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Research Paper

Unaccompanied Minors at the Spanish Border in Melilla

To what extent are the Protection Standards for Unaccompanied Minors at the Spanish Border in Melilla guaranteed?

Coordinator: Cristina Churruca Muguruza

Students: Ilinca Costin
Bilgesu Madenli
Elisa Weisse
Georgina Herzogenberg



Deusto

Instituto de Derechos Humanos
Pedro Arrupe Human Rights Institute
Giza Eskubideen Institutua



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1. Introduction

Over the last decades and especially since the beginning of the European Migration Crisis in 2015, protection standards and compliance of human rights played a significant role in the asylum seeking process in European countries. However, in the last four years the amount of people fleeing to Europe increased heavily and visible consequences were not only that border policies became growingly strict, but also the adherence towards human rights and protection standards within asylum applications started to fluctuate. People fleeing their own countries due to war, conflict or economic breakdowns are seen as vulnerable persons, since they usually flee with less resources, in some cases they are traumatised and have first of all no positive perspectives for the future. Maintaining their dignity throughout the asylum process is nowadays a challenge.

Since the other migration routes to Europe are being shut down through political agreements, one of the favoured routes for migrants in order to reach Europe is the Western Mediterranean route (Valdivia, 2018). Previous data revealed that particularly unaccompanied minors, children under 18 years without their families, are seen as the most vulnerable people since they take the long journey on their own, the exposure towards violence, trafficking and other criminal actions on this route is high and therefore women and children are more likely to become victims (ECCHR, 2019). In general, unaccompanied minors (UMs) come from Middle Eastern and African countries. In the last years, the numbers of unaccompanied foreign children arriving in Spain increased steadily. According to the government figures, in 2017 the number of unaccompanied foreign minors who arrived in Spain rose by over 60 percent: 6,414 minors arrived in Spanish territory which is 2,417 of UMs more than in 2016 (infomigrants, 2018). According to the Spanish Health Ministry, there were 12,437 unaccompanied foreign minors counted in 2018 on Spanish soil (Spanish Health Ministry, 2018).

This research paper aims to investigate whether the protection standards towards unaccompanied minors at the Spanish borders in Melilla are guaranteed. The paper is comprised of the literature on unaccompanied minors and the result of the interviews that have been carried out with 11 representatives of 9 NGOs operating in Melilla and Nador. A semi-structured interview was chosen as a research method, and 3 questions were asked to the representatives in relation to the conditions of unaccompanied minors and the protection activities provided by NGOs both in the contexts of Melilla and Nador. Consent was taken orally and the following questions were placed in the interview: "Are you

working with UMs?”, “What are the conditions of UMs?” and “What kind of protection assistance or activities are you providing to the UMs?”.

It is of high importance to include here the limitations of this research paper as well. The lack of time was a great impediment for our group to ask all the questions that were prepared beforehand. We had at our disposal three days and each meeting lasted between one hour and two hours, therefore there was not enough time for the groups to ask all their questions. Moreover, there was also a limited number of NGOs that were dealing with UMs and only one NGO dealing strictly with children, namely Save the Children. Also, even if the NGOs were open enough to address this issue, some provided us with limited information or details that were already mentioned in previous meetings by other NGOs. Finally, in one meeting there was also unaccompanied minors present in the room so there are chances that the representative of the NGO might have intentionally left out some useful details.

Lastly, this paper is organised into two main parts. The next chapter includes a definition of the terminology ‘protection standards’ and a brief literature overview of the conditions of UMs in Melilla. The third section outlines the results of the research and two areas are tackled: ‘Conditions of Unaccompanied Minors in Melilla’ and ‘Protection Activities with Unaccompanied Minors’. In the fourth part, the protection gaps towards UMs in Melilla will be discussed and a final conclusion will be carried out.

2. State of the Art: Situation of Unaccompanied Minors

The ‘protection standards’ within this research paper refer to the Human Rights outlined especially in the Convention on the Rights of the Child, the International Human Rights Law and International Refugee Law. According to the Convention on the Rights of the Child, the actions of authorities have to be “(in the) best interest of the child” (Article 3), the “special protection of unaccompanied minors” must be guaranteed (Article 20) and adherence to Article 37, “the prohibition of torture and inhuman or degrading treatment” must be met. Determining whether the protection standards are guaranteed, depends if unaccompanied minors are treated within the frame of those laws.

The report of the European Centre for Constitutional and Human Rights in 2017 about unaccompanied minors in Melilla has shown so far, that first of all there is a protec-

tion gap when it comes to crossing the Moroccan-Spanish border. There were several cases in the past, where unaccompanied minors tried to cross the border and they were refused entry to Spanish territory by Spanish authorities and thus deported back to Morocco. According to the report, Spanish authorities at the border in Melilla “apprehend and summarily deport unaccompanied minors to Morocco without a procedure to identify them and protect their rights” (ECCHR, 2017). However, Spanish authorities are obliged to guarantee the identification of unaccompanied minors at the border in order to act within the frame of the Convention on the Rights of the Child.

Furthermore, several reports of NGOs working on the ground mentioned the lack of assistance within the asylum application process: There is for instance, a lack of translators or mediators who speak the language of those residing in the reception centers for UMs. Thus, UMs have problems to understand the legal framework, their rights and also basic information about their stay in Europe and the next steps. When it comes to legal assistance throughout the asylum process, they also face limitations of legal advice since the state is unable to provide capacity for that and NGOs took over, but are limited in their capacities (UNICEF, 2019).

Moreover, it was monitored in the reception centers for UMs in Melilla that they are overcrowded and the conditions for their residents contradict with the carried out rights for children in the Convention on the Rights of the Child (SJM, 2018). Besides, it was criticised that there are no activities offered for minors, which leads to general boredom of the youths. Moreover, cases of abuse were noted in the centers but also in the border holding facilities by the police, which was denounced by several NGOs (UNICEF, 2019).

Another aspect which was mentioned in the latest report of Unicef in 2019 is the lack of psychological support: The report revealed, that there is on average only one psychologist for every 600 minors. Apart from this, UMs also face problems when it comes to accessing the educational system. Not everyone is able to visit a school and the registration takes on average five months (UNICEF, 2019). Additionally, some NGOs in Melilla monitored that the authorities delay the process of receiving a residency permit in many cases which leaves UMs the uncertainty of their future status.

Last but not least the literature revealed, that there are irregularities made by migration authorities and limitations in the juvenile court supervision, when it comes to de-

termining the age of the minors. The reason for that: Under legal aspects the protection status of UMs is higher than of adults. Thus, authorities can take advantage of this knowledge and smaller the rights of a migrant where the status is not yet clearly determined (UNICEF, 2019). Each of these lacks in assistance triggers the disappointment of minors and also challenges their trust in the system. As a consequence, they often move to the streets where they find themselves being self-reliant. But mostly the conditions get worse and the likelihood to become criminalized is high (Martin, 2018).

3. Findings

3.1 Conditions of Unaccompanied Minors in Melilla

Most of the information related to the conditions of unaccompanied minors in Melilla was gathered from the meetings with Save the Children and SJR. However, neither of them are allowed to enter CETI (Centro de Estancia Temporal de Inmigrantes) or the accommodation places for unaccompanied minors such as the centre for boys called La Purísima. It is important to mention that there are other two centres, Gota de Leche (for boys and girls) and Divina Infantita (for girls), but apparently these NGOs did not provide any information about them. Therefore, they argued that even though La Purísima can accommodate maximum 300 children, there are 600 unaccompanied minors living there at the moment. The majority of children are coming from Morocco and Sub-Saharan Africa. In addition, all UMs under 16 are attending schools but there is no formal education for those between 16 and 18. However, some of them are following a vocational training. One NGO also mentioned that UMs usually encounter problems with the integration in schools, which contributes to their daily stigmatisation. Regarding to the violence in La Purísima, a representative of an NGO claimed that the situation has improved in the last two years. Furthermore, some NGOs emphasised the bad conditions that children have to face when living in La Purísima, especially in the main sector, called reception.

As a result of the poor living conditions in this centre, some children choose to live on the streets. Both SJR and Save the Children admitted that even though it is hard to estimate, around 100 children live on the streets of Melilla at the moment. They are vulnerable and highly criminalised but they fall outside of the protection system. Another NGO pointed out that the unaccompanied minors are usually located near the airport or cemetery, depending on the season. They also argued that they have tried to improve the spaces where they live but it is extremely difficult to gain their trust. They usually hide dur-

ing the day and wait for the night to come, in order to try to get in boats and travel to the peninsula, in hope for a better future. SJR noticed that the children are getting more and more young (around 9-10 years old). Moreover, the representative of the NGO emphasised that 99% of them are of Moroccan origin.

3.2 Protection Activities with Unaccompanied Minors

All of the NGOs were asked whether they are currently working with unaccompanied minors in relation to the provision of protection assistance. Five NGOs stated that they are providing some kind of direct/indirect protection assistance and/or performing protection activities such as: needs assessment of unaccompanied minors, follow-up process, case referral and cooperation with other related authorities, education and catch-up trainings. Other NGOs mentioned that the reason why they do not run protection programs with unaccompanied minors is caused by either their lack of capacity or lack of funding. The NGOs performing some protection activities with unaccompanied minors are: Apostolicas del CETI, Servicio Jesuita a Refugiados (SJR), Save the Children, Comisión Española de Ayuda al Refugiado Melilla (CEAR Melilla), and ACCEM. These five NGOs working with unaccompanied children were asked about the type and scope of activities that they are implementing.

The results gathered by **Apostolicas del CETI** show that the NGO assess the needs of unaccompanied children living in streets by being in touch with them and by referring them to other NGOs dealing with UMs. The representative also mentioned that they follow up the process of children when they reach the peninsula. Similar to Apostolicas del CETI, **CEAR** also refers separated family cases (those cases mostly include separation of children from their parents) to other NGOs like ACNUR in order to make a family reunification possible. Moreover, the representative of **SJR** stated that they also assist unaccompanied children surviving in streets, but this assistance remains very limited since those children do not want much help and refuse to go to the NGO's office.

Findings by **ACCEM** indicate that the NGO deals with only educational assistance under the scope of protection activities. It was mentioned by its representative that the NGO provides Spanish language courses to the UMs from La Purísima center, and they primarily work against the high level of illiteracy of these children.

Save the Children is one of the most active NGOs in Melilla in terms of its large capacity to provide and the extent of its activities that can be considered under protection.

Although it is not allowed to work in the centers for unaccompanied children, it has been in cooperation with the Ministry of Education (MoE) in Melilla to enhance education for unaccompanied minors staying in centers. Moreover, even though they do not provide psychological support to unaccompanied minors, the representative pointed out that they have been having regular meetings with the related governmental structures to build a governmental capacity for psychological assistance. Save the Children's work does not include advocacy, but they cooperate with the UNHCR office in Madrid and report the situation in order to encourage the advocacy.

4. Protection Gaps in Melilla

The information collected during those three days in Melilla through various meetings with representatives of NGOs shows clearly the existence of severe protection gaps surrounding unaccompanied migrant children in Melilla. Those protection gaps are the result of a lack of activities provided by the NGOs present on the field but also due to an acute inefficiency from the institutional system to address the needs of those children.

Inefficiency first because, as mentioned previously, the NGOs addressing the needs of unaccompanied children do not have access to the centres. Therefore, the scope of their impact is highly limited. This impossibility of access induces a lack of information for those children as well as a reduced impact on unaccompanied children. Indeed, while representatives say that around 600 children are inside La Purísima, only 60 of them are participating to the Spanish classes (Accem) provided by Accem. It is possible to explain this lack of attendance through three hypotheses. First, as stated before, there is a lack of information in the centre regarding outdoor activities addressed to them. Then, this low number of 60 could also be explained by insufficient capacity and a lack of funding that make addressing the needs of 600 children impossible. However, we cannot deny that this critical situation is a direct consequence of the overcrowding of this centre. Indeed, while La Purísima has a maximum capacity of 300 (Save the Children), around 600 children are there. This overcrowding is explained by the lack of reception for unaccompanied children. No political or institutional action has been taken to address this issue.

There is also a lack of services addressing the health of the children. Indeed, no psychosocial support is provided, despite the fact that most of those unaccompanied migrant children have gone through very difficult emotional situations (violence, hunger,

etc.) during their journey to Melilla. Besides that, the bad conditions of living in the centre La Purísima due to the overcrowding, the bad treatments that they can suffer inside the centre also affect the spirit of those children.

Moreover, it must be noted that no organisation mentioned activities or shared information about the legal process of asylum for those unaccompanied children. This is quite surprising, since the reason why those children are in those centres is precisely because they are seeking asylum in Melilla and waiting for their claims to be addressed. This lack of data led us to ask ourselves about this legal procedure. The readings of various reports from UNICEF and Servicio Jesuita a Migrantes, recommended by the representative of Servicio Jesuita a Migrantes in Melilla, highlight legal irregularities in the legal procedure and a lack of necessary guarantees for unaccompanied migrant children. Indeed, part of the issue is that there are no adequate mechanisms to ensure the individual assessment of the best interest of the child before each decision that will impact their rights and, more extensively, their lives (UNICEF, 2019).

As stated by UNICEF in its report, this deficit is combined with a lack of normative and operational instruments and guidelines to ensure the existence of a real procedure to determine the best interests of the child (UNICEF, 2019). Then, the authorities are also taking advantage of the legal irregularities within the asylum process in order to deny the adequate protection to these UMs. Indeed, the medical procedures used to determine the age of the unaccompanied child are highly uncertain. However, those proofs of age are still used to contest the minority of the child and deny them child protection (UNICEF, 2019). Moreover, those procedures must be made following the consent of the child, which it is not always the case (UNICEF, 2019). Since the children are not informed about it, migration authorities are taking advantage of it.

To conclude, unaccompanied migrant children in Melilla are victims of an institutional system that is rejecting them. Of course the lack of funding plays an essential role for the existence of those protection gaps mentioned above towards UMs in Melilla. However, the protection gaps are more the result of an unwilling political sphere to take appropriate measures. Indeed, no policy has been made in order to address and resolve the critical situation of unaccompanied migrant children in Melilla.

5. Conclusion

To sum up, the results of the research have shown what previous data already outlined. The situation of unaccompanied minors in Melilla is devastating because there are several protection gaps and it is uncertain for now, whether the situation will improve in the future. NGOs try to fill the protection gaps with humanitarian assistance, but advocacy towards different governmental entities, namely 'naming and shaming' campaigns are difficult to conduct, especially for organisations which work on the ground in Melilla and Nador. Organisations would rather keep a low profile than criticising and denouncing against institutions, otherwise they would risk to be thrown out and as a consequence they would lose the access to those migrants which arrive Melilla.

However, those results presented and discussed in the research paper leave an outlook and create especially some space for brainstorming of how 'effective advocacy' coming from other parties than the NGOs, could change the situation of migrants in general and particularly unaccompanied minors.

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