for a way to go to a different country. They had no money and they believed it would be impossible to travel with several small children. So they decided to send to Germany their eldest daughter, 7 at the time, with her two 17-year-old cousins. Once in Germany, they could try a family reunification claim²⁷, allowing them to travel legally. As the family had little money to invest into the journey, they depended on the GPS on their phones and their physical strength to walk across the Balkan's green borders (and not use smugglers' services).

The journey was long and physically demanding. Shirin was forbidden to cry and even though the boys looked after her and prioritised her wellbeing over their own, the conditions were extremely difficult for a little girl. After arriving in Serbia, they wanted to continue their journey towards Croatia. With what money they had, they took cheap local public transport to Šid, on the Serbian-Croatian border. There they followed the railroad tracks they hoped would lead them to Croatia, relying

only on the GPS on their phone. This worked fine – until they got lost. There were some old train tracks that they followed and that led them in the wrong direction. They walked the whole night and were really exhausted. It was November and already bitterly cold. Finally, they managed to cross over into Croatia, but they were caught by the Croatian police. At the police station, they all cried, and said to the police *“we just want to go through your country, just look the other way, just ignore us, what danger are we to you, just ignore us!”*. But the police returned them to Serbia – the Croatian police handed them over to Serbian police.

The Serbian police, who clearly found them in a very bad psychological and physical state, did not treat them as underage: they did not inform the social services or provide them with any assistance. They were treated as adult 'illegal' migrants. Upon being returned to Serbia, they were detained at the police station for another night, and left again to face the same dangers that preyed upon them before.

4. THE BORDER AS STRUCTURAL VIOLENCE – CASE STUDY OF AN 11-YEAR-OLD BOY SEPARATED FROM HIS FATHER

In this final section, I want to argue that the real problem of the lack of protection for UAMs lies not in its particular set up or its failures (which could be improved). Instead, I consider that a major source of UAMs' vulnerability lies in the border and migration EU regimes²⁸ (and its implementation by satellite states like Serbia). This regime expressly forces migrants to travel 'illegally' and – in the process – exposes children who are traveling alone or have been separated from their parents to extremely dangerous situations. To illustrate this, I present the case of an 11-year-old Syrian boy who got separated from his father.

Father and son were traveling with a bigger group across the Macedonian-Serbian border and at one point found themselves in two different taxis heading to the same location. However, the police stopped the taxi with the little boy and arrested

²⁶ Some of the other migrants in the jungle told us that the raid was a particularly brutal and sadistic one. According to them, the police burnt their biggest dwelling and they also forced everyone to throw their personal belongings onto the fire. They used a sharp object to cut some of the jumpers off the bodies of migrants and burnt them too. They forced someone to take their shoes off and throw them into the fire. They beat up people quite badly – a 17-year-old UAM showed me a bruise that was still visible under his eye.

²⁷ The EU enshrines the right to family reunification in the Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

²⁸ For a theorisation of the European border regime, see Tsianos and Karakayali (2010). About securitisation of the EU migration policy, see Huysmans (2000).

everyone in it. They put them into Gazi Baba, a detention centre in Skopje where migrants are often detained for several months, kept there in order to testify in the legal process against the taxi drivers accused of smuggling²⁹. Meanwhile, the taxi with the father continued to Serbia. Upon reaching his destination, the father realised his son had been detained and was still in Macedonia.

Once in Belgrade, the father contacted some activists and human rights organisations, and due to their intervention, the boy was released from detention around 40 days later. After his release, the boy was placed with a foster family in Macedonia. Time spent in prison, and afterward with the foster family, were really traumatic for the boy. He developed a series of medical and sleeping problems and refused to eat. All the while, his father was in Serbia, illegalised, sleeping in abandoned buildings and trying to find a way to get his son into Serbia.

While the human rights organisations were able to liberate the boy from prison – albeit after 40 days of deprivation of liberty – they were not able to find any *legal* means by which the boy could be reunited with his father. The condition for family reunification was that the father needed to have a form of international protection (asylum or subsidiary protection), which is quite unlikely, given the Serbian track-record³⁰, and in the best-case scenario this procedure would take several months. By the end of my fieldwork period, the situation was still unresolved. The boy was still in Macedonia and the father left to Western Europe, where his chance to obtain international protection was more solid. He hopes to reunite with his child, once he is granted residence or refugee status. But this could still take several months, and the psychological toll on such a young boy can have unforeseen long-term consequences.

The case in question shows the impossibility of ensuring the best interests of the child when primacy is given to the migration regime, one which normalises belonging to a nation-state – or the “supposedly normal condition of being attached to a territorialized polity and an identifiable people” (Malkki, 1995: p.516), as well as to the border regime, which enshrines the

right of the nation-State to protect its territory and exclude human beings from it. With the shift to seeing migration as a threat to security – or the *securitisation of migration*, understood as presenting “migration increasingly [...] as a danger to public order, cultural identity and labour market stability” (Huysmans, 2000: p.752) – migrants, including UAMs, become the main casualties of State restrictions to human mobility. This exclusion is much more profound and thorough than any system of social protection trying to remedy its effects. As long as the root causes for exclusion exist, there can be no pretence that the ‘best interests’ of migrant children are protected.

Another way of understanding the position of UAMs in Serbia is to identify *structural violence* as their source of vulnerability. The concept, attributed to Galtung (Žikić, 2013) was developed in anthropology by Farmer (2004), and refers to the way that the social, political, economic and other types of structures use forms of violence and mistreat those who are excluded by them. As such, “the concept of structural violence is intended to inform the study of the social machinery of oppression” (Farmer, 2004: p.307). In the particular case of UAMs in Serbia, the border and migration regimes exclude those who do not qualify for legal border crossing or for an equal standing with national citizens and exert a type of violence, which is very real and creates vulnerabilities especially for children.

CONCLUDING REMARKS

This article shows that the social protection of UAMs in Serbia (1) *is partial* in that it only applies to a small percentage of all UAMs traveling through Serbia, (2) *ignores* and sometimes *runs contrary to the best interests of the child*, and finally (3) does not truly *address the vulnerabilities of the UAMs*, which are produced by the broader system of restrictive migration management. As a concluding remark, I would like to share some reflections that arose during my fieldwork and are linked to the moralistic discourse often connected with the system of social protection for UAMs. At first glance, the rhetoric involved in the rationale for a special system of social protection for UAMs

²⁹ Since November 2014, I have heard testimonies of migrants traveling through Macedonia saying that they knew people detained for months there. Amnesty International published on the 26.2.2015 a press release criticising the detention conditions in this context. See: <https://www.amnesty.org/download/Documents/EUR6510832015ENGLISH.pdf+&cd=1&hl=en&ct=clnk&gl=rs>.

³⁰ See last paragraph of section 1.

is framed as a highly moral one: protecting 'the most vulnerable' groups of migrants and ensuring their best interests. This rhetoric often invokes the threats of 'human smuggling' and 'human trafficking', and the despair arising from the hardships these abandoned children experience. I want to suggest that, in the absence of a more critical analysis of the root causes of these threats and hardships of UAMs, this rhetoric remains on the surface level of a "moral economy of contemporary Europe", understood as the "economy of the moral values and norms of a given group in a given moment" (Fassin, 2005: p.365). Indeed, as in the case of Shirin, whose parents have sent her alone to Germany in the hopes of eventually joining her through the family reunification process, there is space for disapproval of parents who would send a child on such a dangerous journey. However, in my fieldwork I both met parents who left their children behind because they could not afford passage for the whole family and wanted to spare their children the journey's hardships; as well as parents, like Shirin's, who had sent their children from Afghanistan, Iran, Turkey or Greece in the hopes that 'at least' they could have a decent education and a brighter future, and potentially, the hope of a future family reunification. With both parents and children, there was acute pain of abandonment and separation and often deep psychological trauma. But to use these feelings as a basis of moral condemnation of the individual parents, without considering the factors of structural and everyday violence (Scheper-Hughes, 1992) would be perhaps another act of "epistemic violence on the social reality of everyday life for [...] migrants" (De Genova, 2002: pp. 422-423).

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