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# Status and position of unaccompanied minors migrants in Serbia in 2018



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## INTRODUCTION

Changing migration trends as influenced by the European migration crisis taking place in 2015, resonated highly in public and political discourses, questing for continuous evidence on 'new' realities in different migration contexts. This report aims at contributing to those efforts by analysing trends within domain of legal and societal position of unaccompanied minor migrants/refugees/asylum seekers (UAMs) and separated children in Serbia during 2018.

Over the past couple of years Serbia dealt with increasing numbers of UAMs fleeing from the countries experiencing armed conflicts, oppressions or abuse of human rights. This trend continued in 2018 when nearly 700 UAMs was registered in Serbia (APC, 2019) while 1,742 used the accommodation facilities of the Commissariat for Refugees and Migration of the Republic Serbia (CRM hereafter) (KIRS, 2019). The position of UAMs is often characterized by high risks from victimization (Vukasin et al, 2015), lack of fundamental care provision and protection including the risks from abuse, trafficking and neglect while on the way to destination country, (Ferrara et al, 2016). These children are thus tremendously vulnerable from whether physical, psychological, social, legal and economic aspects (ibid.) and as such under serious risk of being caught in the vicious circle of multilevel deprivation position.

As a rising social phenomenon, the treatment and position of unaccompanied minor migrants' calls for continuous assessment and analysis of their position, including analysis of implementation of relevant care and protection measures

undertaken within the national migration context. But first it is indispensable to conceptually understand and determine who are considered unaccompanied minor migrants in Serbia. The United Nations Convention on the Rights of the Child (UNCRC) (UN, 2005) defines UAMs as “children...who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so” ((CRC/GC/2005/6). Besides ‘separated’ children as a category of UAMs are those “who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members” (CRC/GC/2005/6). In particular, new Serbian Law on Asylum and Temporary Protection (LATP) (Official Gazette of the Republic of Serbia, 2018) adopted in 2018 defines UAMs as “a foreigner under 18 years of age who was not accompanied by parents or guardians, nor an adult who is responsible for them, on their arrival to the Republic of Serbia, or who found themselves without the company of their parents or guardians or at the time of entering Serbia does not have, or has upon arrival lost company of parents or guardians” (LATP, Article 2). The definition of a ‘separated child’ coincides with the UAMs definition differing only within the aspect of being eventually accompanied by their other relatives (Official Gazette of the Republic of Serbia, 2018).

Moreover, when discussing the treatment and the position of this population category within national context it is of foremost importance the debate to be grounded in the pillars of *the best interest of child* principle set by the UNCRC and ratified by Serbia (UN, 1989). Article 3 of the UN Convention on the Rights of Child provides that “in all actions concerning children whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration” (ibid.). Furthermore, Article 22 of the UNCRC provides that “(...) a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties” (UN, 1989). Following the above principle the new LATP adopted *best interest of a minor* perspective within the Article 10 that provides for respect of the best interest of minor when implementing the Law. Namely, as per LATP (LATP, Article 10) “(...) in assessing the best interest of the minor, due attention shall be given to the minor’s well-being, social development and background; the minor’s opinion, depending on his/her age and maturity; the principle of family unity; and the protection and security of the minor, especially if it is suspected that the minor might be a victim of trafficking or a victim of family violence or other forms of gender-based violence” (Official Gazette of the Republic of Serbia, 2018). When assessing application of the above principle it is of foremost importance, as provided by the UNCRC (CRC/C/GC/14, 2013) that the following elements are covered: the child’s views; the child’s identity; preservation of the family environment and maintaining relations; care, protection and safety of the child; situation of vulnerability; the child’s

right to health; the child's right to education. However, the concept of protecting the best child's interest is complex, yet flexible and adaptable to the individual cases in question (ibid.).

While the debate in the area often covers the assessment of the best child interest principle within domain of UAMs treatment and position in different national contexts (Krasic et al, 2017; ECRE 2018), it also addresses the issues of particular rights protection and care practices as well as the issue of the "invisibility" of UAM migrants for the system at large. Namely, due to the number of factors, both individual (personal) and systemic (institutional/administrative) factors, unaccompanied minors often cross European borders without previous registration. Moreover, even in cases they enter legally, they often remain out of the sight of the asylum authorities, because they tend to avoid official registration procedures and integration programs in the 'transit' countries as to reach the destination country more promptly (Ferrara et al., 2016; Milanović et al., 2016). Moreover, the discussions in the domain of the position of UAMs is often focused on the different aspects of the social protection system in Serbia (and elsewhere), including residential care and possible alternative forms of care. Those forums include evaluation of the accommodation procedures and standards in asylum and reception centres, emphasizing importance of adhering to those standards in order to ensure children's physical and emotional safety (e.g. Krasic et al, 2017). They also problematize the institution of temporary guardianship i.e. governments' efforts in providing guardianship in a manner that would ensure they behave in "child's best interest" (BCHR, 2018; UNHCR Serbia, n.d.; ECRE, 2018). Finally, the debate extends to the issues of integration into the different social spheres (and particularly into education) of this category of migrant children and different boundaries they face in adapting to the new surroundings (Horgan and Raghallaigh, 2017; Strange and Lundberg, 2014; Janta and Butkute, 2018). However, within the existing debates, many issues remain unaddressed or out-dated which pleas for new evidence to be yielded within the auspices of the position and treatment of UAMs.

This report intends to contribute to the existing research and expert debate by providing novel evidence on the treatment of UAMs within the Serbian context during 2018, considering the principle of the *best child interest* when assessing relevant practice. This is notably appealing in the context of changing legislation in the above domain and the mechanisms of implementation of new asylum and migration legal acts. In addition, the current study provides comments about treatment and the position of UAMs in Austria while discussing best-practice approaches relevant for the Serbian context. In that respect, the main questions that the study addresses are as follows:

- How and why unaccompanied minors are treated in Serbia in 2018? and
- What is UAM's resulting legal and societal position in 2018 in Serbia?

In order to provide the answers to these questions the analysis develop discussion around the status and legal position of UAMs, position in accommodation, social protection and institute of guardianship and integration in education in Serbia

during the course of 2018. Likewise, the analysis reflects upon the national and local institutional capacities and relevant practices including key challenges from institutional and beneficiary perspectives within the segments of the report discussing relevant findings. Finally, the analysis encompasses comparative perspective in discussing Austrian policies and practise in the domain of treatment and position of UAMs in this EU country with the view to Serbian policies and practices in the same area. The following section establishes the report's methodological approach.

## METHODOLOGICAL APPROACH

In addressing the main research questions of the report, qualitative methodological approach has been undertaken including semi-structured interviews with selected groups of stakeholders as the principal method for data collection. Besides, the phase that preceded to the field work included review of primary and secondary sources in the domain of the treatment and position of UAM migrants with the focus to the Serbian migration context, including EU and particularly Austrian contexts of migration in this specific area. Thus, desk research entailed review of academic and expert literature, policy frameworks and practices and statistical evidence in the domain of the UAMs status, position and treatment in the asylum seeking process, accommodation, guardianship, and integration in education with the view to 'the best interest of child' as a pivotal concept in securing legal status and adequate treatment of this population category of migrants in Serbia. In addition, reports from the field that Asylum Protection Center's experts have submitted have been analysed in the selected fields of research as primary sources of data together with interviews' findings.

Interviews were designed as to be semi-structured with the aim to harvest copious answers relating to the informant's standpoint. This type of interviewing technique was used because it allowed flexibility, balanced by structure and quality of data obtained.

Semi-structured interviews have been held during the course of 2019 with selected participants from the ranks of relevant national and local institutions and national and international organizations active in the field of asylum and migration in general and in the domain of protection of UAM migrants in Serbia. Interviews were designed as to address national and local level issues within key themes of interest for this research as to offer some responses and policy recommendations in the area of UAMs protection and their position in Serbia. Considering different mandates of selected interviewees and their institutions in the system of asylum and migration, interview agenda was adjusted to the particular mandate and practice of the institution or organization interviewees represented. In total, 11 interviews were conducted between October and December 2019 in Belgrade, Loznica and Nis. In addition, interviews were held in Vienna, Austria as a part of study visit that aimed at documenting selected EU country experience and assessing the treatment and societal position of UAMs in

Austrian context while deriving positive policy solutions and good practices examples possibly applicable to the Serbian context. In total, 5 interviews with 9 interviewees were held on 13<sup>th</sup> and 14<sup>th</sup> December 2018.

Interview sampling procedure was informed by two, mutually complementing, sampling techniques. Firstly, the purposive or *targeted selection* of key local institutional informants and relevant civil society organizations active in the field was used, in order to identify individuals who were able to provide detailed insight into issues of interest for the study. Secondly, the *snowball* method was used as a sampling technique to further select participants by asking key informants to recommend other potential respondents mainly for individual interviews.

The interviews held in Serbia and Austria, were recorded and transcribed and used for analysis along with a reviewed documentary sources. The analysis of data involved thematic categorization and coding including identification of new themes and codes that were not covered by the predesigned interview schedule.

Interview transcripts along with other primary data have been analysed using coding principle within the main thematic scopes. The analysis of data was assisted through Atlas.ti software for qualitative data analysis.

## STRUCTURE OF THE REPORT

The report takes the form of four main chapters, including this introductory chapter. The introduction is thus followed by the discussion about the recent migration context in Serbia with the focus on the statistics and characteristics of UAMs transiting and/or staying in Serbia. This chapter additionally portrays contextual circumstances with regards to the UAMs position and treatment in Austria with the aim to enlighten selected EU country approach to regulating this migration issue. The next chapter expands the discussion by reflecting upon asylum and migration legal framework in the domain of protection and treatment of UAMs in Serbia. It offers new perspectives on legal solutions in this domain as 2018 is marked by the adoption of the new Law on Asylum and Temporary Protection which introduced altered provisions in the domain of UAMs and separated children protection. The discussion then continues within the findings chapter encompassing sections addressing the legal status and position of UAMs in accommodation, social protection practices, and integration into education during 2018, with the brief overview of the practices extracted from the Austrian experiences in this domain. Finally, conclusions and recommendations revisit research questions and offer the possible pathways for addressing challenges and building upon the good practices identified by this research.

## SETTING THE SCENE: UNACCOMPANIED MINORS IN THE SERBIAN CONTEXT

There is a consensus that the Western Balkan Route was one of the main migratory paths and the second most travelled migration route to Europe in 2018. Throughout the year there was a steady influx of migrants from Greece to Albania, FYR Macedonia, Bulgaria and Serbia. Between January and December 2018, about 61,012 migrants were officially registered by the authorities in the Western Balkan countries which is five times more than the 13,216 registered in the previous year (IOM, 2019).

Unaccompanied minors, an especially vulnerable group of migrants on the move to and through Europe, remained visible in large numbers in 2018. According to the UNICEF report (2019) it was estimated that 29,300 children on the move and seeking asylum were present in Greece and the rest of the Balkans in December of 2018.

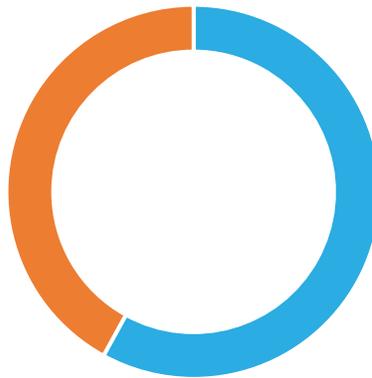
On the whole, UNICEF and other agencies inform that in 2018 there was still room for improvement in areas of protecting migrant children's rights and ensuring they have access to services such as legal aid, health, education and protection (mental health and psychosocial support, guardianship). The most severe risks these children, often unaccompanied and traveling alone, face include violence, sexual exploitation and even human trafficking (ibid.).

Over the course of 2018 the number of refugees, migrants and asylum seekers present in the Republic of Serbia remained mostly stable and similar to the numbers in 2017, ranging from 3,000 to 4,000 persons, based on IOM's data (2018). Transit was slowed down due to cold weather and the number of migrants peaked in December when 4,617 migrants were temporarily residing in the country, compared to 3,950 at the same time in 2017 (IOM, 2019). These numbers do not reflect the actual number of migrants stranded in Serbia, as it is estimated that 20 percent of the refugee and migrant population remained in makeshift camps, woods and squats in urban and border areas.

UNICEF data shows that there were at least 1,140 migrant children in Serbia in December of 2018,<sup>1</sup> and that more than a third of that population was comprised of unaccompanied children in reception facilities (2019). Coupled with that is the observation made by UNHCR (2019) and its partners that there was an increase in the number of children arriving to Serbia in the second half of 2018, and a vast majority of them was unaccompanied or separated. According to quarterly data Save the Children collects in Serbia, almost two thirds of the identified children (74%) that arrived from July to December were transiting Serbia alone (Tasic, 2019).

<sup>1</sup> KIRS data show higher numbers, namely 1740 unaccompanied minors were accommodated in facilities governed by KIRS, mostly in Belgrade (Krnjaca) and Sjenica in 2018. Based on the data provided by the Belgrade City Centre for Social Work, in 2018, local centres throughout Belgrade provided services to 791 unaccompanied minors.

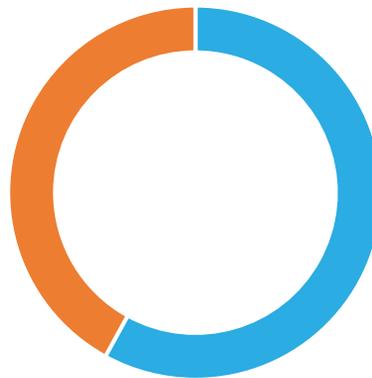
### Migrant children arriving to Serbia



■ Children travelling with families ■ Unaccompanied minors and separated children

Source: UNICEF (2019)

### Migrant children in reception facilities in Serbia



■ Children with families ■ Unaccompanied minors

Source: Tasic, I. (2019).

Figures for the Western Balkan route and Serbia show that more than 1,500 unaccompanied migrant children were on the move, trying to cross several countries and reach destination countries (UNHCR, 2019). The majority of unaccompanied

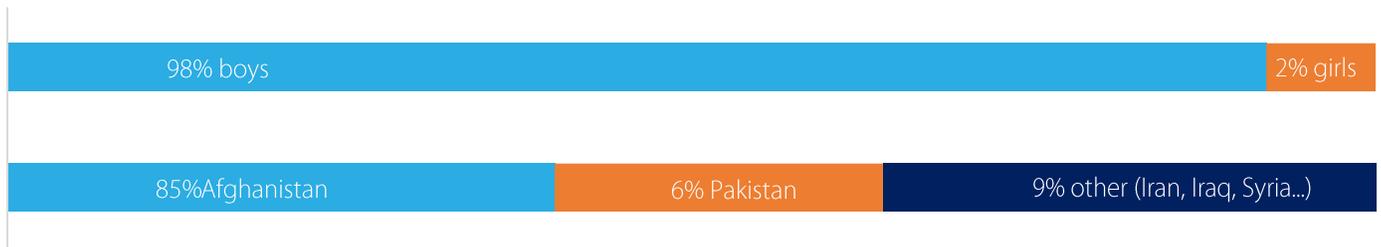
minors and separated children entered Serbia by crossing its borders with North Macedonia and Bulgaria that tried to irregularly exit the country by heading to Bosnia and Herzegovina, in addition to the already used exit routes to Croatia, Hungary and Romania. According to available data, the crossing of the border was not possible for many of them as more than 1,300 unaccompanied children were pushed back from neighbouring states to Serbia from January to November 2018 (ibid.). Moreover, existing reports show that one third of them have been subjected to physical violence inflicted by police or guards at borders. These figures point to the elevated risks hundreds of unaccompanied minors traveling alone faced when trying to cross borders in 2018.

As 2018 draws to a close, the numbers of refugee and migrant arrivals are shown to have dropped (UNHCR, 2018). Despite this fall in the number of arrivals, children still face brutal and disproportionate police violence at the EU's borders, and find it increasingly difficult to access asylum or reunite with their parents. Until the end of November 2018, 934 cases of push backs were reported by unaccompanied and separated children, with 436 of them involving violence (Save the Children, 2018).

Risk of violence and exploitation is also substantial when considering reception conditions and placement of unaccompanied minors in Serbia. UNHCR's data shows that 500 out of more than 1,500 of unaccompanied children remained in the country at the end of the year (2019). Unaccompanied children made up 42% of all children in reception and asylum facilities.

New legislations and apparent strengthening of asylum procedures in several countries in Europe and Serbia resulted in increased rates of migrants that chose to temporarily regularize their status in the country of arrival by expressing intention to apply for asylum. The numbers show an increase in the number of registration certificates that Serbian Ministry of Interior issued in 2018 (8,433 issued certificates) of whom 29.35% or 2475 were issued to the children (APC, 2019), but the majority of expressed intentions did not result in asylum application process, with only 4% (or 362) subsequently applying. When it comes to official records for unaccompanied children, a considerable number of them (698) expressed the intention to seek asylum in Serbia during 2018 (ibid.). Human Rights Watch Report on Serbia for the events in 2018 noted that the asylum seeking process remained slow and inadequate and that it contributes to the low rates of lodged applications, preventing access to refugee status and protection to migrants (2019). Unaccompanied children, being especially vulnerable still suffer negative consequences stemming from low recognition rates and long procedures, even though new legislations are now in place.

During 2018, the highest share of UAMs came from Afghanistan, Iran, Iraq, Syria and Pakistan. Most of the identified newly arrived unaccompanied children in the second part of the year were of similar demographic backgrounds - almost all boys and mostly Afghani and Pakistani.



Source: Tasic, I. (2019).

## BOX 1: AUSTRIAN ASYLUM AND MIGRATION CONTEXT AND POLICY FRAMEWORK IN THE AREA OF UAMS

A closer look into the upsurge of applications for international protection in Austria in 2015 reveals a more than fourfold increase in the number of such applications by UAMs transiting or residing in that country, compared to 2014. These statistics were a reflection and a continuation of a trend that spanned from 2014 to 2016 in the midst of unprecedented migration flows through and from Austria and other European countries. The accommodation and care of this vulnerable population of migrants by the national reception and asylum systems across Europe was becoming a topic of increasing interest. During this time, the Austrian reception system for unaccompanied minors went through notable alterations in terms of their organizational structure and practices due to changes in the national legal framework that affects these minors. These changes were partially aimed at translating EU regulations into national laws but were also trying to extend support to as many of these vulnerable minors and children as possible no matter how far along they were in the asylum application process or the admission procedure (Koppenberg, 2014).

First and foremost, the federal government and the provinces in Austria share legislative competences when it comes to areas such as education, child and social welfare. The same is true of accommodation and provision of care to unaccompanied minors in that country. Reception, accommodation and care arrangements with special conditions for unaccompanied minors are outlined in two legal documents of great importance - the Basic Welfare Support Agreement and the Federal Basic Welfare Support Act, as well as in the accompanying provincial laws. Accordingly, the federal state is responsible for accommodating unaccompanied minors in reception facilities during the admission procedure. The responsibility for accommodation and care falls under the jurisdiction of the provinces the moment the minor is admitted to the asylum procedure itself (ibid.).

Another system that provides additional care and support to vulnerable children, part of which are the unaccompanied minors, is the Austrian Children and Youth Service (Koppenberg, 2014). The system of basic welfare, extending its rights

and provisions of services to all unaccompanied minors that apply for asylum, through the entirety of the application process and up to four months after they've been granted the asylum status, is complemented with additional measures stemming from the Children and Youth Service even for unaccompanied minors who are not eligible for basic welfare. In this way, the outreach of the two systems working conjointly is maximized.

The General Civil Code in Austria, which is separate from asylum and basic welfare legislation, regulates and stipulates the guardianship of unaccompanied minors. Similar to the corresponding legal framework in Serbia, legal guardians or the Children and Youth Service Authorities are to always consider and ensure the best interest of the child, managing areas such as their education, legal representation, among others. In practice, however, the guardians outsource most of the services defined in their duties (Fronek and Rothkappel 2013:17). Most legal representation is outsourced to Non-Governmental Organizations sector, whereas care and education is assigned to the reception facility in which the minor is housed (Koppenberg, 2014: 37).

Outsourcing of provision of basic welfare support is possible under the Basic Welfare Support Agreement, and the government and the provinces alike use this option and contract NGOs, church-based organizations and companies for completing those tasks (ibid.).

When it comes to maximizing sensitivity and attuning existing systems and legislations to the special needs and vulnerability associated with unaccompanied minors, Austria made several important steps in that direction in 2015. These steps were answers to the questions posed by the duress the systems on the federal and provincial level were under in the context of receiving and accommodating an increased number of unaccompanied minors during that time.

Statistics depicting the effects of the changes in organizational structure and practices the basic welfare system underwent in 2015 show that there was a sharp rise in the number of unaccompanied minors receiving basic welfare support at the end of that year compared to 2014, partly explained by the increased number of applicants for asylum among this group of migrants in Austria.

One of the several positive developments was the introduction of legislative changes in the Basic Welfare Support Agreement in order to increase daily financial allowances for accommodation and care for unaccompanied minors at the end of 2015. These changes were precipitated by the aforementioned situation of having an unprecedented influx of unaccompanied minors arriving to the federal reception facilities and staying there extended periods of time, because there was a prominent lack of adequate facilities for them in the provinces. Another preceding factor for these changes was the discussion on considering and treating unaccompanied minors primarily as children, and secondly as asylum seekers (Asylkoordination Österreich, 2014). This led to the demand for increasing amounts of basic welfare and coordinating them with the cost rates included in the support vulnerable children are provided with under the Children and Youth Services.

In the same year, further legal amendments were made to the Aliens Law and to the Federal Basic Welfare Support Act, as an extension of European directives on the matter. These changes stipulated that any potential special needs are assessed upon admission to basic welfare support and subsequently taken into account to the greatest possible extent, in particular when assigning such individuals to reception facilities. These amendments transformed the practice of minors staying for extended periods of time in the federal reception facilities. Instead, by fall of 2016, there were 11 special reception facilities established in five provinces for accommodating unaccompanied minors before they were allocated to their housing in the provinces.

Following the assessment of the degree of care and supervision the minor will be needing in the final housing, the Austrian accommodation system in the provinces includes different residential homes, apartment-sharing groups for minors and supervised accommodation. These levels of supervision alternate the number of minors each supervisor on staff is responsible for, the number ranging from ten to twenty minors.

The support unaccompanied minors in Austria receive after being allocated to their final accommodation in the province is laid out in the Basic Welfare Support Agreement. Most important basic welfare benefits these vulnerable migrants are provided with include accommodation, food, health insurance, clothing, pocket money, school supplies and commuting expenses for pupils as well as information, counselling, and social support. The additional support for unaccompanied minors, according to the rates of care and supervision they need, can be provided by the staff working in the facilities they are accommodated in and include information, counselling and social support. The Basic Welfare Support Agreement also includes provision of socio-pedagogical care and psychological support when needed.

For example, support that is envisioned in the aforementioned agreement is comprised of care services such as clarification of question with regard to age, identity, origin and the residence of family members, facilitation of family reunification and development of an integration plan and preparation measures with regard to schooling, vocational training and employment. Additionally, every unaccompanied minor has a right to 200 teaching units of German language courses.

By fall of 2016, a noteworthy number of 150 unaccompanied minors were living in foster families (Heilemann, 2017). This living arrangement was the result of a change in policy that opened up the possibility of minors being accommodated with fosters instead of reception facilities. Moreover, Austrian provinces and government promoted this accommodation possibility by organizing trainings for potential foster parents. Initial research into this accommodation option is positive, it is considered to have superior integration potential due to the security and safety provided by the family and the supervision levels which are more adequate for responding to unaccompanied minors needs (ibid.).

Austria even has post-care accommodations available for minors turning 18. The transition into adulthood in a context of lacking social support and personal capabilities is challenging for many unaccompanied minors, many of whom experience

insecurity, worries, fear as a reaction during that time (Rothkappel, 2014:31 and 33). Some of the good practices in Austria tackling this issue include NGOs providing minors with information and support, especially when it comes to finding alternative accommodation.

Beyond the legally proscribed accommodation and care in Austria, their civil society organizations and church-affiliated organizations among others, provide unaccompanied minors with additional support in matters such as their integration, through leisure activities, or by handling of administrative procedures or legal proceedings, intercultural integration etc.

In summary, the unprecedented increase in the number of unaccompanied minors in Austria during the migration flows of 2014 and 2015 was a factor that contributed to their greater visibility in discourse concerning policy, legislation and practices that affect them in the following years. The state and non-state actors that got involved and initiated changes were diverse and numerous. This allowed for prioritizing unaccompanied minors at multiple levels and could prove a viable way of sorting through and separating the good emerging practices that together ensure special protection and care for this vulnerable group.

## OVERVIEW OF LEGAL FRAMEWORK ADDRESSING STATUS AND THE POSITION OF UAMS IN SERBIA

As of April 3<sup>rd</sup>, 2018 Serbia adopted the new Law on Asylum and Temporary Protection (LATP) that entered into force on June 3<sup>rd</sup>, 2018 (Official Gazette of the Republic of Serbia, 2018). The introduced changes into the new asylum law further aligned the national framework with international standards. When compared to the previous Asylum Act, the new law paid more attention to rights of unaccompanied migrant minors or refugees. This is noteworthy because the year 2018 has brought an increase in the number of expressed intentions to seek asylum in comparison with the previous year.

The Republic of Serbia has made commitments to several international treaties and regional bodies of law that set standards on a global level to protect the rights of people individually as well as collectively. The significant international and regional sources of law that have been ratified by Serbia that are relevant for the treatment and procedures of unaccompanied minors and refugees/migrants in general are the following: the United Nations Convention on the Rights of the Child (UNCRC), the UN Convention Relating to the Status of Refugees of 1951 along with its 1967 Protocol, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Covenant on Civil and Political Rights. As a member of the Council of Europe Serbia is also party to the European Convention for the

Prevention of Torture, Inhuman or Degrading Treatment or Punishment, and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

While being party to these crucial legal instruments, of which many highlight and advocate standards for children's rights, the most important in this respect is the UNCRC. This is because it sets the fundamental basis of children's rights in a universal manner that transcends borders and cultures. For this reason, it both can reinforce existing national laws but is also a tool to assess and reform them. Along with ratification of the UNCRC, Serbia has ratified two of the three additional protocols to the treaty, such as the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and the Optional Protocol on the Involvement of Children in Armed Conflict. This has highlighted the commitment of the Serbian State to protect children's rights regardless of their gender, religion, ethnicity, abilities or any other characteristics or status (UN, 1989). A child is defined within the UNCRC as a human being under the age of 18 (ibid.). In the Serbian context, traditionally the definition is not reflected as such, but rather the definition of a child is applied through their capacity to exercise rights, meaning independently making decisions, having responsibilities and engaging in legal relationships, which are granted upon turning 18 years old (BCHR, 2017).

Serbia's new LAMP has clearly provided distinctions between unaccompanied and separated children, with significant improvement in the nature of the definitions provided for both compared to the previous Asylum Act (Official Gazette of the Republic of Serbia, 2018; Official Gazette of the Republic of Serbia, 2007). As noted in the introductory part of the report, an unaccompanied minor is defined as "a foreigner under 18 years of age who was not accompanied by parents or guardians, nor an adult who is responsible for them, on their arrival to the Republic of Serbia, or who found themselves without the company of their parents or guardians or at the time of entering Serbia does not have, or has upon arrival lost company of parents or guardians". The definition of a separated child is similar with the addition that they are not necessarily without their relatives (Official Gazette of the Republic of Serbia, 2018).

As discussed above, a key novelty the LAMP has introduced are legal provisions that bring it closer to the standards established in the UNCRC, in particular with the crucial inclusion of the principle of the *best interest of child* as a central aspect for consideration within all areas regarding children. There are four key elements to the concept of the best interests outlined in the UNCRC General Comment No. 6. Firstly, primary consideration of the child must always be taken into account in all matters pertaining to the situation of the child in question, and documentation must always accompany the processes and decision-making (CRC/GC/2005/6) (UN, 2005). Particularly, it is required that all judicial and administrative decisions provide descriptions of how the situation of the child has been examined and assessed. Secondly, the assessments must holistically take into consideration "the child's identity, including her or his nationality, upbringing, ethnic, cultural and linguistic background, particular vulnerabilities and protection needs" and is to "be carried out in a friendly and safe atmosphere by qualified professionals who are trained in age and gender-sensitive interviewing techniques"

(CRC/GC/2005/6) (UN, 2005). Thirdly, the general comment highlights the critical importance and primary role of the guardian in safeguarding the rights of children through all relevant procedures, and mandates that in cases of UAM seeking asylum the guardian must be provided before any process may begin (CRC/GC/2005/6) (UN, 2005). Finally, as inspired by article 25 of the Convention, the child has the right to a “periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement” (CRC/GC/2005/6) (ibid.).

The most prominent sign of the incorporation and consideration of *the best interests of the child* came to light at the end of 2018 where for the first time ever a decision granting asylum was made for an unaccompanied minor girl from Nigeria (ECRE, 2018). Following this, another child’s case was positively resolved with granted asylum at the beginning of January 2019 (ECRE, 2018). Comparing to previous period, since the beginning of asylum system in Serbia in 2008, these changes demonstrate a significant step to a legal framework that is in compliance with international law, and a transition of putting law to practice (CRPC and HCIT, 2019; ECRE, 2018), although they are still very far from sufficient in protecting unaccompanied minors. Additionally, article 17 of the LAMP newly outlined that children shall be regarded with special care and special procedural guarantees (Official Gazette of the Republic of Serbia, 2018). As pointed out by UNHCR Serbia, these guarantees safeguard “appropriate assistance to the applicant who, due to his/her personal circumstances, is not able to benefit from the rights and obligations under this Law without appropriate assistance” (UNHCR Serbia, n.d.). These special procedural and reception guarantees may be awarded to vulnerable groups that in addition to minors include elderly, pregnant women, persons with disabilities, individuals who have been subjected to serious forms of psychological, physical or sexual violence, trafficking etc. (ECRE, 2018; Official Gazette of the Republic of Serbia, 2018). The right to special care and procedural guarantees must be granted irrespective of the individual’s status as citizen, noncitizen, refugee or migrant (BCHR, 2017). In practice, special care and special procedural guarantees are not fully observed.

Furthermore, the priority treatment for all applicants identified as an UAM enables an exemption from certain procedures at the border and transit areas, as well as protecting them from accelerated proceedings (CRPC and HCIT, 2019). Nevertheless, in 2018 there has not been evidence of active compliance with this section of the law, rather it has been reported that the authorities rarely prioritized or appropriately modified the asylum procedure for individuals who qualified under the category with special needs (ECRE, 2018). This can in part be attributed to the fact that the identification of individuals with special circumstances is by the law left to “competent authorities” (Official Gazette of the Republic of Serbia, 2018). With such an absence of further guidelines and procedures, interpretation is left open to the authorities and thus has resulted in arbitrary and subjective assessments by those in the field or no assessment at all. As elements of the special procedural guarantees awarded continue to be unspecified, what further happens in practice remains to be seen.

## IMPLEMENTATION OF LEGAL PROVISIONS IN THE MAIN DOMAINS OF UAMS PROTECTION

### AGE DETERMINATION OF UAMS

Contrary to established procedures in many EU countries, there is no universalized age determination system in Serbia implemented to verify the claim of an individual stating that he/she is a minor. If there is no verifiable documentation accompanying the individual's claim, their declaration as a minor is addressed by giving them the benefit of the doubt, and they are registered and accommodated accordingly (BCHR, 2017). This principal was specified in previous Law on Asylum, while in LATP it is not defined how unaccompanied minor is being identified, but is noted that in absence of documents, person's statement on age and other personal information is taken into account. In practice however, it was observed that lack of age determination procedure created a favourable ground for two types of faults – unaccompanied minors being wrongly identified as adults, and adults being wrongly identified as minors. Faced with large influx of children and young people traveling alone, which created enormous pressures, protection system started implementing ad hoc, unreliable and arbitrary practices of age determination in order to identify unaccompanied minors, and prevent misuse of the system by adults claiming to be minors. Problems emerged from the fact that those practices are actually grounded in very volatile and subjective criteria of the assessor (police officer, representative of the centre for social work or very often an official of the Commissariat for Refugees and Migration). It was noted that mostly based on physical appearance judgment is made whether a person is minor or not. In other cases, UAMs themselves are claiming to be adults in order not to be separated from the group with which they are traveling, scared that they will not be able to continue their journey, because smugglers instructed them to do so, etc. Practice has shown that in these cases given statement of UAMs is almost never re-examined, although even on the basis of purely physical characteristics, information on age can be doubted. Being wrongly identified as adults, unaccompanied minors are deprived of their right to guardianship, accommodation and procedural guarantees, all necessary due to their vulnerable position and special needs. By treating them as adults, system fails to protect them from the risks of abuse, misuse and exploitation, to which they are exposed as children to a far greater extent than adults. Minors that are unaccompanied have also been known to go through registration as falsely accompanied by another member of the group they are travelling with, this is especially in cases with females who try to travel with other families or people who pretend to be with them to cross the border more effortlessly (Save the Children and IRC, 2017; CRPC and HCIT, 2019).

Adults who have been noted to misrepresent their age strategically declare themselves as minors in order to be placed in the accommodation centre Krnjaca, which is convenient due to its location as the only centre in Belgrade (CRPC and HCIT, 2018). By doing so, they are enjoying additional rights, intended for unaccompanied minors, are placed together with children, which can put them at risk, burden the system of guardianship and social protection.

Beside protecting and supporting children that are traveling alone, who are the biggest vulnerable group in Serbia, importance of age determination process is also shown in lack of comprehensive data and evidence on number of UAMs. As it was mentioned in introductory chapter of this study, there are big discrepancies between numbers, depending from which governmental institution they are coming from. Due to resistance of UAMs to be registered, in order to remain unnoticed out of fear that they will not be able to continue their journey, but also due to wrong information and low level of awareness about asylum system, their rights and protection that they are entitled to, as well inactivity, lack of knowledge and skills of relevant authorities, large number is staying in irregular position, being tolerated by the government. Thus, police reports which are reflecting only numbers of those who express intention to seek asylum (and are by this registered) underestimate real numbers of UAMs. When taking into account accommodation of UAMs, which is mostly in Commissariat's facilities, numbers get much higher, but are still unreliable, having in mind that Commissariat's staff sometimes conducts informal age determination assessment and makes records according to their judgment. Lastly, although all UAMs should be provided with guardianship, it is shown that Centres for social welfare do not have capacities for that and that in 2018 a lot of children were reporting to be without guardian. Thus, records and data provided by these institutions are incomplete and do not reflect total number of children traveling alone. This problem greatly influences the quality and level of support that can be provided for children because it affects the potential to adequately plan resources and strategies (Save the Children & IRC, 2017).

## INSTITUTE OF GUARDIANSHIP

In cases concerning unaccompanied minors, guardians are a crucial and indisputable requirement for preserving the rights of the child, and representing their interests throughout the asylum process. Guardianship's mandatory nature is outlined internationally under the UNCRC- as mentioned above- and nationally within the LATP (Official Gazette of the Republic of Serbia, 2018), Family Law (Official Gazette of the Republic of Serbia, 2015) and relevant by-laws. While enshrined as a necessity in the LATP, the concept, general criteria of selection, and assignment of a temporary guardian are taken from Serbia's Family Law (*ibid.*), as the LATP does not identify or contain explicit guidelines or provisions concerning temporary guardianship (Official Gazette of the Republic of Serbia, 2018). The current asylum law simply states that children must have a guardian present to be able to express their intent to seek asylum and take part in the subsequent asylum procedure. Thus, children that are unaccompanied or separated must be assigned a temporary guardian immediately upon identification and before beginning the asylum process. The UNCRC identifies four general principles that encompass the essence of the treaty and aid in the interpretation of all articles contained in the document. These are: the prohibition of discrimination, respect of the best interest of the child, right to life, survival and development, and the right of the child to freely express their views (*ibid.*). In this respect, guardians play a role as the necessary link between the child and the law,

mediating by advising, representing and preserving the interests of the child throughout all procedures with state authorities. They also aid minors in matters pertaining to accommodation, medical and psychological care, school, family reunification and more (UNHCR Serbia, n.d.). This means they must always willingly act in accordance with the best interest of the child, and have the right characteristics and inclinations for the job otherwise they will be unable to properly execute their role in the given position (BCHR, 2018; ECRE, 2018).

Centre for social work, as a guardianship authority, is responsible for organizing and implementing guardianship protection for unaccompanied minors (domestic and foreigner). When it comes to unaccompanied migrant minors, model that is mostly used is temporary guardianship, which means that care, representation and protection of one's personality, rights and interests is limited to a certain period, procedure or a specific problem. Also, the Family Law recognizes the possibility for the centre for social work to directly perform the guardianship duty, appointing an expert worker of the centre for performing guardianship duties in practice, which was the case when it comes to unaccompanied minor migrants. In 2018, a new concept of so-called "professional guardians" was introduced, designed and implemented by organization IDEAS, with the financial support of UNHCR. The concept implies the engagement of professionals who exclusively provide guardianship protection of unaccompanied minor migrants. Previous practice has changed and Centres for social welfare started appointing third parties as temporary guardians. This decision certainly relieved already overburden local centres for social work, intensified contact of guardians with their beneficiaries, to whom they became more accessible, but also raised new issues, such as the qualification of professionals performing guardianship duties, control and supervision of their work, as well their impartiality, which will be discussed in later chapter.

## ASYLUM APPLICATION PROCEDURE

In general, migrants are unaware of the asylum and other procedures and their rights and obligations in Serbia. Additionally they are often falsely informed by Commissariat for refugees and migration, camp managements or incompetent organizations or individuals, on their position, situation, challenges or existing options as asylum seekers, refugees or migrants. Many such misinformation are provided maliciously, other due to ignorance and lack of knowledge, leading beneficiaries to lose their rights, status, to stop their procedures, to become irregular, to be expelled from the accommodation, to become discriminated or to end up in the shady zone out of the system. When it comes to registration, police stations often turn away migrants, claiming that they do not have the capacity to register (in people, technicalities, or translators) and instructing them to come in later. When it comes to unaccompanied minors, since registration demands presence of their guardian, in Belgrade often they are instructed to go to "one-stop point Miksaliste" in order to get

assistance of social workers, instead of contacting local Centre for Social Work. Thus, registration of UAMs is prolonged, depends on capacities of CSW, and around half of children remain in irregular position.

When it comes to asylum procedure itself, newly adopted Law on Asylum and Temporary Protection did not ease access to asylum. Although there has been given the opportunity for asylum seekers to apply for asylum on their own, without being in the presence of an official from the Office for Asylum, they must be registered, which is often denied and the asylum application itself must be submitted in the Serbian language, on a form that is also all in Serbian. While there are no official translations of the application for asylum in foreign language, it is impossible for asylum seekers to exercise their right without legal aid, interpreters and technical capacities for fulfilling asylum application form. For children that are traveling alone, starting asylum procedure implies presence and consent of their guardian. Often, as it will be shown in next chapter, guardians are inactive, unaware of importance of regulating legal status of their beneficiaries, don't have enough knowledge about asylum system and thus provide incomplete and false information, failing to motivate children to be legal while in Serbia. Further, although UAMs are recognized as vulnerable and have right to special procedural guarantees, it is noticed that this is not taken into account during asylum procedure which is lengthier than those for adults. Inefficiency of asylum system when it comes to protection of children traveling alone is also shown in fact that in the last 10 years only 1 decision was positive and first refugee status granted to UAM since the beginning of asylum system in Serbia was brought in December 2018.

## ACCOMMODATION OF UAMS

Upon the issuance of a registration certificate by a competent regional police administration, asylum seekers –including minors- are required to report to a relevant accommodation facility, such as an asylum or transit centre, written on their registration certificate, within 72 hours. The timeframe is not to be surpassed without a justifiable cause; otherwise the law on foreigners can be called into action (BCHR, 2018; ECRE, 2018). The LATP outlines that asylum applicants are to be provided with accommodation and sustenance, taking into consideration the particularities of the individual, i.e. their sex, age, family unity, or status with special procedural or reception guarantees (Official Gazette of the Republic of Serbia, 2018). Further, Commissariat for Refugees and Migration (CRM) should provide unaccompanied minor asylum seekers with accommodation in institutions of social welfare, family or to other relevant service provider by decision of Centre for Social Work (CSW) if conditions in asylum centres don't meet their needs (Official Gazette of the Republic of Serbia, 2018). As well, in cases where subsidiary protection or asylum is awarded to a refugee the CRM is in charge of providing accommodation for up to a year after the decision is granted. The institution has been assigned by the task of offering integration assistance for individuals who have been granted asylum through integration advisors who aid in this regard

and with other needs relevant to their particular position (LATP in Article 23) (Official Gazette of the Republic of Serbia, 2018; CRPC and HCIT, 2018).

In 2018 there were 5 active asylum centres: Banja Koviljaca, Bogovadja, Tutin, Sjenica and Krnjaca. Their total capacity can house 1,770, in addition to 14 temporary reception centres with total capacity for 4,220 (ECRE, 2018), with 3 reception centres being on hold. Still, there is no special accommodation centre for unaccompanied minors, and majority of them are being placed together with adults (families and singles) in existing asylum and reception centres, where their special needs cannot be met, most importantly need for safety and security, physical but also social and emotional, as well protection from violence, abuse and exploitation. For those of very small age or specially vulnerable (victims or at high risks of violence and trafficking) accommodation is provided in operational units of the Institute for Education of Children and Youth in Belgrade, the Institute for Education of Youth in Niš, Home for Children without Parental Care “Jovan Jovanović Zmaj”, and “Integration house”, governed by Jesuit Refugee Service (JRS). In all of the above mentioned special accommodation facilities there is place for up to 60 beneficiaries, which means that approximately 10% of present UAMs in Serbia have luxury to be placed in safer and more appropriate facilities. Pressured by problem of accommodation of UAMs and fact that big number of them is not registered, from 2017 Commissariat made several *ad hoc* decision in designating one of their facilities for accommodation of unaccompanied minors, regardless instructions in registration certificate of those who are registered. As it will be shown in later chapter those temporary solutions didn't have success and some of them created additional problems in accommodation of UAMs.

## INTEGRATION IN EDUCATION

The LATP outlines the right to universal free primary and secondary education for all asylum children, and is to be immediately provided no later than 3 months from the asylum application (BCHR, 2018; Official Gazette of the Republic of Serbia, 2018). Every migrant child has the right to access and obtain education, regardless of their status, and The Act on the Basis of the Education System confirms that that foreign nationals and stateless persons shall enrol in primary and secondary schools and exercise the right to education under the same conditions and in the same manner as Serbian nationals (ECRE, 2018). UNICEF and Commissariat data reported that 420 children were enrolled in Pre School, Elementary, or Secondary School including 211 of newly registered. While the year 2018 has witnessed some progress in this field, still there is need for greater improvement specially having in mind that children migrants, asylum seekers and refugees are not fully integrated (some of them not even enrolled) in education. When it comes to UAMs, specific problems arise, since majority of them are between 15 and 17 years old, and by their calendar age should be enrolled in secondary schools.

However, language barrier, inability of education officials to assess level of their knowledge, lack of proof of previous primary education (needed for enrolling in secondary education), as well higher educational demands in secondary schools are obstacles in the field which are significantly limiting access and integration of UAMs in education. Still there is no systematic approach to this problem and UAMs are dependent on ad hoc solutions, which leaves majority without chance to be enrolled in education.

## **FINDINGS: POSITION OF UNACCOMPANIED MINORS IN SERBIA: DOCUMENTED EXPERIENCES IN 2018**

The position of unaccompanied minor migrants in Serbia is assessed via intensive fieldwork of multidisciplinary mobile teams (lawyers, psychologists, pedagogues, social workers, interpreters) of Asylum Protection Center and in-depth investigation of selected topics relevant for discussing their status, treatment and the factors determining their overall position over the course of 2018. Thus, this chapter portrays research findings in the domains of the status and legal position of UAMs, age determination, accommodation process and treatment in accommodation, the institute of guardianship and integration into the system of education in 2018 in Serbia.

### **STATUS AND LEGAL POSITION OF UAMS: PRACTICE AND CHALLENGES IN 2018**

As we have seen from the discussion on contextual circumstances during 2018 a approximately 40%-50% of unaccompanied or separated migrant children was registered in Serbia, yet the numbers of those who actually started asylum procedure, is far less than those registered by the police. Based on status, three groups of UAMs can be distinguished in Serbia – non-registered, irregular UAM migrants; those who passed registration process and expressed intention to seek asylum; and those submitted asylum application. According to the legal provisions, the UAM may express intention to seek asylum at the moment of crossing the border or at the police station of choice at the territory of Serbia. Moreover, a temporary guardian must be present with the child in all the procedures before the state authorities and represent his or her best interests – this applies for both registering procedure as well as asylum seeking procedure.

The findings from the field indicate that registration procedure is often interrupted by the fact that UAMs come without guardians to the police station which delays registration and involves additional steps to be undertaken. For instance, APC's fieldworkers indicate that in such a situation police officials instead of contacting responsible Centre for Social Work as to

delegate guardian to the UAM, often instruct the child to visit One Stop Point - Miksaliste<sup>2</sup> in order to seek assistance from the social workers (APC fieldwork reports, 2018). Moreover, while presence of the guardian is mandatory and in the best interest of child during processes before the state, as it was stressed during the interviews, it often prolongs start of asylum procedures due to, in some circumstances, lack of guardians delegation to the UAMs, or mischief and delay in information provision by the guardians about asylum procedures to the unaccompanied migrant children. As a result, according to the APC representatives (interview APC, 2019), UAMs take on active role in taking incentives for regulating their status by visiting relevant organizations that can represent them as legal advisors in the asylum procedures including APC. As results of the research suggest, the main reason for getting in touch with potential legal representatives is the lack of information obtained about asylum procedure, lack of trust in guardians or passive attitude of guardians towards needs of UAMs to regulate their legal position in Serbia (interview APC, 2019). It is important to point out general attitude of guardians and protection system that “unaccompanied minors just want to continue their journey” and lack of knowledge about asylum, that results in them unknowingly providing false information, failing to motivate kids to regulate their status, as well failing to recognize their own position as a key person with responsibility to conduct best interest of a child (which simply can't be to stay in irregular position). When in contact with the UAMs who independently ask assistance from the APC, the guardians receive information about UAMs interest for legal representation in the asylum process and thus offer it. While in some cases guardians are in approval of the offer for legal representation in others they tend to block the process and suggest alternative solutions such as assistance in including their beneficiaries to the ‘Hungarian waiting list’ for crossing the border. In this vein, an APC official stated the following:

*In 2018, we've been contacted by a minor [migrant] from Ghana who was placed in the asylum centre Krnjaca, at which point he had no guardian. The minor is adequately informed about the need for guardian appointment, provided emotional support, as well as the necessary information. The minor wanted to seek asylum in Serbia. It took a month for guardian to be appointed to him. He was in contact with our team all the time, gained trust and connected with members of our organization. However, after his guardian was appointed, he told me that he would not seek asylum in Serbia, that his guardian had told him that he would go through the Hungarian list. He also stated that his guardian told him that he should not speak to members of our team anymore. (Interview APC, 2019)*

While the motives for such conducts by some guardians cannot be established, it is obvious that the principle of a best interest of a child such as regulating legal status including rights and obligations stemming from it, was certainly not

<sup>2</sup> Miksaliste is a work space shared by several organizations that provide various services to migrants and asylum seekers, and functioned as a day centre, until the takeover by the Commissariat for Refugees and Migration, in early May 2018, when it became a kind of "one-stop" centre, where migrants come in first contact with KIRS, which directs them to reception centres for accommodation. A number of organizations is still present, as well as a mobile team of social workers in charge of unaccompanied minors, with permission and with the consent of CRM.

respected in the given situations. What is more, abovementioned conducts of responsible persons inevitably lead to enlarging pool of UAMs without regular legal status including rights stemming from it. Thus, significant number of UAMs finds themselves in tolerable irregular position without legal basis for staying in the country while being outside of the asylum and migration system. In line with general tolerance of the government towards irregular status of migrants, UAMs are mostly provided with accommodation, despite their legal position.

Yet, if the guardian in agreement with the child he represents initiates the asylum procedure, the first step is to authorize legal representative for the case who then gets in touch with the Asylum Office within Ministry of Interior of the Republic of Serbia. The narratives from the field clearly indicated that while asylum procedure for UAMs does not differ from those for adult asylum seekers except for the presence of the guardian who must accompany the child, they tend to be lengthier and not in line with the standards of the International Child Law. Although, unaccompanied minors are recognized in LATP as vulnerable group, and thus have right to special procedural guarantees, in practice that is not the case, but it is even contrary having in mind length of procedure and resistance of Asylum Office in organizing asylum interviews as well making the decision on asylum application. As the APC representatives claimed:

*From experience I can say that UAMs are waiting longer than adults for the first, or second interview and in general the decision on an asylum application, which seems to be intentional, since the support system for UAMs, especially for those who are granted asylum and need to integrate is rather bad, and there is no clear long-term plan for what to do with the children who remain in Serbia. (Interview APC, 2019)*

Besides, research findings revealed that the personal interviews during the asylum procedure last for many hours while persons conducting them often avoid to consider vulnerable position of an applicant who is, in this case, an unaccompanied child and modify their approach in interview itself. Moreover, the results of granting asylum to UAMs are devastating – in ten years of fully operational asylum system in Serbia only one unaccompanied minor got to receive asylum in 2018:

*As for the decision itself, the first asylum granted to an unaccompanied minor (represented by APC) was granted at the end of December 2018 (...) [Yet] the asylum seeker has already turned 18 in January 2019. The legal procedure for integrating minor asylum seekers has not yet been applied to them so far. (Interview APC, 2019)*

As a consequence of above discussed circumstances many UAMs give up entering asylum seeking procedure and thus remain in the irregular position being at risk from trafficking and smugglers, while simultaneously facing enormous pressure from the parents and relatives to keep on trying to reach destination country, as well intimidations and control of smugglers and traffickers, interview testimonies confirmed.

## AGE DETERMINATION

The relevant status and subsequent procedures applied to regulate migrants' position in Serbia depend, amongst others, on the age determination procedures. However, age determination procedures for UAMs within the Serbian asylum and migration legal framework have not been developed, as it has been shown earlier. This situation makes a space for various misinterpretations of age by both children and relevant authorities which directly impacts the position and treatment of the migrant child (or adult) in the asylum and migration system. Thus, as research findings show, there are cases when informal age assessment is being conducted, based on a vague, subjective criteria, mostly by social workers and staff of Commissariat for refugees and migration, and done in order to differ minors from adults who falsely claim to be minors hoping to get better treatment. Together with that, fearing to be separated from their group and unable to continue their journey, children are sometimes claiming to be adults and being treated as such. Rarely their initial statements were revised leading to them being treated as adults although they were claiming that they were not.

*In cases when UAMs were claiming to be adults, they were even saying that they were advised to do so by Commissariat's staff of camp where they were accommodated together with their group, in order not to be separated. (APC filed report 24.07.2019.)*

These practices impacted in many ways the position of a person in question including the ways in which the right to accommodation and social protection will be pursued.

The narratives from the field further imply that despite the statement given by the UAM on his/her age relevant institutional representatives (Commissariat for Refugees and Migration, the police or social workers) in some cases tend to amend the age stated and register or treat UAM as an adult.

As interviewees pointed out, in practice UAMs have been frequently treated as adults despite their statement:

*Most unaccompanied minors were treated as adults, at the transit centre in Obrenovac, where all refugees in the camp were kept as adults (they were issued camp cards stating that they were of legal age), although this was in contrast with their statements. Several times in asylum centre Krnjaca they happened to register a person as an UAM (they give him a camp card that he is a minor) while later during reissuing card (during the same year) he would be treated as adult. (Interview APC, 2019)*

However, the representatives of relevant institutions disagreed with the precedent statement. Namely, while they have confirmed that age revision is practice that is necessary to be implemented when it is obvious (according to physical characteristics) that person is older than claimed, the revision is considered only when dividing minor migrants in two

groups - younger and older minors as to adjust their treatment in accommodation or delegating different options of accommodation for different groups of minors:

*Revision means that a persons from the police, social worker and us were assessing who the younger and who the older minor was (...), you know. And we've done it by approximation of age, but no one has changed their testimony that they were minors. (...) So we had to do it carefully. Because by all ... laws, instructions, charters, international and ours, he is as many years old as he declares to be. In a serious instruction written by [names of the authors], there are two criteria for evaluating years. The first is what they say, and the second is the observation of a social worker present on the occasion. This observation has not been approached and never accessed except in these special cases. So we accepted, you say you are 17, you are 17 years old. But you go to Sjenica [asylum centre]. (...) So when there were 500 of them in Krnjaca, then we said: we cannot change statement, that he's 17 when it is obvious that he's 27, but we will leave those younger smaller ones in Krnjaca [asylum centre] and those older send to Sjenica. And that's what we did. Twice. It has been done twice, and poorly, but this is because the interest of the younger ones was priority because it is not in their interest to be with these elders, it is better to be with families in Krnjaca, it is safer for them, and we have moved these older ones to Sjenica [from Krnjaca asylum centre]. (Interview, Commissariat for Refugees and Migration, 2019)*

Moreover, research findings further demonstrate that in situations of newcomers coming to Belgrade, field social workers and Commissariat's staff working in "one-stop point Miksaliste" are conducting some sort of an age assessment when they doubt age of a person claiming to be minor. Through interview and informal visual assessment they are making the judgment on person's age. If their conclusion is that a person is not a minor, regardless of his/her statement, they are denying their assistance and services and directing the person to the police station to express intention for asylum as an adult, or to Commissariat's staff to directly regulate accommodation (still staying in irregular position). In number of such situations APC staff witnessed these so-called assessments. It was observed that the main criteria are physical characteristics and appearance of person, which was in line, or not, with subjective idea how a minor should appear:

*Three refugees from Afghanistan, S.S., S.I. and N.M., came to the APC office. All three were stating that they are 15 years old. They were explained that social workers will be contacted in order to help them to register in the police and regulate accommodation. When the social worker entered the office, she loudly commented "these two are adults for sure, and this may be a minor". During this "assessment", one of the boys identified as adult had his back turned to her and she couldn't possibly see his face. When the social*

*worker was asked who and on what basis is conducting age assessment, she answered that the police and the Commissariat for Refugees and Migration are doing that, based on the physical appearance of migrants. (APC office report from 14.05.2019.)*

This statement was partly confirmed by a terrain social worker engaged in Miksaliste who indicated the following:

*We're accepting their [UAMs] statements about the age, but you know, sometimes it is so obvious that a person is an adult not a minor... and we talk to that person, and it is better that he says his years because he won't have any privileged position if he claims he's minor... Now, especially when Krnjaca [asylum centre] was open that was the case. They were all underage because it was convenient for them to be in Krnjaca. And sometimes comes a person who is for sure 35 years old and claims that he's minor. And also sometimes on the way to the police station [for registering] they sometimes change their statement about the age. (Interview CSW Savski Venac, 2019)*

Experiences of interviewees confirm that some of those who were registered as UAMs based on their age statements, in certain situations reveal their actual age (which ranged between 19 and 25 years old). The main reason for misleading practices in age statements was based on the premise of achieving greater degree of protection stemming from delegated UAM status. On the other hand, social workers including guardians would often find out about the actual age of a registered UAM when there was a need for health assistance and giving age-appropriate medical therapy.

In sum, while the asylum and migration system relies on the migrants' statements about the age as an only age determination mechanism, cases from the field confirm that the system treats some of registered UAMs as adults as their physical characteristics do not abide to a vague and subjective idea of valuator how minor should physically look. On the other hand, in hope for better treatment and accommodation conditions some of those registered as UAMs intentionally mislead institutional officials by claiming younger age than actual. Both practices lead to systemic irregularities while affecting implementation of protection measures for this population and thus their relevant position and treatment. This is most notable in the domain of treatment in accommodation as it was in the asylum seeking procedure.

## ACCOMMODATION OF UAMS: PRACTICE AND CHALLENGES IN 2018

### TYPES OF ACCOMMODATION AND SELECTION CRITERIA

Registered UAMs were usually accommodated in two sorts of accommodation facilities in Serbia during 2018: asylum centres and reception centres both led by the CRM, and institutions of social protection and care and integration house for UAMs established by Jesuit Refugee Service<sup>3</sup> in Serbia registered within the system of alternative care. The Ministry of Labour, Employment, Veteran and Social Affairs have designated three social care facilities for the accommodation of unaccompanied children – the Institute for Youth Education in Niš, Special department of the Institute for Education of Children and Adolescents in Vodovodska Street in Belgrade and the Home for Children without Parental Care “Jovan Jovanović Zmaj” in Belgrade with total capacity of 40 beds. Together with capacities of integration house, in Serbia in total there are 60 beds for unaccompanied minors. Having in mind that at every point during 2018 there was approximately 450-500 UAMs these capacities cover a bit more than 10% of the accommodation needs and majority of unaccompanied minors are actually placed in asylum and reception centres, together with adults.

Significant problem in accommodating UAMs arise from question of responsibility and mandate of three institutions – Commissariat for Refugees and Migration, Ministry of Interior and Centres for Social Work. As provided by Family law, guardianship authority, thus CSW, is responsible for accommodating unaccompanied minors. But since police is issuing registration certificates with instruction to which centre person will be places, and CRM is governing accommodation facilities, it is indistinct and vague who has the mandate to make final decision where a child traveling alone will be placed. As it is shown in practice CSW representatives can decide if a child will be placed in one of the social care institutions, according to their capacities and free beds, while when it comes to placing UAM in centre, then CRM is deciding which centre it will be.

However, the CRM’s representative claimed that recommendation from the terrain social worker who usually first gets in touch with UAMs is always respected:

*We act based on the recommendation of the social worker - that is not our decision. The social worker sits in Miksaliste, who accompanies children to Sjenica [asylum centre] each time, and who gives recommendation where the child is to be sent. (Interview CRM, 2019)*

Still, the voices from the field suggest that CSW may recommend certain type of accommodation to CRM, but as stressed the recommendation was not always respected. Social worker interviewed stated the following:

<sup>3</sup> For more information please visit: <https://jrs.rs/en/projekti/integration-house-for-vulnerable-groups-of-refugees/>

*We can send a memo [to CRM], a request with a justification, for child's best interests, which is why we refer them there, (...). So, as before, we need certain camps to accommodate certain UAMs, where we think it is better for them. (...) But, they [CRM] can refuse and send us reasons - why they can't accommodate them. (Interview CSR Palilula, 2019)*

Faced with problems and pressures arising from lack of special accommodation centre for unaccompanied minors, where their need for safety (physical, but also social and emotional) will be fulfilled, their special needs met, and where they will be under professional supervision, CRM started designating one of their accommodation facilities for UAMs only. At the beginning of the 2018, asylum centre Krnjaca, in Belgrade, was chosen to be the only place where UAMs will be accommodated, although together with adults and families. In second half of the year, in November, this practise was changed and asylum centre in Sjenica, far south in the mountains, became centre only for UAMs. Part of those accommodated in AC Krnjaca were transferred to Sjenica, and all newcomers were directed there. This change caused children to get back in the streets and parks of Belgrade, but also border areas, since they were refusing to go to centre which is far from migration route and Belgrade as focal point for services, and where they are facing lack of support and living conditions.

Beside these two asylum centres, there were also sporadic provisions of accommodation in reception centres Obrenovac, Bujanovac, Presevo or Adasevci, where unaccompanied minors were mostly recorded and treated by CRM as adults.

## ACCOMMODATION IN AC KRNJACA AND AC SJENICA

According to the testimonies from the field, asylum centre in Krnjaca was the primary accommodation facility for UAMs during most of the 2018. Those UAMs that were accommodated in other asylum and reception centres were now transferred to Krnjaca as a centre that was intended to accommodate UAMs as well as families and single adults. Two practices for those in need of accommodation emerged during that time: a) mobile team of CSW would gather those newly arrived UAMs from Miksaliste as their first stop point and after registration in the police office they would be instructed for accommodation in Krnjaca asylum centre; b) mobile teams of social workers would directly instruct UAMs to be accommodated in Krnjaca and get identification cards from the CRM officials in asylum centre as to enable their accommodation whether or not being registered in the police.

During that time some of UAMs whose age statement would be suspicious to the social worker and/or CRM staff, were informally assessed using vague and subjective criteria and mostly relying on their physical characteristics and idea how a

minor should look like. If they were identified as adults they were placed in reception centre in Presevo or in reception centre in Obrenovac that is intended to accommodate only single male adults. (Interviews, CSW Palilula 2019; APC, 2019)

However, as of November 2018 practice changed. Namely, based on the CRM's, the Ministry of Interior and the Ministry of Labour, Employment, Veteran and Social Affairs decision asylum centre in Sjenica became the primary accommodation facility for UAMs. The main reasons concern the lack of capacities for additional accommodation in Krnjaca asylum centre including security and safety issues that emerged (frequent quarrels, thefts, fights, etc.). Transfer to Sjenica AC concerned those of older age and not attending school in Belgrade, while those newly arrived would be directly provided with the accommodation in Sjenica AC. However, as testimonies confirmed, while majority of UAMs was transferred to Sjenica, some still remained in Krnjaca asylum centre as their best interests were considered when deciding about the transfer (Interview CSW Savski Venac, 2019). Moreover, in situations when two or more UAMs of different age travel together as a group of friends or family, the principle of accommodation change as to avoid their separation. In these circumstances both older and younger one would be accommodated in Sjenica asylum centre:

*(...) It can't be black and white. You know? You have a little one who travels with a big one. That big one says, I'm 17, and this little one says 12. And now what you do is to send them both to Sjenica. And then this older one leaves, and then this little one of 12 years old stays in Sjenica (...). That's how it happens. (...) They come, declare themselves as a family, brothers, and then this older one leaves, leaving us a small child. And now it has to be done quickly. You know, you have to move him quickly, if he is really small, because you have really young children of 12, 13 years old, and they go by the decision of the Centre for Social Work in their accommodation facilities. (Interview CRM, 2019)*

While the principle of accommodating similar age group UAMs in one designated facility is seen as positive by the officials, set of challenges emerged. Namely, many minors would abandon accommodation in Sjenica and would decide to come back to Belgrade often remaining without any accommodation option. The main reasons, as referred during the interviews, were the location of the asylum centre which is distant from Belgrade and the borders:

*These children would stayed outside, sleep on the street, in the park, in squats, or "illegally" in Krnjaca hiding behind someone in the room, and when contacted CSW refused to go out or take care of the UAM with comments that accommodation has been already provided, and that they should return to the accommodation initially provided. (Interview APC, 2019)*

In one of such cases, when unaccompanied minor returned by himself to AC Krnjaca, he was victim of physical violence and brutality by the security guards.

*15 year old unaccompanied minor, coming from Afghanistan, came to the APC office to seek for help to be accommodated and to report incident in which he was participating previous evening. Before ending up outside in the street he was in one of the institutions of social care, but was told that he will be transferred to AC Sjenica, since he was frequently leaving the accommodation house and disobeying the rules. Since he didn't want to go to AC Sjenica one night, illegally, without the permission and knowledge of CRM, he entered AC Krnjaca with two other minors and settled in one of the rooms. At around 02:30 during the night, 5 men, security members, appeared and started shouting at the boys and forcing them to get out. One of the security guards had a teaser and burned him on the head with it. Two burns (redness and bulging) in the shape of a circle are visible on the scalp, one 1 cm in diameter and the other 2 cm in diameter. He claims that he had dizziness after that, but that he did not have nausea, vomiting, loss of consciousness or any other symptom of concussion, except for the pain in that area of the head, by the time he arrived at APC office. (APC field report from 10.12.2018.)*

While practices of leaving provided accommodation in Sjenica AC were almost regular, the responsible institutions did not have relevant response for solving this emerging practice and often remained passive towards these situations. Some guardians were stating that “they can't order anyone where a child will be placed, because that decision is on CRM's side”. Ignorance toward this problem became strategy and children were left on their own. Some were deciding to accept AC Sjenica and return to the centre, while significant number stayed in the streets and border areas.

Moreover, as research findings show, parents and families of UAMs are those who usually instruct and approve relevant decisions of importance for UAM when it comes to their journey, together with smugglers and traffickers who are organizing it and often deliberately misinforming, tricking and threatening children not to go to the camps. Numerous times, a child would state that they must leave the camp because a smuggler contacted them and said so, adding that there are high expectations from their families to reach Europe, and that they cannot fail.

When it comes to conditions, it is important to mention that asylum and reception centres are not safe and appropriate for accommodating unaccompanied minors. The structure of these centres is such that there are no physically separated facilities in which only UAMs are accommodated, and it is even happening that they are accommodated in rooms together with adults. During 2018, in the asylum centre in Krnjaca, there were numerous incidents in which children were attacked, abused and robbed. When they would complain to CRM's staff in the centre, they were mostly not taken seriously, and their call for help was ignored. Eventually some of them were leaving the centres trying to regain safety by staying and sleeping in streets, forests and squats.

*An unaccompanied minor, age 15, coming from Afghanistan, states that he has problems with a man in AC Krnjaca who comes to his room, does not want to go out, smokes, takes his things, threatens to beat him. He denies sexual harassment and abuse. When he complained to the Commissariat, they told him "we know what you are doing, you bring illegals to your room, take care not to be thrown out of the camp." (APC field report 26.03.2018.)*

Unfortunately, it also happened that one of the unaccompanied minors, aged 16, was sexually abused in the AC Krnjaca by another migrant. Given that he was under guardianship at the time, the reaction was timely, but solution was incomplete since he was relocated to another asylum centre, where single adults and families are also accommodated and where there is no professional supervision of unaccompanied minors.

Violence, disrespectful, harsh and aggressive treatment is coming also from individual staff of CRM in the camp. As minors were stating, they were yelled at, called names, threaten and in one case even physically attacked by CRM's staff, in situations in which their behaviour was assessed as disobedience, but also in situations when UAMs were seeking for support, humanitarian aid, or were complaining about problems that they are facing.

Moreover, living conditions are poor, often there is lack of basic necessities, such as hygiene, shoes, clothes, bed sheets, etc.

Unaccompanied minors that are without accommodation and staying in border areas, in squats, parks and, are completely left on their own. APC mobile teams visiting, monitoring and providing assistance and support to migrants in the open areas, were notifying local CSWs, but reaction was mostly left out. Social workers were stating that they don't have capacities to come out to the field, access needs and risks of UAMs, or even if they did that, they were directing UAMs to go by themselves to Belgrade, although there are transit centres nearby, and it is responsibility of local CSWs to provide every unaccompanied minor in the street with accommodation, guardianship and protection.

*During a visit to open area in Sid, APC mobile team met an unaccompanied minor, age 16, coming from Afghanistan. The boy was in a bad mental and physical state - exhausted, neglected, and dirty. He explained that he had been in AC Krnjaca two months earlier, where he was attacked with a knife by other migrants (he shows scars from knife stabbing and cutting on his right hand). He also has a scar on his throat, explaining that he got it during attempt to cross the border with Hungary, when he tried to jump over the fence and fell on the wire, which does not seem like authentic explanation. After escaping from CA Krnjaca, he came to the "jungle" near Sid. During his stay outside, he tried to enter nearby reception centres Principovac and Adasevci, but was refused by CRM. CSW Sid was immediately informed about his*

*presence with focus on his poor physical and mental state. However, social worker explained that they don't have capacities to come to the field and stated that now all unaccompanied minors are by decision of CRM sent to AC Krnjaca, so the minor should by himself go to Belgrade and seek assistance there, although she was informed about safety risks and life threatening situation in which he was, which was one of the reasons of leaving AC Krnjaca. (APC field report, 29.01.2018.)*

## ACCOMMODATION IN SOCIAL PROTECTION INSTITUTIONS AND INTEGRATION HOUSE

In 2018 institutions of social care and protection accommodated UAMs of younger age as well as those falling under the most vulnerable categories within this category of migrant population. As indicated above – two social care institutions are located in Belgrade, including JRS integration house, while in the central and southern Serbia the Institute for Youth Education in Niš was responsible for accommodation and care of minor migrants.

According to interview accounts, decision on accommodation provision in social care institutions is sole responsibility of CSW whose social worker assess the case of each child and decide on the type of accommodation needed. In that regard, the research participant from the Institute for Youth Education in Niš stated the following:

*The local centre for social work decides to place the child in the Institute for Youth Education in Niš. They get in touch with them to see if there is a place. The accommodation there was provided even for children found in Kragujevac, Kursumlija, or in the border areas mostly in the south of Serbia. The Institute requires that children have some of the documents and a health check, at least because collective accommodation is at stake, so care must be taken as to prevent infections. Often children are registered, and if they are not, then they do it in police station in Nis. (Interview Institute for Youth Education in Niš, 2019)*

Moreover, as it was stated unaccompanied children under the age of 14 must be provided with the accommodation in social care institutions even if the capacities of the institution do not allow additional reception:

*Young children, go there [institutions of social care] and this is a must. So, a low calendar age of up to 14 years ... But literally, for example, for very young children, one always has to find a place and that is where we really have the support of the Ministry [of Labour, Employment, Veteran and Social Affairs]. If they [institutions of social care] reject us, and it happens, that they don't have free place then we call the Ministry, they call them and at the end they accept the child. (Interview CSW Palilula, 2019)*

However, children that are above the age of 14 and belong to the vulnerable group within UAM population can be accommodated in social institution such as Home for Children without Parental Care “Jovan Jovanović Zmaj” (Zmaj) that hosts children and youth between the age of 7 and 26. Some of those who are accepted and are living in this social institution have previously been accommodated in asylum centres which as per assessment of the social worker became inappropriate type of accommodation due to number of risks children faced on a daily basis, or incidents in which their safety and wellbeing was endangered. The process of reception in social protection institution depends on CSW’s child’s best interest assessment in terms of accommodation which then fills the request for reception in the selected institution:

*The Centre for Social Work is the one who contact us with a request explaining why it would be good for that child to be with us. If, after consideration, after the meeting of a reception team consisting of three members of the committee, the reception team is here, the social worker who is certainly employed in the orphanage, the educator and I, consider that we can respond to the needs of that child or young person and if there is room then of course the answer is positively written. (Interview Home for Children without Parental Care “Jovan Jovanovic Zmaj”, 2019)*

Before the reception in social care institution copious medical assessment and registration process in the police office should be completed, as well as profile information about child provided in order to support integration plan of a child within the institutional environment:

*We are looking for a few sentences here to describe who the child is, what age he is, where he comes from, what is known about that child. Anything. Any information you know is good and all this is done for the sole purpose of other children staying here. We really have to be careful ... It is primarily about integration. It's about integrating someone who comes here. We cannot prepare integration and have integration if we know nothing about that person. Unless we know what the risks are. (Interview Home for Children without Parental Care “Jovan Jovanovic Zmaj”, 2019)*

As stated by the representative of Home for Children without Parental Care “Jovan Jovanović Zmaj”, those who turn 18 years and do not attend school on the regular basis need to leave this sort of accommodation. However, the steps for transition into adulthood are still indistinct and are lacking for this category of migrant population:

*He does not go to school, and is 18 years old. Our kids have to get out of the house. So they can't stay here anymore. By 18, that's it. He has to be there, he has to be taken care of, guardianship is obligatory up to the age of 18. If they are not going to continue their education, they must go out. (...). So the conditions for the child must be provided to come out. So the question remains here, but I say, we cannot make a*

*decision on our own, nor will we do it. Centre for Social Work is primary responsible for that. (Interview Home for Children without Parental Care “Jovan Jovanovic Zmaj”, 2019)*

Planning the transition into the adulthood thus needs to be thought of by relevant institutions. During 2018, these processes have not been initiated which results in exposing this group of beneficiaries to a number of risks they may encounter after leaving the social care institutions. It is still left to be seen how it will be governed by authorities, hoping that UAMs will not be left on their own overnight, upon turning 18, like it is case now.

Conditions in institutions of social protection are featured with higher standards of accommodation, services and safety comparing with asylum and reception centres. Yet, as we have seen, their capacities are limited to accommodate far less beneficiaries than asylum centres. In Home for Children without Parental Care “Jovan Jovanović Zmaj” high standard conditions are provided to UAM beneficiaries whose number in this institution is limited to 10:

*Five bedrooms, two occupants per room. Two toilets, two bathrooms, living room, one large beautiful terrace and so on. They also have kitchenette, although they have a meal here, but they can cook something for themselves, making coffee, tea and so on. So in principle, a very nice space was intended for these needs. (Interview Home for Children without Parental Care “Jovan Jovanovic Zmaj”, 2019)*

In addition, services they provide include comprehensive care in terms of health care assistance, education and recreational assistance including various workshops and activities organized for the beneficiaries.

*Home care educators and caregivers in charge, they contact the school, well, I wouldn't say on a daily basis, but on a weekly basis ... they are involved in their schooling, they take them to enrolments, etc. They take them to museums, McDonald's. The educators work three shifts, so before noon, afternoon and night, there are six employees here and that's it. (Interview Home for Children without Parental Care “Jovan Jovanovic Zmaj”, 2019)*

Hence, those UAMs who got accommodation in social care institutions have solid grounds for development based on the provided material and service-related conditions and care. Yet, the lack of capacities of these institutions, leaves majority of UAMs behind. Although some efforts are made by responsible institutions to enable accommodation for vulnerable groups of UAMs even when capacities are limited, majority (90%) still remain stuck in asylum or reception centres exposed to various risks of insecurity, lack of basic living necessities, violence, abuse and exploitation.

## THE APPLICATION OF THE INSTITUTE OF GUARDIANSHIP: PRACTICE AND CHALLENGES IN 2018

The guardianship in the Republic of Serbia operates within the social protection system and is entrusted to CSWs for all children, including the ones coming from refugee / migrant population. CSWs, as social protection institutions, are established by local self-government units but are largely funded from the national level government. The case manager is an expert in charge of a specific case who assesses the needs of a child and coordinates measures and services to protect and support a child using the potential of the centre and other services and resources in the local community. Support of a professional team consisted of a supervisor, case manager and specialists from the CSW, or from other institutions and organizations within the social protection system is available for case manager and in certain situation even obligatory (for example when it comes to evaluating suitability of a guardian, evaluating their work, making decisions and giving consent to a guardian for certain specific measures, etc.).

Centre for social welfare, as guardianship authority is among other things responsible for appointing guardian, assessing the personal characteristics and the ability of potential candidates to perform the duties of a guardian, addressing and resolving complaints about guardian's work, supervising his work and issuing decision on termination of guardianship. In addition and with regards to UAMs, the guardian has the role of accompanying the minor throughout all asylum procedures, beginning when the child is first established as an UAM and no later than prior to the submission of the initial asylum application (BCHR, 2018).

Experiences from the field point out to several problems, which affect the practice of guardianship for unaccompanied minors in Serbia. The social protection system in Serbia has been overstretched for years, with almost constant and same number of social workers dealing with an increasing number of cases.

Due to the inadequate capacity of the current system, it is not uncommon for the police to register an UAM without a guardian supporting the UAM at the moment of registration as it was noted before, even if it is contrary to the law. An extension to this problem refers to the cases where the Border Police Administration does notify the relevant CSW and social workers are called upon, they do not consistently show up or arrive with delay. This affects the maintenance of the best interests of the child because UAMs are left exposed to risks while waiting for a temporary guardian in order to be registered and assigned to an asylum or reception centre. In the words of the interviewee from the Republican Institute for Social Protection:

*Of course, it's not (incomprehensible) because there are a lot of users and this slows down the process of appointing a guardian (...). So when you look at the law, none of them (UAMs) should be able to register without a guardian. So, the moment you enter the territory alone, nothing should be done without a*

*guardian (...). In my opinion, when the children started to enter the country, at the very entrance to Serbia you had to have at your disposal people who could be guardians. That's the only right way. You can change the guardian afterwards, it is not a problem, but at that moment of entry, there must be a person who will act as guardian... (Republican Institute for Social Protection, 2019)*

It has been recorded that in Serbia one temporary guardian is typically in charge of up to 60 children, while the legal standard dictates that the ratio should be at 1:25. Local NGOs estimate that the number of UAMs per one guardian is even higher – from 60 to 100. Most extreme case is, according to UNHCR, in Sjenica where there is one guardian on 200 children. Ratios of children to guardians alter and fluctuate depending on the number of UAMs at any given point, and not all children will be assigned a guardian as confirmed by the interviewees.

*You have to keep track of what they are actually doing, the police keep statistics through registration, but a huge number of minors cannot be registered as they are not accompanied. The Commissariat has them accommodated, so they know the correct figures. It turns out that UAMs who come with the guardians from CSWs have the luxury of coming in contact with social workers. (Republican Institute for Social Protection, 2019)*

Looking at the data mentioned in introductory chapter, it is visible that number of UAMs accommodated in Commissariat's facilities is far bigger than number of those who were in contact with local centres for social welfare. Insights gained from the field also show that some unaccompanied minors stay in asylum or reception centres for up to six months without a guardian. This can be partially explained by the lack of capacities of local centres for social welfare, but also informal rule to appoint guardian only to those minors that are already registered. Not only that this rule is contrary to the LAMP, where a child which is traveling alone can be registered only with a presence of a guardian, and Family Law, where every unaccompanied child must be appointed with guardian regardless their gender, age, country of origin, status or any other characteristic, but it is also deepening risks of being in irregular position. Prolonged waiting period for registration and appointment of guardian made some of UAMs to lose patience and hope, and strengthen their idea that they cannot get help and protection in Serbia.

*In one of such cases, a minor A.D., age 15, coming from Afghanistan, approached APC/CZA officers and said that he wants to seek asylum, as well that he doesn't have a guardian. The next day, CSW was informed. Two weeks later a notification from CSW was received that the minor is not on the list of the Commissariat for Refugees and Migration in that camp. Since A.D. confirmed that he was still in the camp,*

*notification was sent back requesting immediate reaction in order to protect the minor and enable him to apply for asylum. A.D. was registered couple of days later, but was not appointed a guardian. After 2 months of waiting, A.D. lost interest and left the camp. (APC field reports from March until May 2019)*

To address the burden on CSW staff and resolve the low assignment rate of guardians to UAMs, in the Institute for Education of Children and Youth Nis, the guardians are employed by the Institute. The team in social institution is composed of social worker, psychologist, and the Head of the Centre for the Accommodation of Juvenile Migrants within the Institute. This team acts as a caregiver, and is well suited to do so 'because we can react quickly' (Interview Institute for Education of Children and Youth Nis, 2019).

*If the guardian was from CSW Niš he/she would not be able to see that child, it would be physically impossible. There were some ideas of introducing professional guardians, but that was only an idea. It is hard to be a guardian, but as hard it is for me, it is easier on the child because this helps him/her to function well, than to call someone from the Centre for Social Work who is physically unable to get there (Interview Institute for Education of Children and Youth Nis, 2019)*

However, this kind of approach within the social protection system is still an exception. Another way of bypassing the lack of staff to deal with the migrant population in 2018 was through projects of NGOs and/or international organizations, such as the International Organization for Migration (IOM) and UNHCR. As it was explained in previous chapter new concept of "professional guardians" was introduced. They are employed by organization IDEAS, with financial support of UNHCR. Case management was still provided by local centres for social welfare, but guardianship was entrusted to third parties, specifically and only IDEAS employers. Implementing this model was welcomed by social protection system, since it partially relieved the burden that they are struggling with.

In Home for Children without Parental Care "Jovan Jovanovic Zmaj", where small number of UAMs are placed, professional guardians are seen as a compensation for the limited availability of the CSWs' social workers to go to the field or visit their beneficiaries.

*The CSWs in general come twice a year, every 6 months. If we have younger children (which we do not currently have) they visit us more often. Or if sometimes there is a crisis or some critical situation we can motivate them to come more often. But, they (CSWs) have a lot of obligations... In this situation it is*

*important for us to be in constant communication with guardians. So these professional guardians are really always available (Interview, Home for Children without Parental Care “Jovan Jovanovic Zmaj”)*

Regardless benefits in context of higher availability of “professional” guardians, there are many issues and problems with this concept and creation of parallel system of guardianship protection. First, their competencies are questionable. They are not obliged to obtain license for performing professional activities in social protection (while those working in CSW are), which serves as sort of a proof of person’s training and capability to work in social protection system. Further there is no clear and transparent mechanism of assessment of their knowledge, skills and selection when making decision to appoint them as guardians, and there is no control and supervision of their work as well.

*The problem is how are they chosen? Who are they? Their mandate is completely unclear... So here is no control by the centres, nor can they be controlled nor are accountable to the Centre. They do not have enough knowledge, they have undergone some training, but to tell you generally, whoever is appointed as a guardian would have to undergo some training. Because it's not a simple thing. On the other hand, these people should be understood as well, when someone asks me to be a guardian, since I know a little bit more about what that entails, so I'm not sure that I would accept being just the guardian of someone, because by law the guardian is responsible for any harm done to a minor. So here is the situation, the practice has come up with some solutions, and they are not good, but until some change is made, this is something what we have (Interview Republican Institute for Social Protection, 2019)*

In the field it is shown that there is a significant lack of knowledge about cultural, religious, traditional characteristics of UAMs, specific skills needed for working with them, recognizing and preventing risks of violence and trafficking, but also specific knowledge about asylum system and position of unaccompanied minor migrants. Rather, guardians are focused on fulfilling basic and emergency needs, while failing to understand need of regulating legal status of their beneficiaries, and thus leaving children in irregular position and outside of the system. Lack of this specific knowledge is not only observed within IDEAS’ guardians, but also guardians from CSW.

*In Sjenica, in one of the cases of UAM who applied for asylum, his guardian refused to employ APC lawyer as legal representative of a child during his asylum procedure and decided to represent him herself. Since she doesn't have any knowledge and experience in representing in asylum procedure, by making this decision she jeopardized her beneficiary's asylum procedure and acted contrary to his best interest. (APC field report 13.02.2019.)*

Second very important issue with IDEAS' guardians is the question of their impartiality. Guardians must be in a position to make independent and impartial decisions based solely on the best interests of the child. Any situation or position in which a conflict of interest may arise must be avoided. By hiring IDEAS officials, through a project funded by UNHCR, which also supports other organizations that provide legal and psychosocial services to asylum seekers, it was noticed that in practice there is a monopolization of the provision of these services to unaccompanied minors.

*A 16-year old minor, M.F., originally from Iraq, told APC psychologist that he wanted to seek asylum and to be represented by the APC. He was instructed to talk to his guardian (IDEAS employer) and a notification together with power of attorney was sent to the CSW. Two weeks later, he came again to see what was happening, and whether there were any news regarding the submission of his asylum application. He said that he talked to the guardian and that he confirmed to her that he wants to seek asylum and to be represented by APC. His guardian was immediately contacted by phone. In front of APC psychologist she asked him (over the phone) if he wanted asylum and if he wanted to be represented by the APC. He confirmed both, with which she reluctantly agreed. Next day she was contacted to sign the power of attorney, but she did not respond, nor the day after. After a couple of days, the CSW made a decision on "refusal of consent for representation in the asylum procedure", and M.F. submitted an asylum application with a representative from Belgrade Center for Human Rights, also funded by UNHCR. (APC field report 30.10.2018.)*

Particularly controversial in this practice was that expertise and quality of the representatives were not assessed, in order to decide who can provide the best service for a particular case. It can be concluded that the only criterion was existence of a joint financier, which in some cases led to a direct conflict of interest and jeopardizing best interest of a child.

Moreover, the narratives from the field imply that one of a key problems is the limited duration of contracts of this staff, as defined by the project duration, and high dependency of the social protection system on this kind of support.

*When they leave (subcontracted staff) we are challenged how to continue with work, that is, we (CSW staff) are not able to this to the extent and in full capacity as that person because she was in charge of migrants only and was constantly with them, from morning till dark. (Interview CSW Loznica, 2019).*

Creating parallel, project-funded system of guardianship over UAMs shows lack of long-term strategy of strengthening already existing system of social protection, leading to short-term semi-solutions that are functioning only during project period.

Furthermore, this practice in some views is not taking care of the best interest of a child. This is how this issue is assessed by the NGO Atina:

*It's very dangerous to even do this splitting service, or to separate it because the child must absolutely get the full service in the context of migration and comprehensive support coming from the guardianship authority. Partial distribution in this sense, part at the Centre, part at professional guardianship, part at the organization that gives a special, specific role, that is, service support in the context of this difficult coordination, mutual communication can only be a direct harm to that child. So, to me, that model is very problematic, irritating and very challenging (...) It puts at risk the best interests of the child and whether it will be judged properly (...) In that sense, parcelling out that custody service is dangerous. (Interview Atina, 2019)*

The list of challenges does not end here. There are other concerns with regards to guardians and they are related to the institutional layout of the asylum system in Serbia. In addition to the social protection system institutions, the CRM is one of the key actors in this system. However, the CRM as a separate organization within the public system does not belong to the social protection system in Serbia. Its main tasks are related to migration management, primarily in the field of providing accommodation to refugees, internally displaced persons, and returnees based on readmission agreement. Also, CRM addresses the integration of persons granted asylum protection and should be leader in that process. In practice, there is a continuous communication and co-organizational mismatch between the two institutes: the CSW on one side and the CRM on the other. The guardians often find themselves caught between these two system players, especially with regards to asylum centres which are under the auspices of the CRM. The issue of responsibility over their operations raises many questions, consequently affecting the UAMs wellbeing.

*The CRM is a governing body in relation to asylum reception centres. For all the other things, the responsibility is with the social protection system, at least on paper. In practice, the Commissariat is not only in charge of running the asylum centres, but also determines what kind of activities can be carried out (...) Why this is not resolved between the CRM and all other bodies? Who exactly has the jurisdiction need to be resolved, say the location of the CSW in relation to a camp located in the location the CSW is responsible for. No one from the Ministry wanted to deal with. (Interview Republican Institute for Social Protection, 2019).*

Finally, the issue affecting guardianship is also related to the language barrier. Often guardians and children are not able to communicate directly, and a general scarcity of interpreters affects the capacity to disseminate important information, facts and legal rights to the children, prevent risks, recognize their needs and address them properly. Typically, communication with interpreters is not provided by the guardianship body but is available through resources provided by NGOs and international organizations. As confirmed by the CSW Savski Venac representative one of the major shortcomings is in the field of translation. Failure to ensure this support brings many UAMs at risk of delayed and incomplete care in every aspect of asylum and social protection.

## INTEGRATION IN EDUCATION OF UAMS: PRACTICE AND CHALLENGES IN 2018

Introduction of the Professional Guidance on the Inclusion of Refugee/Asylum Seeking Pupils in the Education System (Ministry of Education, Science and Technological Development, 2017) in 2017/18 school year represents first formal and systematic improvement in this field.

Development of the curricula for Serbian as a foreign language, guidance and training for teachers and provision of teaching equipment, eased integration of migrant, asylum seeking and refugee children in local schools. However, it wasn't enough for schools to overcome daily challenges and problems, and depending from their own capacities, will and motivation, they were more successful or not in dealing with them.

Field data about the enrolment of UAMs suggests that even the schools which were forerunners in accepting migrant, asylum seeking and refugee children and "in vitro labs" for testing the best approaches to teaching migrant children are facing ups and downs in provision of education to UAMs, and that there is plenty room for improvement.

In Serbia school authorities both judge the age and the level of knowledge of migrant pupils before making a decision in which grade they fit the best (Jakobi and Markovic, 2017). Given that most of the UAMs coming to Serbia are 14 years old and above, taking in account age limitation for school enrolment, majority of small number of those who are enrolled in education system attend last two grades of primary school, while secondary education is reserved for only few.

Dissimilar to early days of inclusion in education, when the attendance of migrant children was often interrupted due to the lack of available transportation, and inability of the CRM to obtain provision of meals for children attending school, the situation during school year 2018/2019 improved, and continuity of these two factors was established.

Experience of the primary school for adult education “Branko Pesic” in Zemun, Belgrade, which is for years on the forefront of the inclusion of migrant children in education speaks about the importance of regular transportation and distribution of meals for school attendance.

*... (now) we settled into some things and for example I know that since September 1st I have transport, (...) well, (migrant children) always have a meal here, and to bring it in isn't a problem, but it was a problem at some point. (Before) every now and then some of them were falling like a log because they're were hungry. (Interview Branko Pesic Primary School, 2019)*

On the other hand, organized transportation had its downsides, and actually prevented children from integrating more and quicker in education system:

*In some schools, for example in Sjenica they have established excellent integration process. They are just the kind of school that started very seriously from the beginning to include classes outside of teaching activities, and there UAMs learned Serbian very quickly (...). And I know that the problem here in Belgrade was what we hear from schools, that the transport that the CRM organized was extremely strict and that it was limited to two to four hours (...) and simply then there was no room (for migrant children) to stay (in school and attend extracurricular activities). (Interview with representative of the Education Union of Serbia)*

Having a stable accommodation in proximity of schools improves UAMs school attendance, suggests the experience of those in charge of social protection and care institutions UAMs were accommodated:

*Living conditions are the best they can be, to get involved in schools, to integrate into the local community, fully into society, etc. Yes, they all go to school, it is the thing I insist on. The other day, one guy won the second place in competition for hairdressers organized by one beauty school. (Interview Home for Children without Parental Care “Jovan Jovanovic Zmaj”, 2019)*

Or as interviewee from the Republic Institute for Social Protection emphasized:

*I've had the opportunity to go to inspection in Vodovodska (unit devoted to UAMs in the Institution for the Education of Children and Youth in Vodovodska street in Belgrade ), and let me tell you, it is far more humane and better than their stay in asylum centres (...) Those in asylum centres are exposed to crime... (Interview with the Republic Institute for Social Protection, 2019)*

Yet, in many cases both accommodations and schools had to go an extra mile in dealing with UAMs psychological or health status that has prevented them to taking part in education.

*There is no institution where you can hospitalize a child with alcohol or substance abuse or a psychiatric disorder. This is something that is also needed for children in the general population and is being intensively worked on. (Interview, Home for Children without Parental Care “Jovan Jovanovic Zmaj”, 2019)*

Almost all institutions offering accommodation or education in our research sample faced similar challenges:

*When you give a tablet to a child to show a video or something from their home country, the first things you will see on YouTube are Taliban, explosion in Kabul, or something they (Taliban) did to somebody on a daily basis... What they saw, we cannot even imagine... We don't have a child who has a normal story. (Interview “Branko Pesic” Primary School, 2019)*

Sometimes, UAMs have health issues which were overlooked in asylum centres. In some of these instances teachers took the role of children’s caretakers, and went with children to one hospital to the other as it happen to the school staff in “Branko Pesic” primary school: “We use to call ambulance on a daily basis” indicated one of the interlocutors from “Branko Pesic” primary school.

Serbian schools are featured with extensive experience in integration of children coming from other countries, such as Roma returnees/migrant children, who often did not speak Serbian, and had completely different curricula and education experience compared to that in Serbia (APC, 2017). However, experiences with inclusion in education of children coming from Afghanistan, Pakistan, Syria, largely differs as education systems in these countries are hardly comparable with the ones represented in Europe.

Experience of schools show that about one third of UAMs is illiterate in their native language, and have never attended school in their home countries. Some were attending mosque schools which have profoundly different curricula tied to the religious paradigm they represent. As a consequence, some of migrant children including UAMs were not able to perform simple tasks such as computation or to recognize sides of the world, or to name any event or person that marked Western European history heritage. Many of them lost their learning habits, while they were changing countries and asylum centres on their road to the final destination. However, some children were multitalented and quick learners as testimonies from the field indicate.

Unlike migrant children who came with their parents, UAMs were usually left alone to decide whether they will attend school or not. Usually this choice is presented to them in a simple one-time question. Guardians often don’t additionally

empower, motivate and encourage children to go to school, which is especially the case with those UAMs accommodated in CRM's facilities.

In order to accommodate different psychological needs and educational backgrounds of UAMs, schools have been investing a lot of effort to find a right class composition. In those schools in which teachers have approximately 30 domestic pupils including several of them in Individualized Education Program (IEP1 and IEP2), it was challenging to organize sensible educational content which will fit all. "If you have IEPs 1 and 2, you will automatically receive additional training and have fewer children in the class. You don't see this here." (Interview Education Union of Serbia, 2019). In "Branko Pesic" school, teachers were able to form smaller classes. Their experience shows that it was impossible to handle a class with more than 15 pupils (UAMs and domestic children).

*At some point there were a lot of kids, so we sorted them out by age, and then in some other way, and some other way, and then we realized that none of that counts and (that) the most important thing is that he/or she is included in the class and that the group is not too big because you can't work with a group when you have six, seven boys or girls. (Interview "Branko Pesic" Primary School, 2019)*

In addition to the cultural barriers, one of the most pressing issues related to working with migrant children was the language barrier. Although at some point schools were able to rely on interpreters or cultural mediators, this service was not consistent but rather sporadic, which completely depended on donors' support. Without an interpreter schools were left to their own resources that reflect the following practices: "First with our hands and feet, then in Serbian, then in English, then in Farsi and then we combine all that and then something falls out of it." (Interview "Branko Pesic" Primary School, 2019).

Introduction of the Serbian as a second language made a difference. The idea and initial testing were again born in "Branko Pesic" school, which later led to development of the document "Programmatic Support Framework: From Serbian as a Foreign Language to Serbian as the Language of Environment and Education", and a national syllabus for Serbian as a Foreign Language. Serbian as a secondary language is thought in parallel to other topics, such as math, sciences and society, and other foreign languages. Learning Serbian helped UAMs to better integrate into society and improved their odds of successful transition to secondary school. In 2018 "Branko Pesic" primary school had four UAM pupils for which they thought they would be capable of finishing secondary education.

*Those were children who were more interested and who have learned the language ... they graduated last year (...) they officially finished primary school in Serbia. (...) We managed to enrol them at the Technical*

*Traffic School, but they crossed the border. Some of them did not want to cross the border, but there was so much pressure from parents and family that they did it. (Interview “Branko Pesic” Primary School, 2019)*

In Sjenica, according to the CRM, there were ten children regularly attending the secondary school which also offers primary education for adults. Yet, most of them resort only to occasional courses provided within asylum centres. “Some of them for example attended course for a wall painter, but didn’t finish it either” (Interview CRM, 2019)

Indeed, many UAMs were mainly interested in leaving Serbia. Therefore, for example “Branko Pesic” had more success in education with UAMs in 2016 and 2017, than in 2018, although then they had less experience and UAMs were crossing the border faster. Of 104 pupils from the previous year, none of them showed up in 2018 although they were mostly good in school. All of them managed to pass the border even many of them were already tightly sealed. And the next wave of pupils in 2018 was disinterested and irregular in school which meant that it was hard to place them in classes without expense on other children education.

*You get discouraged when someone comes to you for ten days and you see progress, feel it and then they disappear. And then someone brand new comes to you, and now you need to start the same thing over and over again, and there are kids who have already listened to it, then there is a differentiation ... That's just too demanding. (Interview “Branko Pesic” Primary School, 2019)*

It is of great importance to analyse and understand why there is less attendance in 2018 when number of UAMs increased and when they are staying for longer time in Serbia. First of all, in 2018 there was a big change in accommodation of UAMs and majority was transferred or directed to AC Sjenica, which caused disruption in their schooling or reduced chance to get enrolled. Second, there was unexplainable resistance of CRM and local CSW to enroll UAMs in schools in Sjenica. They were justifying their decision by high fluctuation of children and continuing to postpone and delay their enrolment, stating that “it is important to see who will stay of present UAMs”. Lastly, it seems that there was generally reduced interest of relevant actors to encourage UAMs to choose and accept education. In those circumstances, UAMs were more focused on planning how to continue their journey.

Some UAMs are outstandingly motivated to proceed with their education as long as they can which is due partly to possibility to avail themselves of the right to stay in the accommodation up to the age 26. In the Institute for Youth Education in Niš they see a combination of accommodation and education as a strong motivation point for UAMs who are reconsidering their ultimate destination.

As of 2018, UAMs are receiving standard 'school report' a document with information on the child and his/her progress against key competences. This report was conceived as a global school 'passport', which could be claimed from the school administration and presented to other schools in Europe.

*This is a sort of recognition of prior learning. Then it's easier to determine where you belong in their (EU) system. With us, he might be in 4th grade, and there in 6<sup>th</sup> grade. Because that is exactly how much the education systems differ (...). You know, as a transit country, everything they (UAMs) master in our country will be recorded (...) this is such an extremely good thing. (Interview the Education Union of Serbia, 2019)*

To sum up, interlocutors mostly agree that the enrolment figures are up but they also observe challenges and space for improvement. Some of them even think that the whole approach to education of migrant children have to be reconsidered.

First, there are still municipalities and schools which are avoiding accepting UAMs into educational processes.

*Meeting with the school inspector and the headmaster was very embarrassing, they refused to enrol the children... (...) Then there was a problem with parents (...), the headmistress was also scared. (For one child school) demanded that the child have a personal companion. But, there is no money available in the budget of the municipality of Loznica city (for that) (Interview CSW Loznica, 2019)*

Some schools opted in just to secure additional funds for school renovation without intention to really accept migrant children. "At the end some of those schools refused to admit even 2 to 3 children" (Interview UNHCR, 2019).

This undermines the whole effort and particularly of those schools which were truly interested to push for intercultural education. They need more support in navigating cultural differences. As a telling example, the representative of the Education Union of Serbia quotes fear of a teacher from Sjenica who wonders how to encourage a female student when she does something right. If it was a Serbian student it would be acceptable to pat her on the shoulder or rub her hair which might be unacceptable in other cultures. Other interlocutors point to similar cases in which teachers feel that they cannot "read" UAMs face to understand whether they need support of a school psychologist.

Second, some interlocutors think that inciting upon inclusion of migrant children, particularly UAMs in regular education is bought over ambitious and may produce adverse results.

*The academic standards at secondary schools are quite high, even for the local Serbian children. Thus, expecting foreign children to succeed without support is almost impossible. Imagine a young person who never went to school who was not literate in their own language how they would join all that without support. (Interview UNHCR, 2019).*

Furthermore, the same interlocutor suggests that placing children and youth in such challenging circumstances is unnerving and may negatively affect their mental health, stability and moral. “There are not enough resources to adequately assist the newcomers to make their enrolment a welcoming and pleasant experience”. (Interview UNHCR, 2019). Even those interlocutors who observe education as one of the genuine needs of migrant children point out to the lack of capacities as a necessary prerequisite for successful integration.

These observations are in sharp contrasts with insights of other research participants who observed school as a place in which UAMs had warm and compassionate surrounding, and had the ability to make friendships and improve their social life on the top of getting competences which would be vital for sustaining themselves in countries of final destination.

*You see exactly how they return to the normal path of development and how somehow (...) they slowly become more mature and responsible. I see that it (school) also means continuity and security to them and the adults who care about them. They are no longer alone. (Interview the Education Union of Serbia, 2019)*

To sum up, visible progress is spotted in terms of rate of attendance in primary schools, while the number of UAMs in secondary education is considerably lower. The retention of UAMs in education as well as the quality of education achieved depends on many different and interconnected factors including the motivation of UAMs, the preparedness of schools to devise methods of inclusion of migrant children in regular class work, and logistics related to their accommodation and overall support i.e. availability of quality guardianship services and many others. Lastly, individual efforts of schools (of principals and teachers) led to successful cases of UAMs that are integrated in greater scope, while development of long-term mechanisms and systemic solution for this issue is still lacking.

## Austria: good practice examples by specific thematic areas above<sup>4]</sup>

Austria has a long term experience with migrants and a well-established legal and housing/educational support to them. However, due to an extraordinary influx of migrants in 2015, the country and the city of Vienna particularly faced serious challenges in accommodating large number of migrants including UAMs. Over time the attitude of the leading parties and the public has changed, which resulted in constant modifications in the legal provisions from 2016 through 2018. This development brought harsher conditions for accepting migrants in Austria. In case of UAMs it meant a change in age estimation (toward older age), cut in spending for food and housing (half of what Austrian children in the same status receive) for UAMs 14 and above, and stricter police control and change in court rulings as UAMs adolescents were increasingly treated as adults.

However, it is important to discuss the practices employed in Vienna specifically those related to status and legal position, registration and accommodation of UAMs, the application of the institute of guardianship and integration in education of UAMs, as well as overall integration in the society, while comparing it with the Serbian approach to UAM status and position.

## STATUS AND LEGAL POSITION OF UAMS

Vienna is not just the national capital and the largest city, but also one of nine states of Austria and as such it has the most forthcoming attitude toward migrants in comparison to other states. During the outbreak as well as afterwards, Vienna has been fulfilling 120% of its quota of UAMs.

Acceptance process starts with UAMs turning to any police office throughout Austria, followed by the quick procedure, in which UAMs go through the initial registration process and medical check-up after which they are placed in one of the two initial reception facilities in Austria, one near Vienna and one in Eastern part of the country. While in federal facilities, UAMs

<sup>4</sup> Visit to Vienna took place on December 13 and 14, 2018. The focus of the visit was best practice and challenges of the Austrian institutions and NGOs in dealing with unaccompanied minor refugees (UAM). During the visit members of the APC/CZA and PPRC have spoken about the UAM housing issues with the representatives of Don Bosco Flüchtlingswerk Vienna (Integrationhaus), operated by the NGO founded by the Church (1 interviewee), and Integrationshaus Wien a private initiative (3 interviewees). Both NGOs are dealing with protection, education and integration of UAM with UAM. The legal issues(counselling was covered through interviews with 2 representatives of the Diakonie Flüchtlingsdienst, a NGO and one interlocutor of the Municipality Department for Children 6 Youth welfare i.e. Vienna Welfare Department (MA 11) which are dealing with the legal support/counselling to UAM in asylum procedures. Educational issues were covered with the representatives of the Vienna Jugendcollege a network of nine partner organization leads this educational institute for 1000 young people and young adults (2 representatives). General Expertise and national networking in the area of unaccompanied minors were covered through the interview with 1 representative of the Asylkoordination Österreich an umbrella organisation which supports different organizations, initiatives and volunteers in the psychosocial counselling, and care for UAM and advocates for changes in the policies toward refugees.

aged 14 and above are placed in the same space as the adult migrants, in rooms with 16 beds, but in the separate wing. If they are below 14, they are situated in the women's wing. Women as well as trained staff take care of them.

Three important points need to be noted: first, as of 2016, every UAM aged 14 and above is medically tested for its age. First, there is a check-up based on the arms wrist and dental report, followed by the collarbone measurements and genital examination. Majority of interviewees suggested that the assessment of the age is skewed, as the EU measures are applied to children coming from other cultures, leading to overestimation of their age. As one of the interlocutors in Don Bosco<sup>5</sup> indicated "some of them maybe even have a beard but if you look closely in their eyes you can clearly see a child". Assessing the age of children that way, combined with the very long procedure for deciding their status results in an UAM turning 18, after which he/she can be expelled from the country with no further ado.

Second, the procedure explained above is particularly painful for girls as their genitals are often checked up by several male doctors, without taking care of the fact that many girls were already raped or abused several times along their journey. UNHCR objected the Austrian procedure of age check-up but with no avail.

Three, as of 2016, during the first interview about their status UAMs have no legal adviser present. As a result during their first interview children say things they were thought to say by other migrants, which are either wrong or maybe detrimental for their later status. Only in the second stage, legal advisors may step in but again by the end of procedure, when the interview which will decide UAM's future status is almost over. Both interlocutors acting as legal advisers (NGO and state) expressed that opinion.

*In the evening when I return home, I see my child pampered, shielded from any problem in life, loved and supported, and then think about migrant children without anybody close to them, and reflect on how our system is harsh to them. (Municipality Department for Children and Youth welfare i.e. Vienna Welfare Department (MA 11))*

Previously, legal advisers were present in all stages of the legal procedure but were later removed from the first stage. "We were told that we were too much on the side of UAMs, thus losing our objectivity", says one of the interlocutors in Diakonie Flüchtlingsdienst<sup>6</sup> commenting on the federal state decision.

<sup>5</sup> Don Bosco Flüchtlingswerk follows is an emancipatory educational mandate and on 18 December 2002 founded the Don Bosco Refugee Agency Austria

<sup>6</sup> Diakonie Flüchtlingsdienst Traiskirchen legal advising offers: advice and information in native language or with help of interpreters, information about asylum procedure, legal counselling about the procedure - writing appeals, representation, and preparations. They offer legal representation of unaccompanied minor refugees in initial reception centres, assistance in applications for family reunification, and if necessary referring to other specialised organisations.

## REGISTRATION AND ACCOMMODATION OF UAMS

Federal authorities place UAMs based on the key quota in any of the nine states. Some states are less willing to accept UAMs, but eventually have no choice but to accept them. Others like Vienna and Tirol are pro migrant oriented. Like in Serbia there is a state guardianship (city of Vienna in this case) which is general, while the real job of taking care of the UAM is dependent on NGOs activities specialised in assisting migrants. There is a list of registered NGOs, chosen based on their merits, which receive a child in an automatic order after they are contacted by the local offices of the Austrian Children and Youth Service. UAMs 14 years old and above are based in small buildings entirely aimed at lodging this population group, or in larger structures which accommodate both families and UAMs. This accommodation is often in the city centre or neighbourhoods with close proximity to the city centre, yet they usually have no contacts with the Austrian citizens. In two structures visited, there were between 30 and 120 persons. In both of them up to 5 UAMs (between 14 and 18 years old) are placed in one apartment with two rooms, joint living room, and the bathroom. In Don Bosco, on each floor there is a joint kitchen shared by 10 children. There are two apartments on each of 3 floors. In the other accommodation there are 19 places reserved for UAMs.<sup>7</sup>

UAMs below 14 years of age are placed in youth houses and receive equal care as Austrian children of the same age and status.

The space assigned to each UAM 14 years old and above, and the group of UAMs residing in one apartment plays important role in their integration process. First, as long as it was possible NGOs (integration houses) were insisting on putting UAMs coming from different often opposing groups (Afghan and Chechens) in the same apartment and the building. “Even if those groups were clashing with each other in the city, we persuaded them to be tolerant to each other within their homes and to leave all disputes behind the closed doors, and it worked”, said one of the interlocutors from Don Bosco. Increasingly, the Afghan UAMs prevail.

All UAMs have to cook, clean the apartments, and learn to orientate themselves in the city and understand how to deal with the local and asylum authorities. Such approach teaches UAMs social skills and helps their preparation for the independent life in Vienna once they leave their temporary accommodation. “Children have just 4 years to stand on their own feet, so we do our best to empower them to rely on themselves. That is why they have to clean after themselves, wash their laundry and cook,” says Don Bosco interlocutor.

<sup>7</sup> Association Project Integration House, offers multilingual counselling regarding psychological problems, legal issues (asylum law and laws concerning immigrants), and requests in the field of employment and residential market, special issues of unaccompanied minors, the integration of refugees under the terms of the Geneva Convention etc.

The state of Vienna financially covers the UAMs life in integration houses up to the age of 18. NGOs believe that this is one of the major flaws in the current state coverage of UAMs. Many of NGOs, from their own sources offer accommodation to young migrants up to the age of 25 under subsidized prices. Other features of the UAMs accommodation are discussed under the chapters related to guardianship and integration in education.

## THE APPLICATION OF THE INSTITUTE OF GUARDIANSHIP

As discussed above, the guardianship is split between the city of Vienna and NGOs assigned to take care of the UAMs. Furthermore, Youth care service assigns a case manager for each UAM. NGOs are responsible for pedagogical, financial and healthcare aspects, while the legal and financial guardianship is in the hands of the state.<sup>8</sup> For each UAM NGOs receives 95 EUR per month (for accommodation, food, pocket money, for activities such as cinema etc.) plus 150 EUR for wardrobe in two yearly instalments, and if they go to school, 200 EUR for books or 50 EUR if they are taking some of the courses offered either within the integration house or by numerous other educational facilities often led by other NGOs. On the top of that UAMs receive up to 726 EUR for integration process (learning German for example) as long as they are minors. These 95EUR are half of what Austrian children in the same status receive per month. “Our children are not half-children”, say our interlocutors, who took part in protest against that government decision. The amount of money is very tight and leaves no room for many extracurricular activities. “In case of Austrian children, it is enough to e mail the adequate city service, and money will come. For our children we need to find donors if we want to offer them something else than four walls”, say interviewee from Don Bosco.

Integration houses have to help UAM to integrate into Austrian society and to support them in preparing for legal status interviews in terms of emotional assistance. Integration means that NGOs organise celebration of all Austrian holidays, and teach them about the country in which they live without challenging their religious beliefs. They are trying to help UAMs in understanding what the relationships are like at the personal level (when it comes to gender) and at the group level (in terms of values). One of the recurring topics is that UAMs are used to corporal punishment at home and find it hard to learn that any type of conflict can be resolved through conversation.

Children have problems with cultural differences but there is a lack of psychosocial support. Austria has a tradition of talking therapies, while UAMs are coming from cultures in which they do not talk about their problems. Yet the only therapy which is available and covered by the state is the talking therapy while there is a lack of therapies based on art, body or movement. “Children often have suicidal thoughts, but the state can provide adequate therapy only within 6 months of reporting”, says

<sup>8</sup> In case of Don Bosco, other NGO is taking care of the legal aspects of UAM status while Association Project Integration House offers legal consultations on their own. As explained either Diakonie or the state are assisting in legal matters.

one of the research participants. Even when they get one, UAMs 14 years old and above have to agree to the medical treatment, and they often think they have no need for such thing.

Many of children present in the accommodations at the time of the interviews, had drug problems. For example, in Don Bosco, 9 UAMs were in court or in jail, and social workers within the facility were preoccupied with helping them to socialize after prison.

Interlocutors believe that this is the consequence of several state decisions. One is related to state decision to withdraw social workers from the street. Namely, while there were more of them on the street they were able to take better care of children and prevent them from falling into their ethnic groups circles dealing with drugs. Another reason for more children falling for drugs is related to harsher procedures *vis a vis* their status. For a long time there was an agreement between the Afghan ethnic group in Vienna and the state that they will jointly cooperate in taking children of the streets. When the state introduced tighter integration policies, the cooperation deteriorated. The third change is related to approach to secondary education, and will be discussed in the next chapter.

## INTEGRATION IN EDUCATION OF UAMS

Similar to Serbia, Austria considers only primary education as obligatory. This obligatory education lasts 9 years after which a child has to pass the final exam. If successful, it may lead to different types of secondary education - another 3 years of apprenticeship, or 4 years of high school with some specialisation or more general like a gymnasium.

In Austria UAMs are placed in school based on their age, not their knowledge. Most of them are facing difficulties as their German is weak, and they cannot keep the track with the school program. In cases when they fail, UAMs can either take the same year again and/or are receiving help in learning within the places they are accommodated or in some other facilities to prepare for the final exam, for which their German has to be very good. There are evening schools as well as other parallel type of schools, funded by the EU or local authorities which are not within the state system. They are considered as additional sources of education, but can lead to preparing UAMs for the final exam. Interlocutors believe that Vienna is very good in offering different types of education which is often provide through state and the EU money. If UAMs knowledge of German language is good they can attend both primary and secondary schools with no hurdles.

In Don Bosco children are urged to go for apprenticeship which is easier and what is more important pays some money for the portion of the educational process taking part within the companies. This extra money is extremely important for children because they are often coming to Austria with the strong pressure from their families. Either families invested all

the money in them (for financing their trip to Europe), hoping that they will follow once the child finds a job, or the whole family (in the country of origin) depends on the funds the child is sending home. Yet even this approach has few shortcomings: children usually start with apprenticeship at the age of 16 and when they are over, they are 18. Then they usually get a negative opinion in relation to asylum application and are forced to leave the country. Therefore, as of 2018, children whose status was not decided were forbidden from going to apprenticeship. The industry was unhappy with both approaches, as they are interested in UAMs as a future workforce but was not capable to change the course of the government's decisions in this regard. "Now, without money from apprenticeship, many children are pushed to deal drugs, and on that way they are becoming drug addicts", says one of the interlocutors from Caritas which runs a novel joint program with seven other NGOs of different sizes which are providing different types of learning and supportive services.

They are offered with German classes, math classes, those focused on acquiring basic digital skills and others. Apart from that, advisors (1 advisor per 40 students) are seeing students every second week, to consult on future career path, family problems, domestic violence, psychological problems and relationships with other students. If the problems students are facing exceed the skills of advisor (neither psychologists nor therapists) students are then sent to the experts. Often advisors are the only Austrians whom UAMs can see and talk to. Therefore integration process boils down to UAMs ability to accept German language and incorporate Austrian values, and reconcile them with their own cultural values.

Services like those offered by Caritas consortia are matching support given to UAMs in their accommodation. "Social workers in the accommodation facilities take care of their development in the integration process and we on the other side support the same process. This is how these services add up", says Caritas interlocutor.

There are no irregular UAMs in Austria. Yet if for some reason they leave their first or assigned accommodation for a longer period of time, they usually cannot come back. In smaller accommodation facilities social workers are trying to track them down and to persuade them to return, but in larger facilities they are banned to return. Once they abandon the state support, they are on their own.

To conclude, UAMs in Vienna are placed in smaller accommodation units, with more readily available support of social workers and have more options for pursuing their education than in Serbia. However, UAMs are facing challenges in terms of age evaluation, legal representation and integration at large.

## CONCLUSIONS AND RECOMMENDATIONS

According to the researches and available literature aspects relevant for complying with the principle of the best interests of the child are mutually interconnected and manifold. Therefore as demonstrated by the findings, the developments related to UAMs cannot be viewed in isolation as each element feeds into the progress or the remnants of other. In order to sum up the findings we divide them into (1) those which are important for the “base” assessment of the position of UAMs in Serbia in terms of their views and aspirations, identity, the risks the child is facing; the care, protection and safety of the child as well as its well-being; and (2) those which are important for their future outcomes which are determined by their social contacts with peers and adults; prospects for resiliency and empowerment in terms of skills and evolving capacities; and access to education and their gradual transition into adulthood and an independent life. Needless to say these “base” functions such as provision of legal rights, accommodation, health care, and guardianship are strongly affecting the outcomes related to education and integration of UAMs.

In 2018, the most notable progress with regard to UAMs status happened in the realm of legal field. By implementing the principle of the *best interest of the minor* in the new LATP, Serbia has demonstrated interest in complying with the international rules and standards that are embedded in the legislative frameworks of the EU countries (Austria included). Yet in practice, in many aspects relevant for the best interests of the child the progress was uneven or was left out.

Our research confirms previous findings that there is a lack of well established, clear, transparent and fast forward registration process, as first step in regulating position of UAMs and prerequisite factor for further protection and integration. Adherence to the proscribed procedure remains one of the most pressing issues which considerably affect UAMs protection and security. Although there are number of factors contributing to the weaknesses in this part of the process of integration, some of the most important ones are related to the alleged limited capacity of the police as well as omissions regarding the appointment of temporary guardians, leading to suspicion that there is no will or intention to register UAMs and thus make them visible to the system. Such deficiencies considerably slow down the process of registration and exacerbate the position of the UAMs. Furthermore, out of those who are registered, alarmingly low number start asylum procedure, which tend to be lengthier than those with adults, completely ignoring the fact that UAMs are recognized as vulnerable group, and thus have procedural guarantees prescribed by LATP. Low recognition rate, where for 10 years of asylum system only 1 UAM was granted with protection, as well inactivity of the system in this field, leads to suspicion that there is intention to keep children that are traveling alone on the move and outside of asylum system.

Observed challenges underline the discrepancy between the legal provisions and the weaknesses in the system in terms of its capacities and adherence to the principle of the best child interest proscribed by the LAMP. As a result, a significant number of UAMs find themselves outside of the asylum and migration system, without its protection and left on their own.

In comparison, Austrian example demonstrates straight forward and efficient approach to UAMs registration. As a result, all UAMs in the country are registered. When it comes to the application for the asylum the two systems show similarities in terms of lack of full legal representation at the point of registration.

Another dimension which has profound impact on UAMs possibilities to positively resolve their status within the system is the assessment of the age of the child. Serbia has no developed procedure for age determination for UAMs and thus depends on the child's statement on the age in cases of no personal documentation. This makes space for various misinterpretations of age by both children and relevant authorities, and led to development of ad hoc, harmful practices of age assessment done by social workers, police and most often representatives of CRM, based solely on the physical appearance of a person. In Austria, which has history of conducting age assessment when person's age is doubted, there has been significant change in 2016, by adopting harsher policies in this field, detrimental from the perspective of respect for the identity of the child, including age and gender, personal history and background. As a consequence, the number of UAMs who positively resolved their status before entering adulthood considerably shrunk.

Not all UAMs who are seeking legal representation are getting one. One of the reasons is the considerable weaknesses of the system in terms of guardianship, and, given that migrants often speak only their native language, while interpreters are lacking and are not provided during registration and often not even in first contact with representatives of CSW. Due to **delays in obtaining guardians, sometimes for months and the fact that some children will never be appointed one while in Serbia**, the child's protection is at risk, their integration disrupted, and they are left on their own. Lack of proper and accurate information on protection system, including asylum, their rights and obligations, further inhibits the asylum process because UAMs will have less access to accurate guidance in regards to the procedure and its timeline, and are often misled, or deceived by others, sometimes unintentionally due to lack of knowledge about asylum and protection system, and sometimes with purpose of keeping them in illegal, uncertain and insecure position. Given the number of UAMs assigned to them, **guardians are often overwhelmed**, improperly trained, **lacking specific knowledge** (about culture, religion, tradition, various risks that UAMs are exposed to, migration, asylum, etc.) **and skills** needed for working with this population, and without awareness and adequate guidance on how to execute their responsibilities. By overwhelming guardians through placing numerous children in their care, it affects their ability to foster meaningful relationships of trust with the UAM because they cannot spend quality time, or be able to assist each minor on a consistent level. Lack of knowledge and skills has also impact on the relationship with their beneficiaries, preventing them from understanding UAMs, recognizing and preventing risks of violence, abuse and exploitation, as well answering their specific needs.

Furthermore, without knowledge about asylum and protection system and their role in it, guardians are failing to conduct their responsibilities, act in the best interest of a child in this field, and very often leave important decisions to others, such as CRM representatives. As noted above, the language barrier affects guardianship, given the lack of interpreters which are in most cases not provided by the asylum system but through NGOs. However, this NGO support tends to be limited as their presence is not consistent or accessible in all areas of Serbia, and is short-term, since it is project funded. This means that in a best-case scenario guardians can establish only basic communication with children. Therefore, this simultaneous lack of trust and poor communication hinders the right of the child to participate in matters relating to them and make informed decisions about their lives, a fundamental aspect required by the UNCRC for being able to assess the best interests of a child. Lastly, guardianship protection in 2018 was also project funded, leading to short-term solutions without intention of improving and strengthening already available guardianship system, thus making it sustainable and ready to protect this vulnerable group of migrants, asylum seekers and refugees.

The Austrian example of divided guardianship between the legal guardians automatically assigned to the child and the social workers who are responsible for their wellbeing, access to education and integration is straight forward, the roles are adequately divided and constant, which means that for the time being UAM has one guardian who takes care of his/hers needs and to whom it can confide and look for support. Furthermore, given that there is a strict number of UAMs per one guardian, the social workers have enough time and space to devote their attention to each child.

Well established guardianship and adequate accommodation play the most important role in addressing the risks the UAMs are facing and in providing them with protection, resiliency and empowerment.

In Serbia, accommodation centres in practice generally lack the capacity and conditions to properly house UAMs, since there is no special centre only for UAMs or special facilities for their accommodation in either reception or asylum centres, while capacities of social institutions are low, covering slightly more than 10% of the need. Unclear mandates of CRM and CSW related to the accommodation of UAMs, remain one of the major impediments which strongly affect wellbeing of the UAMs. For the most part of 2018, the main accommodation centre for UAMs was the Asylum Centre Krnjaca, with shift in November 2018 when Asylum centre Sjenica was dedicated by CRM to accommodate UAMs. These were ad hoc attempts of CRM to organize centre for unaccompanied minors, since they were accommodated together with adults and were under risks or victims of violence, sexual abuse and exploitation. However, it didn't bring desired results, since centre in Sjenica is far away from migration route and Belgrade as focal point for services and UAMs were refusing to go there, rather staying in the streets and parks. Lack of skills and knowledge of CRM's staff for accommodating and protecting UAMs in this aspect added to problem of safety and answering their specific needs, which arise from developmental phase but also their vulnerability. Finally, poor conditions, and often lack of basic necessities such as clothes and shoes, hygiene, in some facilities even drinking water, intensified problems in this filed. ,

Location played a prominent issue as in 2018 this centre received the least number of visits from asylum officers than any other centre for asylum.

There is a striking difference between Serbia and Austria in terms of accommodation of UAMs. While in the initial period of acceptance both in Serbia and Austria UAMs are placed in large asylum centres, in the Austrian case, children soon change large structures for smaller accommodation units run by NGOs experienced in dealing with migrant children and unaccompanied or separated children in general. Division of tasks between (in the Austrian case) the Ministry of Interior, the state administration (including CSW) and NGOs is clear and straight forward, resulting in much more focused approach to UAMs wellbeing. Well established accommodation combined with partial guardianship represents a focal point of life of an UAM, from which he/she can focus on development of skills and capacities, access to education and gradual transition into adulthood and an independent life.

Furthermore, one of the areas in which Serbia made progress in the last year is access to education, albeit with uneven results. As the interviews with the relevant stakeholders show, although the Professional Guidance and Expert Instructions provided by the Ministry of Education, Science and Technological Development (2017) brought clarity when it comes to responsibilities of schools regarding the preparation of the School Support Plan, as well as the Student Support Plan for migrant students including UAMs, schools were forced to devise additional tools to manage adaptation and stress relief of the students, find their own pace of implementation of intensive learning programme of Serbian as a foreign language and experiment with different approaches in ensuring participation of migrant children in regular syllabus. Imagination and innovation with regard to individualization of teaching activities through the adaptation of school attendance schedule, development of didactic materials, methods and models of work as well as modes of inclusion in extracurricular activities of migrant children with peer support asked for schools to go an extra mile. Success in above mentioned depended entirely from individual engagement and efforts of local schools and their personnel. When it comes to UAMs, number of those enrolled in educational system is alarmingly low, and big majority of children traveling alone are not going to school in Serbia. First of all, their age is often obstacle in this process, since majority of UAMs are between 15 and 17 years old and fall into the gap between final grade of primary school and secondary school, for which they need proof of complementing primary school, and which has high demands considering knowledge, especially of Serbian language. Lack of solution for those who cannot be enrolled in secondary schools, and by their age cannot attend primary schools, is leaving many without a chance of integrating in educational system. Second, lack of support, encouragement and empowerment is leading to loss of interest, motivation and will of UAMs to attend schools regularly and deal with various challenges that emerge. When talking about those who are enrolled, a number of factors contributed to the varying results of their attendance and achievements in primary and specifically secondary education. Among them are personal characteristics and experience, such as age, culturally diverse backgrounds of migrant children, and uneven level of education if any in their countries of

origin and transit countries, level of learning habits and discipline, psychological status, motivation for learning. Other, external factors that have impact on the level of integration in education are existence of support, type of accommodation (whether a child is in CRM's accommodation facilities or in institutions of social protection), availability of meals and transportation, readiness of guardians to enrol their beneficiaries, CRM's role in organizing school attendance. Considering transportation, it is noteworthy to point out that as much as it may seem like it is easing the integration in educational system, it has its negative consequences (such as limiting time spent in school and extracurricular activities, contact with local community, chance to learn new skills, etc.) and is aggravating this process.

When comparing Serbian and Austrian cases it is evident that there are similarities in domain of obligatory attendance in primary school, and uneven attendance rates. Strengths of the Austrian approach are well rounded guardianship which allows for straightforward communication between the social worker where the UAMs reside and their counterparts in the educational system thus providing better support to UAMs in navigating their educational choices. Also, Austria has better developed and intertwined system of formal and informal education which gives more nuanced support to migrant children based on their educational backgrounds. Finally, there is a straight forward path from education to job market.

## RECOMMENDATIONS

### LEGAL PROVISIONS

In sum, the improvement in the legal status of UAMs introduced by LAMP has not been sufficiently met in practice.

**Jammed and long application process** is a critical point that requires focused attention. It is of utmost importance for suppression of the phenomenon of non-registered, irregular UAM migrants and a key precondition for fulfilment of the *best interest of child* in practice. All UAMs need to be registered and visible to the system of protection as a basis for prevention of risks of violence, abuse and exploitation, and support of their healthy, normal development. Coordination between all stakeholders in the system, adequate planning and better cooperation between police, CRM and CSW is thus necessary. Austrian practice offers an outstanding example of clear cut, well established and implemented procedure which strongly relies on NGOs in providing accommodation, and partial guardianship including the obligatory free legal aid. When it comes to asylum procedure it is of great importance to implement LAMP and best interest of a child, thus to prioritize and adapt the procedure to the vulnerability and special needs of UAMs.

**While the lack of universalized age determination system is not favourable**, it is even less favourable to recommend harmful and inhumane medical assessments present in some EU countries that are highly disputed. First of all it is important to make decision which authority in Serbia will be responsible for age assessment, and will only have right to conduct it. Then,

the development of procedural guidelines along with further training of officials to identify minors in a humane and dignified system of age assessment should be developed and implemented. Procedure itself needs to be structured, objective, multiphase and multidisciplinary, to include non-medical methods and only in absence of clear results to use medical methods, which do not harm persons' well-being. Training, monitoring and supervision should also be included.

This would ensure that authorities are not arbitrarily determining the age of a minor, thereby incorrectly treating them as an adult and barring them from accessing the appropriate rights and care they are entitled to.

## THE INSTITUTE OF GUARDIANSHIP

It is evident that the system of guardianship protection is lacking capacities, both technical and professional, in providing UAMs with proper protection and care. However, instead of focusing on strengthening already existing governmental system, short-term, project-funded solution was selected and implemented. It is absolutely necessary to abandon these kind of solutions and focus on building sustainable guardianship system within existing institutions and capacities.

Since UAMs represent specific group of beneficiaries for local CSW, specific knowledge and skills are required in order to properly protect and take care of them. First of all, guardians must have knowledge about UAMs themselves, their tradition, culture, history, habits, but also developmental phase, risks and experiences of violence, abuse and exploitation, as well knowledge and skills to prevent those risks, protect their beneficiaries, including knowledge of asylum and migration system. Thus, it is important to improve selection, training, monitoring and supervision processes of guardians, making them more detailed, transparent and continuous. Their role in determining best interest of a child and acting in its accordance needs to be recognized and respected. Together with this, it is necessary to raise capacities, technical and in personnel in order to answer growing needs in the field.

## ACCOMMODATION

**When it comes to accommodation, there is growing need for specialized centres for accommodation of UAMs and introducing different alternatives in this field**, such as specialized foster care, supported living in small units, etc. First of all, as it is proven through research, children that have luxury and are accommodated in institution of social protection, where there is smaller number of beneficiaries (up to 20) and 24/7 available educators, are exposed to less risks, better protected and much more successful in integration processes. Raising capacities and developing centres where only UAMs will be accommodated but in a smaller number per units is necessary in order to ensure their physical, emotional and social

security and safety and provide them with continuous supervision, care, guidance and protection, by competent and skilled professionals from field of social protection. Another option, reserved for smaller children, foster accommodation, has not been adequately used in Serbia since its introduction in 2016. Further support should be provided to the Centre for Foster Care and Adoption to train and support foster families and also be able to openly communicate their experiences and expertise to Centres for Social Work in order to eliminate barriers for the future.

There is also a need to assign institutions for children who have a psychiatric or psychological disorders, as many unaccompanied children have some kind of trauma, mental disorder, or post-traumatic syndrome as a consequence of their current position and/or past experiences. There is a need to develop child protection strategy specific to this UAM population as the current one is detached from practice.

## EDUCATION

2018 brought some improvements in integration of UAMs through education. However, still success is dependant of individual efforts of local schools, rather than implementation of systemic solutions. First of all, it is necessary to stop with discriminatory practices and enrol UAMs into primary schools in the same way as domestic children. Second, it is important to help them to adapt in easiest and quickest way by using all available and existing means and tools, as well to develop new ones which will aim at gaining knowledge and skills (first of all of language) which will help them in process of integration in educational system in Serbia. In this way, their best interest will be preserved, allowing them to successfully continue their education in Serbia or in the country of final destination.

As for those whose age do not allow primary school enrolment, and cannot attend secondary school, it is of great importance to develop bridging solution in order to offer them chance to continue their education. Having in mind that generally secondary school enrolment is extremely low in this population, further targeted efforts are needed to encourage UAMs' steady enrolment in secondary schools in order to get the education they are entitled.

Finally, it is needed to continuously work on UAMs motivation to start or continue education, as well to provide them with proper support during this process, which can be too overwhelming and difficult.

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Smartphone Application  
Asylum in Serbia:

Available to download from Android  
or Windows Apps Store  
to your smartphone device



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