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SUBJECT TO WHIM

The Treatment of Unaccompanied Children in the French Hautes-Alpes



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The Treatment of Unaccompanied Migrant Children in the
French Hautes-Alpes

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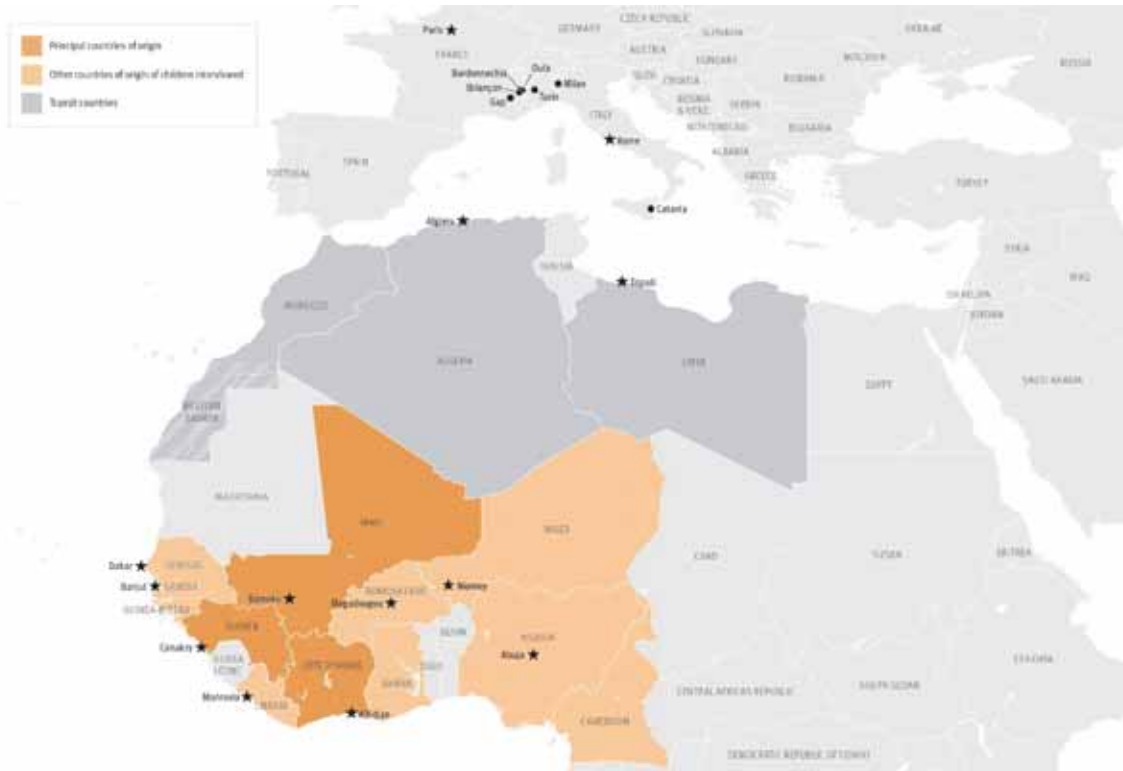
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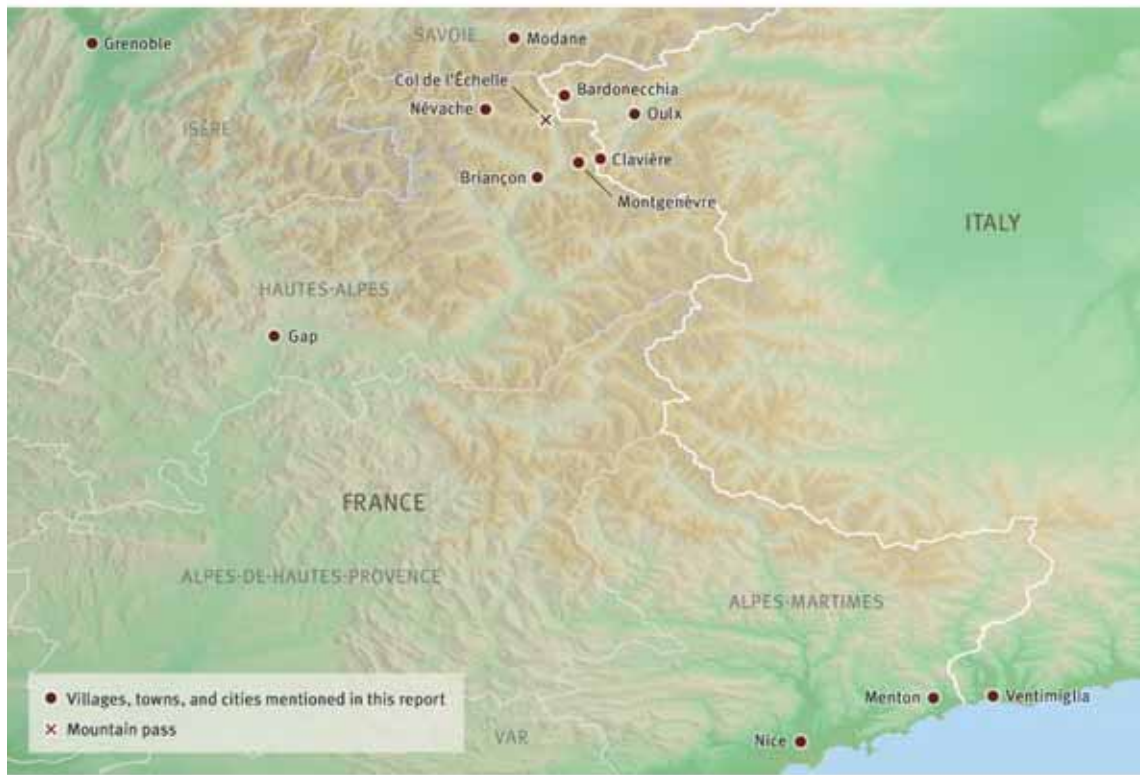
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Map of Countries of Origin and Transit



Map of the Hautes-Alpes and Surrounding Area



Map of Mountain Routes Between Claviere and Briançon



Glossary

Administrateur ad hoc	A temporary guardian
AME	State Medical Aid (Aide médicale d'État), health care for those with irregular migration status
ASE	Service de l'aide sociale à l'enfance, the child welfare service in France
Carabinieri	Italy's national gendarmerie, functioning both as a national police force and as military police
Césaï	Centre social auto-géré de l'Imprimerie, Gap
CESEDA	Code de l'entrée du séjour des étrangers et du droit d'asile, the French immigration and asylum law
Department	An administrative division of France. Gap is the prefecture, or capital, of the Hautes-Alpes department.
Departmental council	Conseil départemental, the governing body of a department, with responsibilities that include conducting age assessments of unaccompanied children and providing for their care and protection
<i>Garde à vue</i>	Police custody
<i>Juge des enfants</i>	Juvenile court judge, exercising oversight of children at risk
<i>Juge de tutelle</i>	Family court judge

<i>Jugement supplétif</i>	“Supplementary judgment,” a procedure that allows a judge to order issuance of delayed or replacement birth certificates, typically upon the production of witnesses who can attest to a child’s birth and parentage.
115	An emergency number that those who are homeless in France can use to find temporary shelter.
PAF	Police aux frontières, the French border police
Prefecture	The town in which the administration of a department is located; also refers to the departmental administrative authority.
<i>Refus d’entrée</i>	Refusal of entry
<i>Tiers digne de confiance</i>	A trusted third party; in the case of unaccompanied migrant children, a family designated by the court to provide temporary care.
Zodiac	A large inflatable boat equipped with a motor, often used to cross the Mediterranean from Libya to Italy.

Summary

Joshua F. left his home in Cameroon with his younger sister in 2016, when he was 13, after their parents died in an accident. His father's family took the house and his father's workshop, turning the two children out. They left Douala and travelled to Yaoundé, where they lived on the streets for a time until a man offered Joshua a carpentry job in northern Cameroon. In fact, the man took them to Chad and forced them to work long hours without pay in his home.

Joshua and his sister were then abducted and taken to Libya. There, he told Human Rights Watch, they were held by smugglers. "I was the victim of slavery," he said, describing long days of forced labour in fields and on construction sites. The men who held him and his sister beat them and demanded that they contact their family to arrange a ransom payment. After he repeatedly told the men they had nobody they could call, one of the men killed his sister in front of him.

After he had been in Libya for about a year, once he had worked long enough that the men considered his ransom paid, they took him to the beach to join a large group boarding a Zodiac, a large inflatable boat. The men forced as many as possible onto the boat, at one point firing guns at the water near the group. After several days at sea, a ship rescued the group and took them to Italy.

Joshua had sustained injuries from the forced labour and beatings he endured in Libya, and when he arrived in Italy, he asked reception center staff to see a doctor. But he never received medical care while he was in Italy. He was also not able to attend school.

After six months, he decided to leave Italy. He travelled to Claviere, a village in the Alps on the French-Italian border, and tried to enter France on five successive nights. On his first four attempts, border police sent him back to Italy after he told them his age and tried to explain his situation, even though by law they should have accepted his declared age and, under the procedures the border police director described to Human Rights Watch, should have referred him to child protection authorities.

On his fifth attempt, police let him continue into France. They did not contact child welfare services; instead, he and another boy walked all night to reach the town of Briançon. Volunteers at a shelter there gave him first aid and arranged for his transport to the departmental capital, Gap, where unaccompanied children undergo age assessments to determine whether they will be taken into care.

In Gap, he received a negative age assessment for reasons he still does not understand. “There were things written there I did not say,” he told us. With the aid of lawyers, he asked the juvenile judge to review the negative age assessment and was expecting a ruling in mid-September 2019.

Like Joshua, many children decide to leave Italy and travel to France because they have not received access to education or adequate health care in Italy. The perception of hostility on the part of the Italian government and the general public is also a significant factor in unaccompanied children’s decisions to leave Italy.

Unaccompanied migrant children who travel from Italy to France’s Hautes-Alpes Department may, in violation of French law and child rights protection norms, be summarily returned to Italy by French authorities. To avoid apprehension and summary return by border police, many children cross the border at night, hiking high into the mountains far off established trails.

Even in the height of the summer, in July and August, it is cold in the mountains, and it is easy to get lost in the dark. Children described walking seven to ten hours to reach Briançon, less than 15 km via the most direct route by road. Many were exhausted by the time they reached Briançon, and some had suffered injuries from falls on rocky slopes or while crossing frigid mountain streams. In the winter months, the crossing can be perilous: many of the children interviewed by Human Rights Watch in January and February were recovering from frostbite, and some required hospitalization.

Once they enter France, many are refused formal recognition as children after flawed age assessments. In cases reviewed by Human Rights Watch, many children received negative age assessments because, in the judgement of the examiner, they failed to provide clear accounts of their journeys—in reality, meaning that they made minor mistakes with dates, confused the names of places they travelled through, or did not want to discuss

particularly difficult experiences with an adult they had just met. Work in home countries or while in transit to Europe may be taken as an indication that the child is older than claimed, even though many children work at very young ages around the world. Life goals that examiners deem unrealistic, such as overly optimistic assessments of career prospects, may also be factors in negative age assessments.

French regulations require these evaluations to be multidisciplinary in nature, meaning that they should consider children's educational background, psychological factors, and other aspects of their lives, and call for them to be conducted in a manner "characterized by neutrality and compassion." In fact, some children described questioning by examiners they said were indifferent or hostile. Children did not always understand the interpreters assigned to them, and some said that their interpreters criticized their responses. Many children felt they had not been heard during their interviews, a conclusion reinforced when they saw the reports prepared by the examiner. Echoing Joshua's remarks, many other children told us the reports contained significant inaccuracies and included statements they had not made.

Many of the children who arrive on their own in France, whether in the Hautes-Alpes or elsewhere, have suffered serious abuses in their home countries, endured torture, forced labour, and other ill-treatment in Libya, and undergone terrifying sea crossings on overcrowded boats on their way to Europe. Many show symptoms of post-traumatic stress disorder, doctors who work with migrant children in the Hautes-Alpes told Human Rights Watch. But the age examination process does not appear to take into account these circumstances and the well-documented effects of PTSD on memory, concentration, and the expression of emotion.

An immediate consequence of a negative age assessment is eviction from the emergency shelter for unaccompanied children, even for individuals who seek review before a judge. Some find shelter with families who volunteer space in their homes. Others are housed in shelters for adults.

Some children ultimately succeed in having negative age assessments overturned on review, but delays in formal recognition as a child may affect their eligibility for regular immigration status upon adulthood.

Police have also harassed aid workers, volunteers, and activists who take part in search-and-rescue operations in the mountains. For example, members of these search-and-rescue teams told Human Rights Watch police regularly subject them to document checks—procedures that are lawful in France but open to abuse. In some cases, volunteers and activists describe receiving traffic infractions or being subjected to intrusive searches or protracted questioning in circumstances that suggest that the purpose of these acts by police was to target them for their lawful humanitarian activities rather than to ensure road safety or establish identity. Humanitarian assistance is protected under French law, and the European Union Agency for Fundamental Rights (FRA) has called for EU guidance to clarify that humanitarian assistance to migrants should not be a crime. Nevertheless, French authorities have brought criminal charges against aid workers, often under provisions that criminalize the facilitation of irregular entry.

The practices identified in this report violate unaccompanied children’s human rights, as well as the human rights of aid workers, volunteers, and activists who assist migrant children and adults.

Case of police pushbacks of unaccompanied children to Italy reviewed by Human Rights Watch appear to be a matter of individual police officer’s whim and do not comply with French law or international human rights norms on treatment of unaccompanied children and deny them the protection and care in France they are entitled to as children.

Age assessment procedures in the Hautes-Alpes are arbitrary and fail to respect children’s right to a fair process, drawing adverse inferences from factors such as travelling alone or working while in transit, minor errors with dates, and reluctance to discuss traumatic events in detail. In addition, because formal recognition as a child is an essential first step to enter the child protection system and receive other rights and services, including access to housing, health, and education and regularization of legal status, the age assessment procedures employed in the Hautes-Alpes lead to denial of children’s right to protection and assistance.

France shares the same obligations as all other EU member states to afford unaccompanied children who arrive at its borders special safeguards that protect their human rights as set out in international and EU law. This report evaluates French authorities’ actions in relation to those obligations, while recognizing that France is not

alone in the European Union in failing to meet them consistently. The fact that unaccompanied children arriving in France may have had their rights violated by authorities in another EU country does not mitigate France's duty to ensure that its policies and practices with respect to unaccompanied migrant children comply with international and regional norms and EU law.

Police harassment of aid workers, volunteers, and activists interferes with their ability to provide potentially life-saving assistance to children and adults in need. Prosecutions for providing humanitarian assistance potentially violate a range of rights, including that of freedom of association.

To address the shortcomings identified in this report, French police and immigration authorities should end summary returns of unaccompanied migrant children to Italy and instead ensure they are immediately transferred to the child welfare system for appropriate protection and care.

French authorities should reform age assessment procedures in line with international standards to ensure that children are not arbitrarily denied formal recognition and the protection to which they are entitled.

Authorities should also prevent and ensure accountability for police harassment of humanitarian workers.

Recommendations

To the Ministry of the Interior and the Ministry of Justice

- Investigate accounts of police pushbacks of unaccompanied children at the French-Italian border and reported intimidation of volunteers and activists.
- Repeal the decree allowing prefectures to process the personal data of those who receive negative age assessments for the purpose of expulsion from French territory, potentially before they have had the opportunity to seek review.
- Ensure that aid and assistance to migrants are not criminalized, in line with the July 2018 decision of the Constitutional Council (Conseil constitutionnel).
- Together with the Ministry of Social Affairs, ensure that departments have sufficient resources to carry out their child protection functions.

To the Ministry of Social Affairs (Ministère des solidarités et de la santé)

- Prepare guidance on how to conduct multidisciplinary age assessments that afford the benefit of the doubt in cases where there is a reasonable possibility that the person assessed may be a child and disseminate that guidance to departmental child protection authorities.
- Together with the Ministry of the Interior and the Ministry of Justice, ensure that departments have sufficient resources to carry out their child protection functions.

To the Hautes-Alpes Prefecture and the French Border Police (Police aux frontières)

- Direct border police to accept an individual's declared age if there is a reasonable possibility that the person is a child. In such cases, border police should transfer those individuals to the care of child protection authorities. In no case should an individual be returned to Italy if there is a reasonable possibility that the person is a child.
- Ensure that all individuals refused entry into France, including those who are apprehended after irregular entry, are notified of their rights in a language they understand, as required by article L.213-2 of the Code on Reception and Residency

of Foreigners and Asylum Law (Code de l'entrée et du séjour des étrangers et du droit d'asile).

- Verification of birth certificates and other identity documents obtained abroad should, consistent with article 47 of the Civil Code, be presumed valid in the absence of substantiated reason to believe they are not.
- Instruct police officers to refrain from conducting abusive identity checks targeting humanitarian activists and volunteers, and to ensure that all stops are grounded in a reasonable suspicion of wrongdoing.
- Investigate and, if appropriate, sanction conduct by the border police that does not comply with the Code on Reception and Residency of Foreigners and Asylum Law and with policing standards.

To the Hautes-Alpes Directorate of Prevention Policy and Social Action (Direction des Politiques de Prévention et de l'Action Sociale)

- Ensure that all those who are awaiting an evaluation receive emergency shelter for the minimum period of five days or until the evaluation is completed, as required by article R.221-11 of the Code on Social Action and Families (Code de l'action sociale et des familles). The period of emergency shelter should be extended to cover any period of appeal of an adverse age determination.
- Issue and implement clear guidance to staff that age assessments should follow the November 17, 2016, order of the Ministry of Justice. All interviews should be conducted with particular expertise and care, in a manner “characterized by neutrality and compassion.” Birth certificates and other civil documents obtained abroad should be presumed valid in the absence of substantiated reason to believe they are not.
- Provide for screening for post-traumatic stress disorder (PTSD) by trained psychiatrists prior to age assessment evaluations. Those found to have symptoms that could indicate PTSD should receive counseling prior to assessment. In addition, specific protocols should be developed with input from experts in PTSD to determine when, how, and by whom children with PTSD should be assessed.
- Ensure the availability of interpreters who speak the languages and their variants most commonly spoken by unaccompanied children who undergo age assessments in the Hautes-Alpes.

To the juvenile court (Tribunal des Enfants)

- Juvenile court judges should apply the presumption of validity of birth registration and other identity documents issued abroad, in line with article 47 of the Civil Code.
- Juvenile court judges should exercise their responsibility to ensure effective review of departmental age assessments.

To the public prosecutor (procureur)

- Appoint a legal representative (*administrateur ad hoc*) without delay whenever a person claiming to be an unaccompanied child seeks to submit an asylum claim to the French Office for the Protection of Refugees and Stateless Persons (Office français de protection des réfugiés et apatrides, OFPRA).

To the Government and the Parliament

- Abolish the arbitrary legal status of the 10 km border zone; admit unaccompanied children arriving at the border to French territory to allow their protection needs, vulnerabilities, views, and best interests to be properly assessed and to inform any decision about their future.
- Amend article 622-1 of the Code on Reception and Residency of Foreigners and Asylum Law to clarify that humanitarian assistance, including the provision of food, water, clothing, medical care, and transport is not a criminal offence, in line with the Constitutional Council's July 2018 ruling that fraternity (*fraternité*) is a constitutionally protected principle.
- Amend the Code on Social Action and Families and other legislation, as appropriate, to reflect the following, in line with international standards:
 - Any age assessment should be a matter of last resort, to be used only where there are serious doubts about an individual's declared age and where other approaches, including efforts to gather documentary evidence, have failed to establish an individual's age.
 - Authorities should offer clear reasons in writing as to why an individual's age is doubted before beginning an age assessment.
 - The environment, questions asked, and assessment of responses should take into account the reality that children cannot be expected to provide

the same level of precision as might be expected of an adult, and also reflect the fact that the trauma many children have experienced can affect memory and demeanor.

- Authorities should not draw adverse inferences from work undertaken by children, the fact that some children have spent time on the streets, decisions by children to travel to Europe on their own. Such experiences are unfortunately common around the world and should not be taken as calling into question a child's declared age.
- Age assessment should afford the benefit of the doubt such that if there is a possibility that an individual is a child, he or she is treated as such.
- Amend the Code on Social Action and Families and other legislation, as appropriate, to ensure that the finding of one department (an administrative division of France) that an individual is under the age of 18 cannot be challenged by another department.
- Amend articles L.313-11 and L.313-15 of the Code on Reception and Residency of Foreigners and Asylum Law and article 21-12 of the Civil Code to ensure that children are not penalized by delays in the age assessment process. For the purpose of eligibility for residence permits and nationality upon reaching adulthood, children should be regarded as having been taken into care by the child welfare system (Service de l'aide sociale à l'enfance, ASE) as of the day they sought to be recognized as children at the Hautes-Alpes Directorate of Prevention Policy and Social Action or at similar evaluation centers, regardless of how long the age assessment process takes.

To the Italian Ministry of the Interior's Department for Civil Liberties and Immigration (Dipartimento per la Libertà civili e l'Immigrazione)

- Ensure that all Italian reception centers, including those for unaccompanied migrant children, provide children with access to education, health care, and psychosocial support and identify durable solutions on an individual basis for each unaccompanied child to help establish normality and long-term stability, in line with the European Commission's 2017 communication on the protection of children in migration and the European Asylum Support Office's 2018 guidance on reception conditions for unaccompanied children.

To the European Commission

- Assess whether France and Italy are in breach of the Asylum Procedures Directive, the Reception Directive, and the Dublin III Regulation. In particular, the European Commission should examine whether France’s age assessment methods adequately afford the benefit of the doubt where results are inconclusive and should evaluate reception conditions and safeguards for children in Italy. The Commission should do the same evaluation where concerns arise at other EU internal borders.
- Propose revision of the Facilitation Directive to require sanctions for the smuggling of persons only “when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit,” as provided in the UN Smuggling Protocol. The revised Facilitation Directive should explicitly provide that EU Member States should not impose sanctions for the facilitation of irregular entry or transit in cases where the aim is to provide humanitarian assistance.
- Until the Facilitation Directive is revised, develop guidance to ensure its implementation complies with international standards, in particular to clarify that the provision of humanitarian assistance without financial or other material benefit should not be a criminal offense.

Methodology

This report is based on research in the French Department of Hautes-Alpes between January and July 2019. Three Human Rights Watch researchers interviewed fifty-nine boys, one girl, and one adult man who had recently turned 18. Sixty identified themselves as children under the age of 18, and one was an 18-year-old who arrived in France at the age of 16. Twenty-one were from the Republic of Guinea (often referred to as Guinea-Conakry to distinguish it from Guinea-Bissau and Equatorial Guinea), ten from Côte d'Ivoire, nine from Mali, six from Gambia, four from Nigeria, three from Senegal, two from Burkina Faso, and one each from Benin, Cameroon, Ghana, Guinea-Bissau, Liberia, and Niger. Fifty-eight travelled through Libya and Italy before arriving in France. Two travelled through Morocco and Spain, and one flew directly to France.

Two of those we interviewed were formally recognized as children following an age assessment by the Departmental Council; 33 had received negative age assessments from the Departmental Council by the time of our interview. Seven of those who received negative age assessments eventually received formal recognition as children after a juvenile court judge (*juge des enfants*) reviewed their cases, and one was recognized as a child by a family court judge (*juge des tutelles*). The 18-year-old man had received a French residence permit (*carte de séjour*) 11 months after he was formally recognized as a child by the juvenile court judge and the week before Human Rights Watch interviewed him.

Human Rights Watch researchers conducted interviews in French, English, Italian, or in one case in Portuguese, depending on the preference of the person being interviewed. The researchers explained to all interviewees the nature and purpose of our research, including our intent to publish a report with the information gathered. They informed each potential interviewee that they were under no obligation to speak with us, that Human Rights Watch does not provide humanitarian services or legal assistance, and that they could stop the interview at any time or decline to answer specific questions with no adverse consequences. The researchers obtained oral consent for each interview. Interviewees did not receive material compensation for speaking with Human Rights Watch.

In addition, Human Rights Watch reviewed 36 evaluations conducted by the Directorate of Prevention Policy and Social Action (Direction des Politiques de Prévention et de l'Action Sociale) of the Department of Hautes-Alpes, 13 juvenile court judgments, and 2 guardianship orders from the family court.

Human Rights Watch also interviewed lawyers, health care providers, staff of humanitarian agencies, volunteers who assist migrant children, and volunteers and activists who conduct search-and-rescue missions in the mountains near the French-Italian border.

Human Rights Watch met with and shared the findings of this research with the Hautes-Alpes prefecture and the border police director for the Hautes-Alpes and Alpes de Haute-Provence. We made three requests for a meeting with the Hautes-Alpes Directorate of Prevention Policy and Social Action and two additional requests for responses to our preliminary findings.¹ In response to our first request for a meeting asking to hear from the department how it identifies children, provides them with accommodation, and ensures their education, the department replied:

We take care of our responsibilities to shelter, evaluate with reference to the legal instruments, follow the cases of recognized minors, with regard to the schooling, apprenticeships, or internships with businesses . . .

In our opinion, there is nothing to be “heard” [from us], the migratory flow has declined in the Hautes-Alpes and our activities have not stopped.²

¹ Email from Camille Marquis, senior advocacy coordinator, Human Rights Watch, to Béatrice Longueville, director, Hautes-Alpes Directorate of Prevention Policy and Social Action, May 2, 2019; Email from Camille Marquis, senior advocacy coordinator, Human Rights Watch, to Béatrice Longueville, director, Hautes-Alpes Directorate of Prevention Policy and Social Action, May 7, 2019; Email from Camille Marquis, senior advocacy coordinator, Human Rights Watch, to Béatrice Longueville, director, Hautes-Alpes Directorate of Prevention Policy and Social Action, May 16, 2019; Letter from Bénédicte Jeannerod, France director, Human Rights Watch, to Béatrice Longueville, director, Hautes-Alpes Directorate of Prevention Policy and Social Action, May 29, 2019; Email from Camille Marquis, senior advocacy coordinator, Human Rights Watch, to Béatrice Longueville, director, Hautes-Alpes Directorate of Prevention Policy and Social Action, June 25, 2019.

² Email from Béatrice Longueville, director, Hautes-Alpes Directorate of Prevention Policy and Social Action, to Camille Marquis, senior advocacy coordinator, Human Rights Watch, May 2, 2019.

The department eventually offered general responses to several of the points we raised but refused to answer our specific questions.³

Human Rights Watch also provided Italian authorities with a summary of children’s accounts of reception conditions in Italy and requested their response to these accounts.⁴ In reply, Italian authorities described the reception system for unaccompanied children and offered some responses to the questions we posed, as discussed more fully in the next chapter.⁵

All names of children used in this report are pseudonyms. Human Rights Watch has also withheld the names and other identifying information of humanitarian workers who requested that we not publish this information.

In line with international standards, the term “child” refers to a person under the age of 18.⁶ As the United Nations Committee on the Rights of the Child and other international authorities do, we use the term “unaccompanied children” in this report to refer to 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.”⁷ “Separated children” are those who are “separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives,”⁸ meaning that they may be accompanied by other adult relatives.

³ Letter from Jérôme Scholly, director general of services, Hautes-Alpes Directorate of Prevention Policy and Social Action, to Bénédicte Jeannerod, France director, Human Rights Watch, June 24, 2019.

⁴ Letter from Michael Bochenek, senior counsel, Children’s Rights Division, Human Rights Watch, to Prefect Michele di Bari, head of department, Department for Civil Liberties and Immigration, Ministry of the Interior, August 21, 2019.

⁵ Email from Michela Lattarulo, central director of civil services for immigration and asylum, Ministry of the Interior, to Michael Garcia Bochenek, senior counsel, Children’s Rights Division, Human Rights Watch, September 3, 2019.

⁶ Convention on the Rights of the Child, November 20, 1989, 1577 U.N.T.S. 3 (entered into force September 2, 1990), art. 1. France ratified the Convention on the Rights of the Child on August 7, 1990.

⁷ UN Committee on the Rights of the Child, General Comment No. 6: Treatment of Unaccompanied and Separated Children Outside Their Country of Origin, U.N. Doc. CRC/GC/2005/6 (September 1, 2005), para. 7.

⁸ *Ibid.*, para. 8.

I. Unaccompanied Children Arriving in the Hautes-Alpes

As with Joshua F., whose case is described at the beginning of this report, many unaccompanied children told Human Rights Watch they came to the Hautes-Alpes after leaving their home countries on their own, with siblings or friends of their own age, or in the company of adults to escape harm at the hands of abusive families, targeted violence from criminal groups, and armed groups.

Nearly all described dangers they faced on their journey, notably the 58 who told us they transited through Libya, where arbitrary detention by authorities, militias, smugglers, and traffickers, torture and other ill-treatment, and forced labor of migrant adults and children are commonly reported. Some said they saw friends or family killed in their home countries, and one boy told us smugglers killed his sister when they were in Libya. Others watched people drown in the Mediterranean when their boats tossed or capsized on heavy seas. The risks on the journey, particularly in Libya and on the Mediterranean crossing, are severe enough that the UN Children’s Fund (UNICEF) and the International Organization for Migration (IOM) describe the Central Mediterranean route as “singularly dangerous,” one of the world’s riskiest migration routes.⁹

Most of the children interviewed for this report spent six months to a year or more in Italy before deciding to make their way to France. Many cited the lack of access to education and health care as the primary reasons for their decisions to leave Italy. Some children said that discriminatory attitudes expressed by government officials and members of the general public factored into their decisions to leave Italy and travel to France. In addition, children from French-speaking countries frequently said that language and a sense of historic ties between their home countries and France were additional motivations to leave Italy for France.

Most children told Human Rights Watch they attempted to cross the border between Italy and France by traversing the mountains near Claviere, on the Italian side, and Montgenèvre, in France. They crossed through the mountains to avoid apprehension and

⁹ UNICEF and IOM, *Harrowing Journeys: Children and Youth on the Move Across the Mediterranean Sea, at Risk of Trafficking and Exploitation* (New York and Geneva: UNICEF and IOM, 2017), pp. 6, 10.

summary return to Italy, and they chose this route because they heard that it was less dangerous than other mountain routes.

It is true that the route between Claviere and Montgenèvre is comparatively safer than other routes through the Alps, but unpredictable weather, the distance involved, and the need to navigate unfamiliar, steep mountain terrain at night create significant risks. Temperatures can plummet at night, and paths can be covered in snow until early June. Youths told us that to avoid apprehension, they went as high as possible, hiding whenever they saw lights in the distance or heard snowmobiles. Siaka A., a 16-year-old Ivoirian boy, told us that he and the others he was travelling with jumped into snowbanks whenever they saw or heard people.¹⁰ Louis M., a 16-year-old boy from Mali, said, “There was a lot of snow. It was up to my knees. We had to stop every so often because of the snow.”¹¹ As a result, many children arrive in Briançon suffering from frostbite, other injuries, and the effects of exhaustion.

In 2018, one-third of the migrants staying in the shelter in Briançon identified themselves as children, shelter volunteers told us.¹² Most are West African; the most common countries of origin are Guinea, Côte d’Ivoire, and Mali.¹³

Reasons for Leaving Their Homes

The children we interviewed described leaving their homes and travelling on their own for a variety of reasons. Many of the children Human Rights Watch spoke with said they had fled abusive family situations, particularly at the hands of stepparents or extended family members after the death of a parent. Others said they had been subjected to labor exploitation. Some said they were targeted by armed groups or by members of the

¹⁰ Human Rights Watch interview with Siaka A., Gap, France, January 25, 2019.

¹¹ Human Rights Watch interview with Louis M., Briançon, France, January 23, 2019.

¹² Human Rights Watch interview with volunteers, Briançon, France, January 22, 2019.

¹³ Human Rights Watch interview with Emmanuel Effantin, Director of Services of the Cabinet of the Prefect, Gap, France, May 15, 2019. We heard the same from volunteers with the refugee shelter in Briançon. Human Rights Watch interview with volunteer, Refuge Solidaire, Briançon, France, January 22, 2019. Nationally, 67 percent of all recognized unaccompanied children were from these three countries of origin in 2018. Ministère de la Justice, Direction de la protection judiciaire de la jeunesse, Rapport annuel d’activité 2018 : Mission mineurs non accompagnés, June 2019, p. 7, http://www.justice.gouv.fr/art_pix/RAA-MMNA-2018.pdf (accessed August 8, 2019).

community because of their or their families' religion, perceived political views, or for other reasons. And some described circumstances that suggested they were trafficked.

Many of the experiences children described are potential grounds for asylum or other protection from return under international law.¹⁴ French law affords unaccompanied children immediate protection and the possibility of regular immigration status upon adulthood for those who are formally recognized as children and placed under the care of the child welfare system, without requiring them to go through the separate asylum process. For this reason, most unaccompanied children in France do not seek asylum, although they are not precluded from doing so.¹⁵

Abusive Families

Children frequently mentioned family abuse and neglect as the principal reason why they left their home countries.

In particular, children who moved to a relative's house after the death of a parent said that they faced physical abuse from their new caregivers, typically extended family members. For example, Kebba S., a 16-year-old boy with a Gambian father and Senegalese mother said, "When my father died, I left with my mom for Senegal, to stay with my uncle. My uncle wasn't gentle with me. Another uncle, who loves me a lot and who is in Gabon, helped me leave."¹⁶ Other boys, including Malick I., described physical abuse from extended family in similar circumstances.¹⁷

¹⁴ See, for example, UNHCR, Guidelines on International Protection: Child Asylum Claims Under Articles 1(A)(2) and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, U.N. Doc. HCR/GIP/09/08 (December 22, 2009); Committee on the Rights of the Child, General Comment No. 6, para. 74, 27; Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child, Joint General Comment No. 3 (Committee on the Rights of Migrant Workers) and No. 22 (Committee on the Rights of the Child) on the General Principles Regarding the Human Rights of Children in the Context of International Migration, U.N. Doc. CMW/G/GC/3-CRC/C/GC/22 (November 16, 2017), para. 46.

¹⁵ For a discussion of practical barriers in access to asylum for unaccompanied children, see Human Rights Watch, *"Like Living in Hell": Police Abuses Against Child and Adult Migrants in Calais* (New York: Human Rights Watch, July 2017), pp. 36-37.

¹⁶ Human Rights Watch interview with Kebba S., Briançon, France, January 23, 2019.

¹⁷ Human Rights Watch interview with Malick I., Briançon, France, February 16, 2019.

In addition to physical abuse, some children described situations of labour exploitation in their new homes, as with Louis M., a 16-year-old from Mali, who told us that his uncle forced him to work in the fields after his father and mother died. The work was very difficult, he said, adding, “I was in a very, very bad state.”¹⁸ Ramatoulaye M., a 16-year-old from Côte d’Ivoire, said that his relatives sent him to work on the streets of Abidjan after his parents separated and remarried.¹⁹

Others, such as 16-year-old Yatma K., from Guinea, said that their new caregivers did not allow them to attend school.²⁰

Several children told us they were simply unwelcome after the remarriage or death of a parent. Samuel A., a 16-year-old from Nigeria, said, “My stepmother did not want me around. My father told me it was time for me to take care of myself.”²¹ Boubacar Y., a 15-year-old from Guinea, gave a similar account.²² And a 16-year-old Guinean boy, Ismael K., told us that after his father died, his father’s second wife did not want him in the house.²³

Other children described violence at the hands of one parent after a divorce or separation.²⁴

Some children said that their religion or a parent’s religion was a source of tension in their family. Malik R., a 16-year-old from Senegal, explained that his mother is Christian and his father Muslim. “When I was 12, I chose my mother’s religion. My father hasn’t accepted that.”²⁵ Fabrice M., a 17-year-old Guinean boy, told us that he was raised Catholic, his mother’s religion; after his father died, his father’s family pressured him to convert to Islam, beating him and at one point burning him with an iron rod when he refused.²⁶ Sixteen-year-old Joshua F., from Cameroon, whose father was Muslim and mother

¹⁸ Human Rights Watch interview with Louis M., Briançon, France, January 23, 2019.

¹⁹ Human Rights Watch interview with Ramatoulaye M., Gap, France, May 13, 2019.

²⁰ Human Rights Watch interview with Yatma K., Gap, France, February 18, 2019.

²¹ Human Rights Watch interview with Samuel A., Gap, France, January 23, 2019.

²² Human Rights Watch interview with Boubacar Y., Briançon, France, February 14, 2019.

²³ Human Rights Watch interview with Ismael K., Briançon, France, January 22, 2019.

²⁴ For example, Human Rights Watch interview with Tahirou B., Veynes, France, May 15, 2019.

²⁵ Human Rights Watch interview with Malik R., Gap, France, March 15, 2019.

²⁶ Human Rights Watch interview with Fabrice M., Briançon, France, July 23, 2019.

Christian, said that after his parents died in an accident, “My father’s side, they did not like me. . . . They sold my father’s house and carpentry shop where I worked. I was on the street with my little sister.”²⁷

In Joshua’s case, although he attributed his relatives’ actions to disagreement over religion, they may have been motivated simply by the desire to take his father’s property. Other children mentioned that their relatives wanted property that a deceased parent had owned. For example, Ousmane A., a 17-year-old, left Guinea with his brother after his half-brothers assaulted him and broke his kneecap during an inheritance dispute.²⁸ Adama M., a 17-year-old from Côte d’Ivoire, said that after his father died, his uncles turned him and his mother out of their house in Abidjan.²⁹

Others left because they had no family to care for them, such as Abdullah S., a Liberian 16-year-old.³⁰ Another 16-year-old, Louis M., from Mali, said, “My father and mother are dead; there is no life for me there.”³¹ Assane B., a 15-year-old, said that he had been living on the streets in Guinea.³²

These accounts of family abuse and neglect as significant motivations for migration are consistent with other research on unaccompanied children who travel to western Europe. For instance, a June 2017 report by UNICEF and REACH found that of 720 unaccompanied and separated children (97 percent of whom were boys) interviewed in Italy in 2016 and 2017, nearly one-third—and almost half of Gambian children—left because of violence or problems at home or with their families.³³

²⁷ Human Rights Watch interview with Joshua F., Gap, France, January 24, 2019.

²⁸ Human Rights Watch interview with Ousame A., Gap, France, May 14, 2019.

²⁹ Human Rights Watch interview with Adama M., Briançon, France, July 23, 2019.

³⁰ Human Rights Watch interview with Abdullah S., Gap, France, January 23, 2019.

³¹ Human Rights Watch interview with Louis M., Briançon, France, January 23, 2019.

³² Human Rights Watch interview Assane B., Gap, France, January 24, 2019.

³³ UNICEF & REACH, *Children on the Move in Italy and Greece: Report* (New York and Geneva: UNICEF and REACH, June 2017), p. 3. See also Women’s Refugee Commission, *“More Than One Million Pains”: Sexual Violence Against Men and Boys on the Central Mediterranean Route to Italy* (New York: Women’s Refugee Commission, March 2019), p. 11.

Armed Conflict and Violence

Some children told Human Rights Watch they were targeted by armed groups or gangs.

For instance, Aliou M., 16, said he left Niger because of attacks by Boko Haram, an extremist armed group whose name in Hausa means “Western education is forbidden.” “Boko Haram placed a bomb at the mosque where my father and mother were praying, and they died. Boko Haram came twice to the house. They beat me at the mosque,” he said, showing us a scar.³⁴

Siaka A., a 16-year-old from Côte d’Ivoire, told us that he was singled out by a local gang. “My big brother was in a gang . . . There was a misunderstanding, so he left. On a Monday night, [the gang] came to get my brother at home, but he wasn’t there. They wanted to hurt us. They cut off my fingertip with a machete,” he said, showing us that one of his fingers was missing the tip.³⁵

In some instances, children told Human Rights Watch they or their families were targeted because of their religion, ethnicity, political opinion, or similar grounds. For example, Ismaila D., a 16-year-old-boy from Guinea, told us that he left because he believes members of his ethnic group are targets of state-sponsored violence.³⁶

Musa G., 18 at the time of our interview, told us he fled Guinea-Bissau in 2012 with an uncle after his father, a member of the armed forces, was killed during an attempted coup.³⁷

Fode A., a 16-year-old boy from Guinea, told us that he left after his family died of Ebola. Because he was the only survivor, the community blamed him for the tragedy:

My father died when I was a baby, it was my mother who did everything. But at the end of 2013, Ebola touched my whole family. Mom and her brothers

³⁴ Human Rights Watch interview with Aliou M., Briançon, France, January 25, 2019.

³⁵ Human Rights Watch interview with Siaka A., Gap, France, January 25, 2019.

³⁶ Human Rights Watch interview with Ismaila D., Gap, France, February 19, 2019.

³⁷ Human Rights Watch interview with Musa G., Gap, France, May 16, 2019.

died while they were trying to do everything [to take care of us]. I had to leave school because my friends said I had Ebola. They told me they were going to kill me. They said I was the one who brought Ebola [to the community].³⁸

Trafficking

In some cases, children told us they had not set out from their homes with the idea of coming to Europe. Some said they were taken outside their home countries against their will. Others said they said that they were misled about where they would be going or what work they would be doing. In such cases, they described circumstances that appear to amount to trafficking.³⁹

For instance, Joshua F., a 16-year-old boy from Cameroon, told us that he left Douala with his younger sister and travelled to Yaoundé but never intended to leave his home country. He explained:

A boss offered me a carpentry job in northern Cameroon. I left with my 12-year-old sister. But he kidnapped us and took us to Chad. He turned us over to someone else to work with that person. We did the housework; he didn't pay us. My sister worked a lot.

I wasn't the one who decided to leave Cameroon. The gentleman told me there was a job in northern Cameroon. I would not have agreed to go to Chad.⁴⁰

After some months in Chad, a group of armed men abducted him and his sister and took them to Libya.⁴¹

³⁸ Human Rights Watch interview with Fode A., Briançon, France, January 22, 2019.

³⁹ A child is trafficking if the child is recruited, transported, transferred, harbored, or received for the purpose of exploitation. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, November 15, 2000, 2237 U.N.T.S. 319, art. 3(c).

⁴⁰ Human Rights Watch interview with Joshua F., Gap, France, January 24, 2019.

⁴¹ Ibid.

Others had not intended to cross from Libya to Europe. For instance, Kebba S., a 16-year-old boy from Gambia, escaped from a detention center in Tripoli with about nine other men and boys and were hiding in a field when they were approached by a man who offered to arrange their transport to Tunisia if they paid him. A total of about 50 people boarded an inflatable rubber boat. “There was a compass [for us to use] to head toward Tunisia. Then it started to rain. The compass didn’t work anymore,” he said. After two or three days at sea, a large vessel rescued their boat and took them to Catania, in Italy.⁴²

Ill-Treatment in Libya

Nearly all of the 58 children we interviewed who said they had transited through Libya interviewed by Human Rights Watch described being held for ransom and detained in degrading and abusive conditions, forced to work, and subjected to beatings and other abuses while they were in Libya.

Although children usually referred to the places where they were held as “prisons,” most said they were not detained by government agents; the rest did not know who detained them. In one such account, Anthony L., a 15-year-old from Ghana, told us:

In Libya, I was sleeping in a camp in the desert, in Sabha [about 780 km south of Tripoli]. It was like a prison. There was no government, no officials. I was held by bandits. I stayed there for one week. It was very bad.

There were a lot of people, 700 people. They keep you in a room with no food. They beat you. They beat me to get money. They beat me for four days.

In the room, there was no space, you could not lay down. It was very hot. You could only stand, and you could not sleep.⁴³

In another such account, Moses P., a 16-year-old boy from Gambia, said of the three months he was detained in western Libya, “It was very difficult, there were beatings and

⁴² Human Rights Watch interview with Kebba S., Briançon, France, January 23, 2019.

⁴³ Human Rights Watch interview with Anthony L., Gap, France, February 14, 2019.

cuts with blades. In prison, I suffered so much. Beatings every day.” He showed us scars on his body that he said were from his time in detention.⁴⁴ Gabriel F., a 17-year-old Nigerian boy, said that in the place he was held in Tripoli, his captors “were taking girls to sleep with them.”⁴⁵

Overcrowding, unsanitary conditions, and inadequate and often bad food were the norm in the places where children were held, we heard. “There were 10 to 15 people in each room, it was hot, so hot. There was only a small window,” Sékou M., a 16-year-old from Mali, told us.⁴⁶ Louis M., another 16-year-old boy from Mali, gave a similar account of the place he was held for a month in Libya: “In the prison, there was no window, there were many people. I did not eat much, only rolls.”⁴⁷ Oussenyou A., a 16-year-old boy from Guinea who said he spent a year in Sabratha, about 80 km east of Tripoli on the Mediterranean coast, told us, “We didn’t eat every day in Libya. Even the water wasn’t good. It was very difficult.”⁴⁸

Children described being forced to work in fields or on construction sites if they were unable to arrange ransom payments from relatives. Joshua F., a 16-year-old from Cameroon, told us that after he and his younger sister were abducted in Chad, they were taken to Libya—he did not remember precisely where—and held by armed men. He said:

I was a victim of slavery. I was working in the fields [and] in construction sites. I managed to escape [from the first place he was held] but was caught and put in another prison. The [men] mistreated us and told us to call our parents to ask for money. But I do not have parents, so one day, a [man] killed my little sister in front of me. In the other prison, I worked in olive fields to pay the prison. The prison took the money.⁴⁹

⁴⁴ Human Rights Watch interview with Moses P., Briançon, France, January 22, 2019.

⁴⁵ Human Rights Watch interview with Gabriel F., Gap, France, January 24, 2019.

⁴⁶ Human Rights Watch interview with Sékou M., Gap, France, January 25, 2019.

⁴⁷ Human Rights Watch with Louis M., Briançon, France, January 23, 2019.

⁴⁸ Human Rights Watch interview with Oussenyou A., Briançon, France, February 13, 2019.

⁴⁹ Human Rights Watch interview with Joshua F., Gap, France, January 24, 2019.

In a similar account, Siaka A., a 16-year-old from Côte d'Ivoire, told us that because he had nobody to call to arrange payment, "I was sold to someone to work. They did not give me money. I worked for two months cutting the grass for the sheep."⁵⁰

Many children said they endured physical abuse while they worked. Aliou M., a 16-year-old from Niger who told us he worked without pay in Libya for 10 months, said he regularly endured beatings from the man he worked for. "He hit me a lot, with a motorcycle cable, with sticks," he told us.⁵¹

One boy told us he was repeatedly sexually assaulted for more than a year by a man who took the boy to his home.⁵²

As with Joshua, the 16-year-old Cameroonian boy who saw his sister killed in front of him, other children told us that siblings or other relatives died from accidents or ill-health while they were in Libya. "I was separated from my big brother in Libya and later learned that he had died," said Ousmane A., a 17-year-old from Guinea. He did not know the circumstances of his brother's death.⁵³

In other cases, children were separated from family members when they were detained in Libya and still did not know at the time of our interview what had happened to their relatives. Ajuma L., a 16-year-old from Gambia, said that he had not seen his brother since their detention in Libya in 2018.⁵⁴

While it appears that the children interviewed in this research experienced abuses in smuggler captivity, children detained in official government detention centers in the western part of the country face similar conditions and treatment. Human Rights Watch and others have documented abuses against children in these official centers, including

⁵⁰ Human Rights Watch interview with Siaka A., Gap, France, January 25, 2019.

⁵¹ Human Rights Watch interview with Aliou M., Briançon, France, January 25, 2019.

⁵² Human Rights Watch interview (name withheld), January 2019.

⁵³ Human Rights Watch interview with Ousmane A., Gap, France, May 14, 2019.

⁵⁴ Human Rights Watch interview with Ajuma L., Briançon, France, January 22, 2019.

detention alongside unrelated adults, forced labor, beatings by guards, lack of access to healthcare, lack of adequate nourishment, and lack of access to education.⁵⁵

Despite the well-documented abuse of migrants in Libya, the European Union maintains migration cooperation with the Government of National Accord, one of the two authorities contesting territorial and political control in Libya. The EU—and France—provides support to the Libyan Coast Guard to enable it to intercept migrants and asylum seekers at sea after which they take them back to Libya to arbitrary detention, where they face inhuman and degrading conditions and the risk of torture, sexual violence, extortion, and forced labor.⁵⁶

A 2017 study of 19 unaccompanied children aged 16 and 17 who arrived in Italy found that all had suffered physical and psychological abuse at least once before and during their journeys, particularly in Libya; half of those who took part in the study had been sexually abused.⁵⁷ Similarly, an assessment by UNICEF’s Libya Country Office in 2016 found that migrant children and adults experienced high levels of sexual violence, extortion, and abduction while in Libya.⁵⁸

The Perilous Sea Crossing

We were on a Zodiac that normally took 70 people, but we were 185 people, we were packaged like sardines. Thank God there were no deaths. It was a big MSF boat, the *Aquarius*, that saved us.

—17-year-old Ousmane A., from Guinea

⁵⁵ See Human Rights Watch, *No Escape from Hell: EU Policies Contribute to Abuse of Migrants in Libya* (New York: Human Rights Watch, January 2019).

⁵⁶ *Ibid.*

⁵⁷ Claudio Longobardi, Tommaso Gabriele Veronesi, and Laura Elviro Prino, “Abuses, Resilience, Behavioural Problems and Post-Traumatic Stress Symptoms Among Unaccompanied Migrant Minors: An Italian Cross-Sectional Exploratory Study,” *Psychiatria i Psychologia Kliniczna*, vol. 17 (2017), pp. 87, 90, <http://www.psychiatria.com.pl/index.php/wydawnictwa/2017-vol-17-no-2/abuses-resilience-behavioural-problems-and-post-traumatic-stress-symptoms-among-unaccompanied-migrant-minors-an-italian-cross-sectional-exploratory-study?aid=663> (accessed April 15, 2019).

⁵⁸ UNICEF, *A Deadly Journey for Children: The Central Mediterranean Migration Route* (New York: UNICEF, 2017), p. 5.

The boat was [inflatable,] like a balloon. I started crying. I was feeling very weak. Lots of people were on board. There was a pregnant woman and six or seven babies. The boat started leaking. I was so afraid.

—Gabriel F., a 17-year-old boy from Nigeria

Children described being taken to boats, usually inflatable vessels known as Zodiacs, and forced to board despite their fears that the vessels were already overcrowded. Ismaila D., a 16-year-old boy from Guinea, said that when his group was at the beach, armed men hit them until they boarded.⁵⁹ Sixteen-year-old Tahirou B., from Mali, gave a similar description, saying, “A man refused to get on the boat, so someone hit him with a baton.” He added, “It was the first time that I saw the sea, and I didn’t want to get in. But we were being hit, so I climbed in.”⁶⁰ Joshua F., a 16-year-old from Cameroon, told us, “There were many Arabs shooting in the water, forcing us into the water and making us get onto the boat. I lost a lot of friends” in the confusion that resulted.⁶¹

We heard numerous accounts of smugglers disabling or removing engines and leaving full boats to drift. “When the boat was in the sea, the Arabs took the engine. I thought they wanted to kill us. . . . We spent a lot of time on the water. There were people with bullet wounds and knife wounds. There were pregnant women on board,” 16-year-old Ismaila said.⁶²

In some cases, children told us the boat ran out of fuel or the engine simply stopped working. Fifteen-year-old Issa B. from Mali made the crossing in 2018, in a boat that held more than 100 people. “We ran out of gas, we couldn’t move,” he said.⁶³

And in other cases, children said that smugglers simply departed after handing telephones to migrants or pointing them toward Europe. “The Arabs accompanied us to a certain point and then they boarded jet skis and left,” Joshua F., a 16-year-old from Cameroon, said.⁶⁴

⁵⁹ Human Rights Watch interview with Ismaila D., Gap, France, February 15, 2019.

⁶⁰ Human Rights Watch interview with Tahirou B., Veynes, France, May 15, 2019.

⁶¹ Human Rights Watch interview with Joshua F., Gap, France, January 24, 2019.

⁶² Human Rights Watch interview Ismaila, Gap, France, February 15, 2019.

⁶³ Human Rights Watch interview with Issa B., Briançon, France, February 14, 2019.

⁶⁴ Human Rights Watch interview with Joshua F., Gap, France, January 24, 2019.

Sidiki A., a 16-year-old boy from Guinea, described his boat's rescue after five hours on the sea:

People were vomiting because of the waves. The women were crying. I was scared because I did not know where I was going and I do not know how to swim.

Around 8:00 a.m., we saw a helicopter in the sky. A few minutes later, a small boat with two people came very fast. They told us not to move around. Around 10:00 a.m., they came back and gave us life jackets. Then they left. At 11:00 a.m., the big boat arrived and rescued us.⁶⁵

Sékou M., a 16-year-old boy from Mali, told us his brother died when their boat capsized in the Mediterranean.⁶⁶ Issa B., the 15-year-old, also from Mali, told us that another boy he was travelling with drowned when they crossed the Mediterranean. "We were in the same boat, but he died. . . . Many people fell out, all died" when the boat went through heavy waves, he told us.⁶⁷

In some cases, children rescued at sea remained on rescue vessels for days or weeks before the vessels were allowed to dock in Italy. Ousseynou K., a 16-year-old from Guinea, said that after he and others were rescued from their boat, they waited on a vessel he described as "a large international boat" before Italian authorities would allow them to disembark.⁶⁸

Neglect and Abuse in Italy

I tried to go to school [in Italy], but the people at the center turned me down. I tried to ask for training in computers; they refused. There was nothing to stay for and nothing to do. We had two choices: eat and sleep, and nothing more. Nothing else.

⁶⁵ Human Rights Watch interview with Sidiki A., Gap, France, February 15, 2019.

⁶⁶ Human Rights Watch interview with Sékou M., Gap, France, January 25, 2019.

⁶⁷ Human Rights Watch interview with Issa B., Briançon, France, February 14, 2019.

⁶⁸ Human Rights Watch interview with Ousseynou K., Briançon, France, February 13, 2019.

People insult you on the street: *vaffanculo* (“fuck off”), *negro di merda* (“black piece of shit”). . . It’s unbearable for us.

—Amadin N., 17, who spent 12 months at a reception center for unaccompanied children in Naples⁶⁹

All of the children we interviewed who had spent time in Italy before coming to France said that they left Italy in large part because of the combination of lack of access to education and health services, inadequate living conditions in the reception centers where they were housed (which they referred to by the Italian word *campo*, “camp”), and discriminatory attitudes. These were not the only factors that children cited when explaining why they chose to travel to France—in particular, children from French-speaking countries frequently mentioned the shared language and what they saw as a shared history between their countries of origin and France—but it was striking that many of the children we spoke with said they had spent at least six months in Italy before deciding to leave, suggesting that they had not arrived in Europe with the definite idea of France as their destination.

Lack of access to schooling was children’s most frequent complaint about their life in Italy. Nearly all said that they were only able to attend Italian lessons. Children who attended said the lessons were irregular and so short that they could not speak Italian even after a year or more in Italy.

“If I could have had school, that would have made me happy. In the *campo*, school was two times a week for one hour. It’s not sufficient. I stayed at the *campo* for six months. I left the *campo* because I have to finish school and learn a trade,” Sékou M, a 16-year-old boy from Mali, said of his reception center in Foggia, near Bari.⁷⁰ In a similar account, Fode A., also 16, from Guinea, said, “We wanted to go to school. But we didn’t go for six months. And even when we went to school [for language lessons], it wasn’t the right way [to learn]—only two times a week.”⁷¹

⁶⁹ Human Rights Watch interview with Amadin N., Gap, France, January 25, 2019.

⁷⁰ Human Rights Watch interview with Sékou M., Gap, France, January 25, 2019.

⁷¹ Human Rights Watch interview with Fode A., Briançon, France, January 22, 2019.

Children were particularly conscious that they were not attending classes with Italian students, which many took as an indication that they were not getting the same education that Italian children would receive. “The school was just to know how to write the language. It was inside the *campo* and there were only black students,” Ajuma L., a 16-year-old Gambian boy, said.⁷²

Many children also said they had not received needed medical care in Italy. As one example, Mbaye T., a 15-year-old from Senegal, said he told the staff at his *campo* in the province of Cuneo, south of Turin, that he had sickle cell anemia but did not receive treatment.⁷³ We heard from other children who said they did not receive medical care while in Italy. For instance:

- “In Italy, I asked several times to see a doctor, but I only saw him once and the doctor did not give me any medication,” Louis M., a 16-year-old from Mali, told us, saying that he spent six months in a reception center near Milan.⁷⁴
- “In the *campo*, my head hurt and my foot was injured. I never saw a doctor or received medication,” said 15-year-old Issa B., also from Mali, who said he was placed in a reception center in Enna, a town in Sicily near Catania, where he stayed for about six months.⁷⁵
- “My stomach hurt, I cried, but I was never taken to the hospital. I asked for a doctor. I cried, but I was not looked at. I never saw a doctor” during the six months he was in a reception center in Catania, Joshua F., a 16-year-old from Cameroon, said.⁷⁶

Racist insults and other discriminatory interactions were another factor in some children’s decision to leave Italy, they told Human Rights Watch.⁷⁷

⁷² Human Rights Watch interview with Ajuma L., Briançon, France, January 22, 2019.

⁷³ Human Rights Watch interview with Mbaye T., Gap, France, January 24, 2019.

⁷⁴ Human Rights Watch interview with Louis M., Briançon, France, January 23, 2019.

⁷⁵ Human Rights Watch interview with Issa B., Briançon, France, February 14, 2019.

⁷⁶ Human Rights Watch interview with Joshua F., Gap, France, January 24, 2019.

⁷⁷ For example, Human Rights Watch interview with Daouda G., Gap, France, February 18, 2019; Human Rights Watch interview with Amadin N., Gap, France, January 25, 2019; Human Rights Watch interview with Fode A., Briançon, France, January 22, 2019.

Some children also described overcrowding and unsanitary conditions in their reception centers.⁷⁸ Some said their reception centers housed a mix of adults and children.⁷⁹

These accounts are consistent with reports of nongovernmental organizations and Italy's children's ombudsman. Italy's reception system for unaccompanied children is at capacity, with just over 3,700 places available in January 2019 for more than 10,000 unaccompanied children in the country.⁸⁰ As a result, unaccompanied children are also held in temporary facilities⁸¹ and at times in reception centers together with adults.⁸² Conditions vary widely in facilities across the country, but access to education and health are concerns in many centers.⁸³ In Sicily, in particular, unaccompanied children are often placed in centers located far from urban areas, with little access to schools and health services, the nongovernmental organization InterSOS reported in April 2019.⁸⁴

⁷⁸ For example, Human Rights Watch interview with Isaac T., Briançon, France, July 22, 2019; Human Rights Watch interview with Ismael K., Briançon, France, January 22, 2019.

⁷⁹ Human Rights Watch interview with Ousame A., Gap, France, May 14, 2019; Human Rights Watch interview with Habib F., Gap, France, March 15, 2019; Human Rights Watch interview with Amadin N., Gap, France, January 25, 2019; Human Rights Watch interview with Aliou M., Briançon, France, January 25, 2019; Human Rights Watch interview with Mbaye T., Gap, France, January 24, 2019; Human Rights Watch interview with Seydou D., Briançon, France, January 23, 2019.

⁸⁰ Sistema di protezione per titolare di protezione internazionale e per minori stranieri non accompagnati (SIPROIMI), "I numeri dello Sprar/Siproimi," January 2019, <http://www.sprar.it/i-numeri-dello-sprar> (accessed August 5, 2019).

⁸¹ When reception facilities run by the System of Protection for Beneficiaries of Protection and Unaccompanied Minors (Sistema di protezione per titolari di protezione internazionale e minori stranieri non accompagnati, SIPROIMI) do not have sufficient capacity to accommodate all unaccompanied children, they may be housed at "first-line" reception centers maintained by the Ministry of the Interior, in principle for no more than 30 days but often in practice for much longer periods. If these "first-line" reception centers are also at capacity, unaccompanied children are held in temporary facilities established by local authorities. European Council on Refugees and Exiles (ECRE), *Country Report: Italy*, Asylum Information Database (Brussels: ECRE, 2019), p. 110; Human Rights Watch interview with Elena Rozzi, ASGI, Turin, Italy, February 15, 2019.

⁸² ECRE, *Country Report: Italy*, pp. 96, 111. See also, for example, Autorità garante per l'infanzia e l'adolescenza, *I movimenti dei minori stranieri non accompagnati alle frontiere settentrionali* (Rome: Autorità garante per l'infanzia e l'adolescenza, 2019) (finding that unaccompanied children in reception center for adults in Ventimiglia may share rooms with unrelated adults and are not registered with the health service); LasciateCIEntrare, "Migranti: Report della visita della delegazione della campagna LasciateCIEntrare al Centro di Accoglienza per Richiedenti Asilo 'Sant'Anna,'" October 28, 2018 (observing that a facility for adult asylum seekers in the province of Crotona, in southern Italy, held "numerous" unaccompanied children), <https://www.lasciatecientrare.it/migranti-report-della-visita-della-delegazione-della-campagna-lasciatecientrare-al-centro-di-accoglienza-per-richiedenti-asilo-santanna/> (accessed August 5, 2019).

⁸³ ECRE, *Country Report: Italy*, p. 103, 104-106, 110-113; Human Rights Watch interview with Elena Rozzi, ASGI, Turin, Italy, February 15, 2019.

⁸⁴ InterSOS, *L'isola dei minori: l'accoglienza dei minori non accompagnati in Sicilia* (Rome: InterSOS, 2019), p. 20.

The European Asylum Support Office's 2018 guidance on reception conditions for unaccompanied children calls for unaccompanied children to have access to education, health care, and psychosocial support while they are in the care of EU member states.⁸⁵ In addition, the European Commission has called for member states to “establish procedures and processes to help identify durable solutions on an individual basis . . . in order to avoid that children are left for prolonged periods of time in limbo as regards their legal status.”⁸⁶

In 2017, Italy enacted a new law for the protection of unaccompanied migrant children⁸⁷ that has been hailed by some human rights groups and UNICEF.⁸⁸ Nonetheless, the Association for Legal Studies on Immigration (Associazione per gli Studi Giuridici sull'Immigrazione) has identified significant protection gaps remaining under the new law,⁸⁹ and Oxfam has noted significant problems with the law's implementation, including access to education and information about seeking asylum in Italy or requesting reunification with family members in other EU member states.⁹⁰

⁸⁵ European Asylum Support Office (EASO), EASO Guidance on Reception Conditions for Unaccompanied Children: Operational Standards and Indicators, EASO Practical Guides Series, December 2018.

⁸⁶ European Commission, Communication from the Commission to the European Parliament and the Council, COM(2017) 211 final (April 12, 2017), p.12, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf (accessed August 26, 2019).

⁸⁷ Legge No. 47, Disposizioni in materia di misure di protezione dei minori stranieri non accompagnati (April 7, 2017), in *Gazzetta Ufficiale della Repubblica Italiana*, serie generale, No. 93 (April 21, 2017) (Italy), p. 1, <http://www.gazzettaufficiale.it/eli/gu/2017/04/21/93/sg/pdf> (accessed January 13, 2019).

⁸⁸ See, for example, Save the Children, “Minori stranieri non accompagnati, le Associazioni: ‘Finalmente una legge per proteggerli,’” March 29, 2017, <https://www.savethechildren.it/press/minori-stranieri-non-accompagnati-le-associazioni-%E2%80%9Cfinalmente-una-legge-proteggerli%E2%80%9D> (accessed January 13, 2019); UNICEF, “UNICEF Hails New Italian Law to Protect Unaccompanied Refugee and Migrant Children as Model for Europe,” March 29, 2017, https://www.unicef.org/media/media_95485.html (accessed January 13, 2019).

⁸⁹ See Associazione per gli Studi Giuridici sull'Immigrazione, “Norme chiare sull'accertamento dell'età dei minori stranieri non accompagnati,” January 23, 2017, https://www.asgi.it/asilo-e-protezione-internazionale/minori_accertamento_eta_regolamento/ (accessed January 12, 2019); Elena Rozzi, “The New Italian Law on Unaccompanied Minors: A Model for the EU?,” *EU Immigration and Asylum Law and Policy*, November 13, 2017, <http://eumigrationlawblog.eu/the-new-italian-law-on-unaccompanied-minors-a-model-for-the-eu/> (accessed January 12, 2019).

⁹⁰ Associazione per gli Studi Giuridici sull'Immigrazione, “Se questa è Europa” (“In Italia, invece, permangono gravi disfunzioni nella tutela dei diritti dei minori all'interno dei centri di accoglienza: molti non vengono iscritti a scuola, come prevede la legge, o non ricevono informazioni sulle possibilità di richiedere asilo o ricongiungersi legalmente con la propria famiglia in altri paesi europei.”).

Before the law was passed, human rights groups reported that unaccompanied children were not receiving enough food and clothing in some reception centers⁹¹ and that some were placed in centers for adults.⁹²

In addition, several children cited Italy's new immigration law, often known as the "Salvini Decree," which ended humanitarian protection permits for adult asylum seekers, limited access to shelters for asylum seekers, increased permissible detention periods pending deportation, and made it easier for Italian authorities to revoke refugee status.⁹³ The new law does not directly affect the situation of unaccompanied children, who are eligible for shelter in dedicated reception centers and, after reaching the age of 18, continue to receive shelter until their asylum claims are heard,⁹⁴ but the children who mentioned it took it as a sign that they were not wanted in Italy.

Replying to our request for responses to these accounts, the Italian Ministry of the Interior stated that all unaccompanied children are placed in dedicated shelters, where they have access to education, and that all unaccompanied children are entitled to health care in Italy, including before they receive permits to remain in Italy. The ministry also stated that it issued written standards for reception centers in 2016 and is in the process of revising the standards to reflect the 2018 immigration law. Finally, the ministry told us that it has conducted numerous visits to reception centers, noting that shortcomings discovered on

⁹¹ See Oxfam, "Children Alone: Pulled from the Sea, Fallen by the Wayside," September 8, 2016, https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/children_alone_-_pulled_from_the_sea_fallen_by_the_wayside.pdf (accessed January 13, 2019). See also Human Rights Watch, "Italy: Children Stuck in Unsafe Migrant Hotspot," June 23, 2016, <https://www.hrw.org/news/2016/06/23/italy-children-stuck-unsafe-migrant-hotspot>.

⁹² See *Darboe et Camara contre l'Italie*, Requête No. 5797/17 (Eur. Ct. H.R. submitted January 18, 2017); Associazione per gli Studi Giuridici sull'Immigrazione, "Cona(VE): minorenni nel centro di accoglienza," January 15, 2017 (unaccompanied children housed with adults in overcrowded emergency reception center in Cona, near Venice, in unsanitary conditions and without adequate heat).

⁹³ Decreto-Legge 4 ottobre 2018, n. 113, in *Gazzetta Ufficiale* n. 281 (December 3, 2018) (Italy). See Associazione per gli Studi Giuridici sull'Immigrazione, "Decreto Immigrazione e Sicurezza, una scheda per operatori a cura dell'ASGI," November 6, 2018, <https://www.asgi.it/asilo-e-protezione-internazionale/sicurezza-immigrazione-decreto-scheda-operatori/> (accessed July 21, 2019); Angela Giuffrida, "Italian Government Approves Salvini Bill Targeting Immigrants," *Guardian*, September 24, 2018, <https://www.theguardian.com/world/2018/sep/24/italian-government-approves-bill-anti-migrant-measures-matteo-salvini> (accessed August 5, 2019); Judith Sunderland (Human Rights Watch), "New Low for Italian Migration Policies," September 26, 2018, <https://www.hrw.org/news/2018/09/26/new-low-italian-migration-policies>.

⁹⁴ See Camera dei deputati, Servizio Studi, "Minori stranieri non accompagnati," July 19, 2019, p. 3, <https://www.camera.it/temiap/documentazione/temi/pdf/1104665.pdf> (accessed August 5, 2019).

these visits may give rise to disciplinary measures and in serious cases the closure of the center and legal proceedings.⁹⁵

“Children tell us, ‘In Italy, we have no hope,’” said a volunteer with Tous Migrants in Oulx, the last major town in Italy before the border with France.⁹⁶

⁹⁵ Ministero dell’Interno, Dipartimento per le libertà civili e l’immigrazione, Struttura di missione per l’accoglienza dei minori stranieri non accompagnati, “Accoglienza dei minori stranieri non accompagnati in Italia,” n.d., pp. 2-3, attached to email from Michela Lattarulo, central director of civil services for immigration and asylum, Ministry of the Interior, to Michael Garcia Bochenek, senior counsel, Children’s Rights Division, Human Rights Watch, September 3, 2019.

⁹⁶ Human Rights Watch interview with volunteer, Tous Migrants, Oulx, Italy, January 23, 2019.

II. Police Pushbacks

Crossing the border is a matter of luck with the police. It depends on their mood.

—Amadin N., 17, Benin, interviewed in Gap in January 2019

French border police sometimes return unaccompanied children to Italy summarily, without affording them the legal safeguards to which they are entitled under French law. Human Rights Watch heard nine accounts from children who said they were summarily returned to Italy by French border police, including children who attempted to cross between Bardonnechia and Modane, in the Savoie department, and between Ventimiglia and Menton, in the Alpes-Maritimes department, as well as those who were apprehended in the Hautes-Alpes department. Two of these children told Human Rights Watch that police did not ask their ages before summarily returning them, and seven said the border police returned them to Italy even after they said they were under age 18. All nine crossed the border on subsequent attempts.

We also heard of six cases in which border police accepted children's stated age. There was no discernible pattern: some of those accepted by police had birth certificates but others did not; some were among the youngest children we interviewed, while others were 17; and even though all looked very young, many of the children who said they were summarily returned also looked very young. Rather, it appeared to be a matter of individual officers' whim.

When we raised these cases with the Hautes-Alpes prefecture, Jérôme Boni, border police director for the Hautes-Alpes and Alpes de Haute-Provence, told us, "Everybody who claims to be a minor is treated as such. That's at border posts, if they're intercepted on a road, on a trail, in the mountains."⁹⁷ But entry refusal documents viewed by Human Rights Watch do not substantiate his description of border police procedures: in October 2018, for instance, two migrants who told border police they were under age 18 received entry

⁹⁷ Human Rights Watch interview with Jérôme Boni, director, Hautes-Alpes and Alpes de Haute-Provence Border Police, Gap, France, May 15, 2019.

refusal documents stating that they had “refused to make a coherent declaration of identity” (“*refuse de déclarer une identité cohérente*”) and noting that border police judged that they appeared to be adults (“*apparence Majeur*”).⁹⁸ The nongovernmental organization Anafé has also observed refusal documents “bearing the indication ‘adult appearance.’”⁹⁹

French law allows for an expedited process, “refusal of entry” (*refus d’entrée*), for children and adults who are stopped within 10 km of a land border and found to be in France irregularly. French border police refused entry to 315 persons in 2016, 1,899 in 2017, and 3,787 in 2018, the prefecture told Human Rights Watch. In the first five months of 2019, police refused entry to 781 persons—about the same number as in the first five months of the previous year, when 718 were refused entry.¹⁰⁰ The border police director told us that all refusals of entry were of adults, adding that in 2018, police stopped an additional 635 persons who identified themselves as children, and in the first five months of 2019, 147 who said they were under age 18. None of these individuals claiming to be a child was refused entry, he told us.¹⁰¹

In cases of refusal of entry, police must notify the person in writing, in a language the person understands, of the reasons for refusal of entry and the rights to seek asylum and to appeal the refusal. Children should be appointed a guardian and should be treated as “vulnerable” and given “particular attention.”¹⁰² The notice of refusal of entry includes information about the person’s identity, including their date of birth. French police give a

⁹⁸ Refus d’entrée (Montgenèvre, October 13, 2018, 10 :00 a.m.) (on file with Human Rights Watch); Refus d’entrée (Montgenèvre, October 13, 2018, 10 :25 a.m.) (on file with Human Rights Watch).

⁹⁹ Anafé, *Persona non grata : conséquences des politiques sécuritaires et migratoires à la frontière franco-italienne* (Paris: Anafé, January 2019, p. 65. See also *ibid.*, p. 140 (photo of a *refus d’entrée* issued April 27, 2018, in Montgenèvre, stating that the individual has an “adult appearance” [*“apparence majeure”*]).

¹⁰⁰ Human Rights Watch interview with Emmanuel Effantin, Director of Services of the Cabinet of the Prefect, Gap, France, May 15, 2019.

¹⁰¹ Human Rights Watch interview with Jérôme Boni, director, Hautes-Alpes and Alpes de Haute-Provence Border Police, Gap, France, May 15, 2019.

¹⁰² Code de l’entrée et du séjour des étrangers et du droit d’asile, art. L.213-2. For a fuller discussion of this process and the procedural protections required by law, see “Protections Against Summary Returns” section, below.

copy of the notice to Italian authorities, the border police director told us, adding that Italian authorities in Piedmont do not accept returns of children.¹⁰³

EU regulations do not require Italy to accept such returns of unaccompanied children and in fact prohibit the return of unaccompanied children who seek asylum in France or who have family members in France.¹⁰⁴ Under French law, unaccompanied children who are not subject to refusal of entry should be referred to French child protection authorities. Human Rights Watch's interviews indicate that French border police and other French law enforcement authorities do not regularly follow the procedures described to us by the border police director.

For instance, 17-year-old Amadin N., from Benin, told us that he was turned back by French border police on his first attempt to enter France. "I showed my papers that said that I was a minor, but the police didn't want to hear it," he told Human Rights Watch. The border agents did not offer him a copy of the *refus d'entrée* (refusal of entry) form, he said.¹⁰⁵

Ibrahim F., a 17-year-old Gambian boy, one of the two children we spoke with who was summarily returned without being asked his age, told Human Rights Watch that he heard from others in his group that the border police asked two other boys their age and allowed them to continue into France. He did not realize at the time what police were asking the other boys because he did not understand French. Police held him and the rest of the group for two hours before returning them to Italy.¹⁰⁶

The other boy who told us police did not ask his age before returning him to Italy, 16-year-old Ismaila D., from Guinea, said that when he tried to enter France by road in a group, the police returned all of them without asking ages: "We walked along the road, a lot of us. The French police had a roadblock, so we were returned to Italy. They didn't ask my age."¹⁰⁷

¹⁰³ Human Rights Watch interview with Jérôme Boni, director, Hautes-Alpes and Alpes de Haute-Provence Border Police, Gap, France, May 15, 2019.

¹⁰⁴ See "Protection Against Summary Returns" section, below.

¹⁰⁵ Human Rights Watch interview with Amadin N., Gap, France, January 25, 2019.

¹⁰⁶ Human Rights Watch interview with Ibrahim F., Gap, France, March 15, 2019.

¹⁰⁷ Human Rights Watch interview with Ismaila D., Gap, France, February 15, 2019.

Issa B., a 15-year-old boy from Mali, told us that French border police returned another boy and him after they tried to travel to France by bus:

We took the bus to cross the border at Bardonecchia. The police caught us at the border at Bardonecchia. They took us to an office. That lasted from 8:00 a.m. to 2:00 p.m. The French police called the Italian police. They didn't come very quickly. The French police asked if I was a minor. I said yes. They told me that if I didn't have any documents or a passport, I couldn't enter. They wrote something on a paper, but they didn't give it to me, they gave it to the Italian police.¹⁰⁸

In one case, a boy said the French border police entered the wrong year of birth on the refusal of entry document, so it listed him as an adult. Kebba S., a 16-year-old from Gambia, told us that on his first attempt to cross into France:

Yesterday, once I reached [the Italian town of] Oulx, I took the train to Modane [in France]. When I got off the train, the police caught me. They asked what country I was from and my age. Then they filled out a document that I couldn't enter the country. I gave them my date of birth, 2002, but I saw that when the police officer filled out the document, he put another date of birth, 2000. I refused to sign the document. The police then took me and put me on the train to go back to Italy.¹⁰⁹

Six children told us they were allowed to continue their journey into France after police stopped them. In most of these cases, border police arranged transport for the children. For instance, when Mbaye T., a 15-year-old boy from Senegal, crossed from Italy into France, he said, "I left for Claviere, and I went through the police post [outside Montgenèvre.] Seeing me, the police officer said he was going to call somebody to take me to Briançon."¹¹⁰ Sayo A., a 16-year-old Senegalese boy, told us that border agents arranged for him to be taken to a hospital when he told them that he was having trouble walking:

¹⁰⁸ Human Rights Watch interview with Issa B., Briançon, France, February 14, 2019.

¹⁰⁹ Human Rights Watch interview with Kebba S., Briançon, France, January 23, 2019.

¹¹⁰ Human Rights Watch interview with Mbaye T., Gap, France, January 24, 2019.

I arrived alone at the border, at Claviere. It was night, I started to walk on my own through the snow. I walked in the mountains from 1:00 a.m. to 7:00 a.m. At 7:00, I saw the French police station on the border. I went up to the police, my feet hurt too much. They asked my age, I said I was 16. I said that my feet hurt a lot. They called me an ambulance, which took me to the hospital in Briançon.¹¹¹

Similarly, Malick I., a 15-year-old from Gambia, told Human Rights Watch that after he showed the border police a photo of his birth certificate on his phone, they called the health center in Briançon to pick him up.¹¹² Another boy, Ramatoulaye M., a 16-year-old from Côte d'Ivoire, said that after border police apprehended him in the mountains near Montgenèvre, they called a volunteer to drive him to the shelter.¹¹³

In other cases, the border police simply allowed children to walk on, as with 17-year-old Habib F., from Senegal, and Fakkeba S., also 17, from Gambia.¹¹⁴

In the cases in which police did not summarily return children to Italy, three were 15, and all looked very young. Three, including a 17-year-old, had copies of their birth certificates.¹¹⁵ One boy's successful entry seems to have been the result of persistence:

The French police sent me back four times even though I said I was a minor. The fifth time, when we arrived at the French border post, an officer saw us, the same one as the other times. He said the minors could enter but not the adult with us. "The minors have priority," he said, so the adult was sent back.¹¹⁶

¹¹¹ Human Rights Watch interview with Sayo A., Gap, France, May 13, 2019.

¹¹² Human Rights Watch interview with Malick I., Briançon, France, February 16, 2019.

¹¹³ Human Rights Watch interview with Ramatoulaye M., Gap, France, May 13, 2019.

¹¹⁴ Human Rights Watch interview with Habib F., Gap, France, March 15, 2019; Human Rights Watch interview with Fakkeba S., Gap, France, May 13, 2019.

¹¹⁵ Human Rights Watch interview with Amadin N., Gap, France, January 25, 2019; Human Rights Watch interview Malick I., Briançon, France, February 16, 2019; Human Rights Watch interview with Habib F., Gap, France, March 15, 2019.

¹¹⁶ Human Rights Watch interview with Joshua F., Gap, France, January 24, 2019.

When 13 nongovernmental organizations documented police practices on the border between Claviere and Montgenèvre in an October 2018 observation mission, they found substantially the same abuses.¹¹⁷ “We collected testimonies about modified birth dates, identity papers thrown to the ground or torn by police,” said Agnès Vibert Guigue, a lawyer who took part in the observation.¹¹⁸ French and Italian nongovernmental organizations have reported similar conduct by French border police operating in and around Menton, the French town in the Alpes-Maritimes department across the border from Ventimiglia, Italy.¹¹⁹

Volunteers and activists who take part in mountain searches in the Hautes-Alpes gave similar accounts. “There are refusals [to accept] minor age by the PAF [the French border police], rejection of papers, sometimes destruction of identity documents (including birth certificates). The last instance was yesterday,” one volunteer told Human Rights Watch in late January. “There are also instances of sick minors left on public roads,” he added.¹²⁰

To avoid apprehension by border police and possible summary return, children told us they walked high into the mountains, increasing their risk of frostbite and exhaustion. “We heard that if the police caught us, they would send us back to Italy,” Issa B., a 15-year-old Malian boy said, explaining why the group he travelled with walked high through the mountains.¹²¹ “We walked a long way in the mountains to avoid the police,” said Eva L., a 17-year-old girl from Guinea.¹²²

¹¹⁷ Anafé, “Frontière franco-italienne : À Briançon, les violations systématiques des droits des personnes exilées doivent cesser,” October 13, 2018, <http://www.anafe.org/spip.php?article497> (accessed June 14, 2019). The 13 organizations were Amnesty International France, Anafé, La Cimade, Médecins du Monde, Médecins sans frontières, Secours Catholique Caritas France, Chemins pluriels, Emmaüs France, GISTI, ASGI, Icare 05, Refuges Solidaires, and Tous Migrants.

¹¹⁸ Human Rights Watch interview with Agnès Vibert Guigue, lawyer, Gap, France, May 16, 2019.

¹¹⁹ See Florence Renard-Gourdon, “Le traitement des mineurs isolés étrangers à Menton pointé du doigt,” *Les Echos*, November 22, 2018, <https://www.lesechos.fr/pme-regions/provence-alpes-cote-dazur/le-traitement-des-mineurs-isoles-etrangeurs-a-menton-pointe-du-doigt-149585> (accessed August 4, 2019); Mathilde Mathieu, “À la frontière italienne, la police prive des migrants mineurs de leurs droits,” *Mediapart*, June 5, 2018, <https://www.mediapart.fr/journal/france/050618/la-frontiere-italienne-la-police-prive-des-migrants-mineurs-de-leurs-droits?onglet=full> (accessed August 4, 2019); Angela Giuffrida, “French Police Accused of Falsifying Migrant Children’s Birth Dates,” *Guardian*, April 12, 2018, <https://www.theguardian.com/world/2018/apr/12/french-police-accused-of-falsifying-migrant-childrens-birth-dates> (accessed August 4, 2019).

¹²⁰ Human Rights Watch interview with volunteer, Briançon, France, January 29, 2019.

¹²¹ Human Rights Watch interview with Issa B., Briançon, France, February 14, 2019.

¹²² Human Rights Watch interview with Eva L., Gap, France, July 24, 2019.

Protection Against Summary Returns

France reintroduced border controls at its land borders with other EU member states in December 2015, after attacks in Paris, and has regularly renewed immigration controls since then.¹²³ While the reintroduction of these land border controls is in effect, French authorities can conduct immigration checks within 20 km of a land border with another EU member state as well as at international train stations, marine ports, and airports.¹²⁴ When border police or other authorities conduct these checks, they verify identity, including name, surname, and date and place of birth. French law provides that individuals who declare that they are under the age of 18 receive the benefit of the doubt, meaning that they are treated as children in the absence of substantiated reasons to believe they are adults.¹²⁵

Those who are found to be in France irregularly may be subject to an expedited procedure, “refusal of entry” (*refus d’entrée*), if they are stopped by police within 10 km of the border with another EU member state while the reintroduction of land border controls is in effect.¹²⁶ In such cases, authorities should issue a written refusal to a person found to be in France irregularly,¹²⁷ using a language the individual understands, and should inform the person of the right to seek asylum and the right to appeal the refusal of entry, among other rights.¹²⁸ Children may be refused entry, but they should be appointed a guardian.¹²⁹ The

¹²³ The rationale for maintaining immigration controls at land borders has shifted slightly with each renewal, beginning with the Paris attacks (immigration controls from December 14, 2015, to May 26, 2016) and subsequently justified by EURO 2016 and the Tour de France (May 27, 2016, to July 26, 2016), the Nice attack (July 26, 2016, to January 26, 2017), “persistent terrorist threat” (January 27, 2017, to July 15, 2017; November 1, 2017, to April 30, 2018; April 30, 2018, to October 30, 2018), “terrorist threats, situation at the external borders, upcoming high level political meetings” (November 1, 2018, to April 30, 2019), and most recently “terrorist threats, situation at the external borders” (May 1, 2019, to October 31, 2019). Member States’ Notifications of Temporary Reintroduction of Border Controls at Internal Borders Pursuant to Article 25 *et seq.* of the Schengen Borders Code, n.d., https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control/docs/ms_notifications_-_reintroduction_of_border_control_en.pdf (accessed June 10, 2019).

¹²⁴ Code de procédure pénale, art. 78-2. These checks should be limited to no more than 12 consecutive hours in the same place and “may not consist of systematic controls.” *Ibid.*

¹²⁵ Code civil, art. 388. See also Tribunal Administratif [TA] [administrative tribunal] Nice, No. 1800699 (February 23, 2018).

¹²⁶ Code de l’entrée et du séjour des étrangers et du droit d’asile, art. L.213-3-1.

¹²⁷ *Ibid.*, arts. L.213-2 and R.213-1.

¹²⁸ *Ibid.*, arts. L.213-2 and L.111-7.

¹²⁹ *Ibid.*, art. L221-5. Children who are refused entry at a place other than a land border (at an airport, a marine port, or a train station outside of the 10 km border zone) receive the additional procedural protection of a *jour franc*, a mandatory one-day delay before their return to allow time for legal assistance and the appointment of a guardian. Adults who are refused entry

law also provides that “[p]articular attention is given to vulnerable people, especially minors, unaccompanied or not by an adult.”¹³⁰

A child who is stopped outside of the 10 km border zone is not subject to the “refusal of entry” procedure and is not subject to expulsion or removal.¹³¹ Authorities should treat unaccompanied children stopped outside the 10 km border zone as children in need of protection and should refer them to child protection authorities.¹³²

The children interviewed by Human Rights Watch all appeared to have been stopped by police within 10 km of the border with Italy. But in the cases of children who described summary returns to Italy, police did not appear to have afforded the limited procedural protections required by law—police did not always give children written notice of the reasons for refusal, did not appear to take the steps necessary for the appointment of guardians, did not routinely ask children their ages, and in one case recorded a date of birth that was different from what a child claimed. These accounts are at odds with the procedures described to us by the border police director for the Hautes-Alpes and Alpes de Haute-Provence.¹³³

Under the EU Asylum Procedures Directive and the EU Dublin III Regulation, unaccompanied children who have applied for asylum in France should not be returned to Italy.¹³⁴ Returning unaccompanied children without notifying them of their right to apply for

at these places may choose to delay their return by one day. Amendments to the immigration and asylum law that took effect in September 2018 remove this protection for refusals of entry at land borders (as well as for those issued in the overseas department of Mayotte). Loi n° 2018-778 du 10 septembre 2018 pour une immigration maîtrisée, un droit d’asile effectif et une intégration réussie, art. 18, *Journal Officiel de la République Française* [J.O.] [Official Gazette of France], n° 0209, September 11, 2018, texte n° 1.

¹³⁰ Code de l’entrée et du séjour des étrangers et du droit d’asile, art. L. 213-2. French law also provides, “The interest of the child, attention to his fundamental, physical, intellectual, social, and emotional needs, as well as the respect of his rights, must guide all decisions concerning him.” Code de l’action sociale et des familles, art. L.112-4.

¹³¹ Code de l’entrée et du séjour des étrangers et du droit d’asile, arts. L.521-4 and L.511-4(1).

¹³² Code de l’action sociale et des familles, art. 112-3. See also Code pénal, art. 434-3.

¹³³ Human Rights Watch interview with Jérôme Boni, director, Hautes-Alpes and Alpes de Haute-Provence Border Police, Gap, France, May 15, 2019.

¹³⁴ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on Common Procedures for Granting and Withdrawing International Protection (Recast) [Asylum Procedures Directive (Recast)], OJ L 180/60 (June 29, 2013), arts. 6-8; Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 [Dublin III Regulation], OJ L 180/31 (June 29, 2013), art. 8. See also Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013

asylum and affording them the opportunity to do so also violates the Asylum Procedures Directive.¹³⁵ In addition, unaccompanied children with family members in France have the right to family reunification under the Dublin III Regulation, meaning that those children should also not be returned to Italy.¹³⁶

The accounts we heard from children as well as from volunteers and activists are consistent with the findings of the National Consultative Human Rights Commission (Commission nationale consultative des droits de l'homme, CNCDH), the Inspector General of Places of Deprivation of Liberty (Contrôleur général des lieux de privation de liberté), and the French Defender of Rights (Défenseur des droits). In 2018, the CNCDH found that many unaccompanied children were returned without the procedural protections required by French law, including the appointment of a legal guardian, and also noted reports of police altering birth dates on refusal documents.¹³⁷ With respect to these practices in the Alpes-Maritimes department, the Inspector General of Places of Deprivation of Liberty found in 2017 that French police summarily returned unaccompanied children to Italy.¹³⁸ Also with regard to practices in the Alpes-Maritimes, the Defender of Rights found that the return of unaccompanied children to Italy without these procedural protections was “contrary to the Convention on the Rights of the Child and does not respect the procedural guarantees set forth in European law and French law.”¹³⁹

Laying Down Standards for the Reception of Applicants for International Protection (Recast), OJ L 180/96 June 29, 2013), art. 24.

¹³⁵ Asylum Procedures Directive (Recast), art. 8.

¹³⁶ Dublin III Regulation, art. 8.

¹³⁷ Commission Nationale Consultative des Droits de l'Homme, *Avis sur la situation des personnes migrantes à la frontière franco-italienne* (Paris: CNCDH, June 2018), pp. 34-35.

¹³⁸ Contrôleur général des lieux de privation de liberté, *Rapport de visite des locaux de la police aux frontières de Menton (Alpes-Maritimes) – 2^{ème} visite* (Paris: Contrôleur général des lieux de privation de liberté, 2017), p. 25.

¹³⁹ Défenseur des droits, Décision du Défenseur des droits n° 2018-100, April 25, 2018, p. 2.

III. Arbitrary Age Assessment Procedures

You gather up your courage with both hands to tell your story, and you are told you are lying. It cannot be right.

— Amadin N., 17, Benin, interviewed in Gap in January 2019

In cases reviewed by Human Rights Watch, unaccompanied migrant children arriving in the Hautes-Alpes were frequently denied formal recognition as children in age assessment procedures that placed undue weight on minor inconsistencies with dates, reasons such as working while in home countries, or officials' ad hoc assessments of their physical and psychological "maturity"—all factors that either have little or no bearing on their declared age or cannot determine age with precision.

Many of the children interviewed for this report said that they did not understand the interpreters assigned to their age assessment interviews. Many also said they could not answer questions effectively because they did not know the purpose of the questions, felt the official did not want them in France, or were exhausted from their journey and in some cases injured. The few children who had birth certificates or other identity documents told us that their documents were nearly always referred to border police for authentication, despite the presumption in French law that foreign documents are valid in the absence of substantial reason to doubt their legitimacy.

Children receive emergency shelter and access to other social services after an evaluation determines that they are under age 18,¹⁴⁰ meaning that formal recognition as a child is a crucial first step for unaccompanied children to receive protection and care in France. Entry into the child protection system can also lead to access to regular immigration status upon adulthood.¹⁴¹

¹⁴⁰ Arrêté du 17 novembre 2016 pris en application du décret n° 2016-840 du 24 juin 2016 relatif aux modalités de l'évaluation des mineurs privés temporairement ou définitivement de la protection de leur famille [Order of November 17, 2016, Issued Pursuant to Decree No. 2016-840 of 24 June 2016 on the Modalities for the Evaluation of Minors Temporarily or Permanently Deprived of the Protection of Their Family], art. 9, J.O. n° 0269, November 19, 2016, texte n° 25.

¹⁴¹ For a fuller discussion of these immediate and long-term services and benefits, see "The Consequences of Incorrect Age Assessments" section, below.

Because many children do not arrive with birth certificates or other identity documents, assessment procedures should enable authorities to establish age through comprehensive interviews by psychologists, social workers, and other professionals.¹⁴² French regulations provide that age assessments should be conducted in a manner “characterized by neutrality and compassion.”¹⁴³ Following international standards, age assessments should give the benefit of the doubt when there is a reasonable possibility that the declared age is correct.¹⁴⁴

In the Hautes-Alpes, the Departmental Council’s Directorate of Prevention Policy and Social Action (Direction des Politiques de Prévention et de l’Action Sociale) conducts these age assessments.¹⁴⁵ Elsewhere in France, some departments delegate this function to nongovernmental organizations.¹⁴⁶

The Hautes-Alpes prefecture told Human Rights Watch that it had taken 2,503 unaccompanied children into care in 2018 following age assessments.¹⁴⁷ Separately, the Departmental Council’s Directorate of Prevention Policy and Social Action told Human Rights Watch that it undertook “close to” 2,846 age assessments in total in 2017 and 2018, an average of 1,423 each year.¹⁴⁸ The number given by the prefecture of children formally recognized and taken into care is also substantially higher from that reported by the Ministry of Justice, which states that the Hautes-Alpes department recognized 381 unaccompanied children in 2018, of which 351 were then transferred to other departments

¹⁴² Arrêté [Order] du 17 novembre 2016, arts. 2, 4, 9.

¹⁴³ Ibid., art. 3.

¹⁴⁴ Committee on the Rights of the Child, General Comment No. 6, para. 31(i). See also Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child, Joint General Comment No. 4 (Committee on Migrant Workers) and No. 23 (Committee on the Rights of the Child): State Obligations Regarding the Human Rights of Children in the Context of International Migration in Countries of Origin, Transit, Destination and Return, U.N. Doc. CMW/C/GC/4-CRC/C/GC/23 (November 16, 2017), para. 4.

¹⁴⁵ Letter from Jérôme Scholly, director general of services, Hautes-Alpes Directorate of Prevention Policy and Social Action, to Bénédicte Jeannerod, France director, Human Rights Watch, June 24, 2019.

¹⁴⁶ See generally InfoMIE, “Articulation dispositif national de mise à l’abri, d’évaluation et d’orientation des mineurs isolés étrangers et droit comun de la protection de l’enfance,” n.d., http://www.infomie.net/IMG/pdf/schema_dispositif_national_23092013.pdf (accessed June 10, 2019).

¹⁴⁷ Human Rights Watch interview with Emmanuel Effantin, Director of Services of the Cabinet of the Prefect, Gap, France, May 15, 2019.

¹⁴⁸ Letter from Jérôme Scholly, director general of services, Hautes-Alpes Directorate of Prevention Policy and Social Action, to Bénédicte Jeannerod, France director, Human Rights Watch, June 24, 2019, p. 1.

under the allocation system known as *répartition nationale*. An additional four unaccompanied children were transferred to the Hautes-Alpes from other departments, according to the Ministry.¹⁴⁹

Human Rights Watch interviewed 35 children who had undergone age assessments in the Department of Hautes-Alpes. Two were formally recognized as children in these age assessments; the others received negative evaluations. Seven of those who received negative evaluations were eventually recognized formally as children after a juvenile court judge (*juge des enfants*) reviewed their cases. We reviewed an additional 36 evaluation reports prepared by the Departmental Council to explain the outcome of age assessments, as well as 13 juvenile court judgments that reviewed negative age assessments made by the Departmental Council.

The age assessment evaluation should take the form of a “multidisciplinary” interview that includes questions about the youth’s family background, reasons for leaving the country of origin, and plans for the future.¹⁵⁰ Age assessments conducted in the Hautes-Alpes department cover these topics but, in the cases reviewed by Human Rights Watch, it is not apparent that they fulfil the regulatory requirement that they be multidisciplinary in nature. Children told us they were interviewed by a single official with the assistance of an interpreter. Nothing in the evaluation reports suggests what, if any, diagnostic criteria were employed to assess responses, whether the decisions are the outcome of evaluation by a multidisciplinary team or a single individual, and, if by a single individual, how the Departmental Council ensures that the assessment meets the requirement that it be multidisciplinary in character.

The Departmental Council declined our requests for a meeting to discuss these findings and, in response to our request for comment, wrote:

¹⁴⁹ Ministère de la Justice, Direction de la protection judiciaire de la jeunesse, Rapport annuel d’activité 2018: Mission mineurs non accompagnés, June 2019, pp. 11-14, http://www.justice.gouv.fr/art_pix/RAA-MMNA-2018.pdf (accessed August 8, 2019).

¹⁵⁰ See Code de l’action sociale et des familles, art. L.226-2-1; art. R.221-11. See also InfoMIE, “Dispositifs spécifiques aux mineurs isolés étrangers,” October 22, 2016, <http://www.infomie.net/spip.php?rubrique272&lang=fr> (accessed June 10, 2019).

Although it is particularly concerned with and involved in the reception and shelter of unaccompanied minors on its territory, the departmental institution will not provide detailed answers to the many questions asked in your correspondence. Their reading reveals a clearly biased and unjustly critical approach and interpretation of the procedures put in place by the Department. They seem to argue that the Hautes-Alpes Departmental Council disregards the most fundamental principles in respect of the rights of the young people who are welcomed and evaluated. These allegations, made against an institution whose essential mission is solidarity, are unworthy.¹⁵¹

Those who are not found to be under the age of 18 as a result of this interview should receive a “reasoned decision” from departmental authorities.¹⁵² In fact, they ordinarily receive a form letter stating simply that they have not been recognized as a child.¹⁵³ The complete evaluation report is not available to them unless they or their lawyer requests it.¹⁵⁴

They may seek review of adverse age assessments, a procedure before the juvenile court judge that frequently takes months.¹⁵⁵ Alternatively, in a procedure that some lawyers have employed successfully in the Hautes-Alpes, a family court judge (*juge des tutelles*) can determine that a person is a child in need of protection, a finding that includes a determination of the person’s age.¹⁵⁶

¹⁵¹ Letter from Jérôme Scholly, director general of services, Hautes-Alpes Directorate of Prevention Policy and Social Action, to Bénédicte Jeannerod, France director, Human Rights Watch, June 24, 2019.

¹⁵² Arrêté [Order] du 17 novembre 2016, art. 9.

¹⁵³ Children and lawyers showed us identical form letters that gave the following reason for negative age assessments: “Following the assessment of your situation made by the Childhood and Family Service of the Department of the Hautes-Alpes, I inform you that after reviewing your file, it is not possible to establish that you qualify for the protection of the Unaccompanied Minors Unit. Indeed, the elements gathered at the end of the evaluation process, in particular the life history, the conditions of departure, and the migratory route, do not make it possible to find in favor of your minority.”

¹⁵⁴ Human Rights Watch interview with Réseau Hospitalité, Gap, May 15, 2019; Human Rights Watch interview with lawyers, Gap, July 23, 2019.

¹⁵⁵ Code civil, art. 375-1. See generally Autonomie and InfoMIE, “Saisir le/la juge des enfants,” August 5, 2014, <http://www.infomie.net/IMG/pdf/autonomie-guide-fiche2.pdf> (accessed June 10, 2019).

¹⁵⁶ See Guardianship Order (Gap Family Court April 11, 2019); Guardianship Order (Gap Family Court November 23, 2018).

Although this report focuses on the Hautes-Alpes department, Human Rights Watch has found similarly capricious decision-making in Paris¹⁵⁷ and has heard accounts of arbitrary age assessment practices elsewhere in France.

Poor Interpretation

We heard frequent complaints about the quality of interpretation for all languages, including English. Children said that interpretation by telephone, the usual practice in the Hautes-Alpes, was particularly difficult to understand. Among the accounts we heard:

- “The translator couldn’t come so he was translating through the phone. I couldn’t hear him well. He didn’t understand my English and I often didn’t understand what he was saying,” Gabriel F., a 17-year-old from Nigeria, told us.¹⁵⁸
- “At that time, I didn’t understand anything of French, even if you asked me my name. The translator on the phone tried to speak my language. She said she understood, but she didn’t get anything. She spoke Senegalese Peul and I speak Guinean Peul,” said Sidiki A., a 16-year-old Guinean boy. When he received the decision informing him of the negative age assessment, he saw that it inaccurately reported what he said in the interview. “In the evaluation report, there were a lot of differences. It wasn’t what I said. I didn’t say that,” he told us.¹⁵⁹
- Ismaila D., another 16-year-old from Guinea, said, “There was a Peul translator on the phone but it was Senegalese Peul so I didn’t understand very well.”¹⁶⁰

A lawyer who has represented unaccompanied children after they received negative age assessments told us that in her experience:

Interpretation is by telephone, almost always with the same interpreter whose interpretations are very weak. For example, a young Ivoirian girl who spoke French quite well still asked for interpretation. She said that during

¹⁵⁷ See Human Rights Watch, *“Like a Lottery”: Arbitrary Treatment of Unaccompanied Migrant Children in Paris* (New York: Human Rights Watch, July 2018), pp. 17-31.

¹⁵⁸ Human Rights Watch interview with Gabriel F., Gap, France, January 24, 2019.

¹⁵⁹ Human Rights Watch interview with Sidiki A., Gap, France, February 15, 2019.

¹⁶⁰ Human Rights Watch interview with Ismaila D., Gap, France, February 19, 2019.

the evaluation the translator did not translate her words well. She was annoyed for this reason, and that was held against her.¹⁶¹

As part of the age assessment process, officials ask youths to recount their personal history, including their time in transit, in detail. The failure to provide a complete account is frequently held against them, as discussed below. Nevertheless, we heard of some cases in which interpreters appeared to refuse to translate elements of youths' accounts. For instance, a 17-year-old who was sexually abused over the course of a year in Libya, when he was 13, said that he tried repeatedly to tell the examiner about the sexual abuse he suffered:

I was tired, really tired, and I started crying. I told him what happened to me in Libya. That a man slept with me. But the translator told me it was not important. He also said that he had not a lot of time. I was shocked. The interview lasted approximately 45 minutes.

They rejected my [claim that I was under 18]. When I received the report, I saw that they put things that I didn't say and that a lot of important things that I said were not in the report. I didn't understand. I showed the report to [a member of the Réseau Hospitalité] because I was shocked. I think that it's the translator's fault.¹⁶²

Stressful, Confusing, Often Intimidating Interviews

Children often said they were unsure of what they were being asked or why and intimidated by seemingly indifferent or hostile evaluators. Some described having trouble focusing on the interview because of injuries they suffered on their journey. Others said they felt uncomfortable answering sensitive questions posed by a stranger who appeared to focus more on the computer screen than on the child across the desk.

¹⁶¹ Human Rights Watch interview with lawyers, Gap, France, May 16, 2019.

¹⁶² Human Rights Watch interview (name withheld), January 2019.

Some youths described questions or comments that were improper or that they felt were posed aggressively. A 17-year-old Guinean girl described the examiner who interviewed her in 2018 as “nasty,” saying:

She was putting pressure on me. She was asking me to say things I did not want to say. She said to me, “Tell me the truth. Tell me you’re of age.’ But the truth is that I’m a minor. I told her I could not increase my age. My mother is 34 years old, my father is 36 I was 16-and-a-half.¹⁶³

Kojo D., a 15-year-old Ghanaian boy who received a negative age assessment three days after his interview, told Human Rights Watch:

The lady asked me why I didn’t go to England because I speak English, but I said that I wanted to stay in France. . . . She said that they don’t need English people here, that it is not our place. I told her that it is unfair because we are all one people and that I want to learn. She was pushing me to say that I am over age.¹⁶⁴

Children frequently told us that they found important discrepancies between the evaluation and what they had said in the interview. “I saw the report, and I never said the things that were written there,” said Ousmane A., a 17-year-old Guinean boy.¹⁶⁵

Those who had identity documents were especially aggrieved that authorities seemed to disregard their documents as a matter of course. As one boy said, “What annoys me is that even if I have papers, that’s not good enough. I have a birth certificate with a supplementary judgment (*jugement supplétif*,” referring to a process of authentication by a court in his home country.¹⁶⁶

¹⁶³ Human Rights Watch interview with Eva L., Gap, France, July 24, 2019.

¹⁶⁴ Human Rights Watch interview with Kojo D., Gap, France, February 14, 2019.

¹⁶⁵ Human Rights Watch interview with Ousmane A., Gap, France, May 14, 2019.

¹⁶⁶ See, for example, Immigration and Refugee Board of Canada, “Mali: Requirements and Procedures to Obtain a National Identity Card, a Birth Certificate and a Certificate of Nationality,” section 2.2; Immigration and Refugee Board of Canada, “Guinea: Requirements and Procedure to Obtain a Birth Certificate Extract, Including from Abroad; Information Indicated on the Document; Incorrect or Fraudulent Birth Certificate Extracts (2009-September 2016), section 3.1,

Some children said that injuries or ill-health affected their ability to answer questions fully. For instance, Ousmane, the 17-year-old boy from Guinea, said he had a fractured kneecap from an attack in his home country and told us that he was in so much pain that he could not focus on the questions during his age assessment: “I still had pain in my knee. The department said they could not do anything. During the evaluation interview, I was hurting too much. . . . I could not answer the questions because I was suffering too much.”¹⁶⁷

French regulations require that age assessment interviews be conducted in a manner “characterized by neutrality and compassion.”¹⁶⁸ International standards call for such interviews to be conducted in a “safe” environment and a “fair manner,” in a way that is sensitive to the child’s age, gender, psychological maturity, and emotional state.¹⁶⁹

When we asked the department to respond to the accounts we heard, it replied:

With regard to the conduct of interviews, the multidisciplinary evaluation team of the Unaccompanied Minor Unit of the Department of Hautes-Alpes strictly applies the procedures as defined in the framework of Decree 2016-840 of June 16, 2016, and the Order of November 17, 2016. . . .

In addition, and before the interviews, each of the evaluators reminds the young people of their assessment in order to ensure that they understand the process correctly and, if necessary, answer their questions.

Finally, the search for neutrality in the conduct of the interview is a permanent instruction that the team applies without establishing differences between the young people. The environment is “safe” because

<http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=5821dfba4> (accessed April 6, 2018); Mirna Adjami, *Statelessness and Nationality in Côte d’Ivoire: A Study for UNHCR* (Geneva: UNHCR, December 2016), p. 35.

¹⁶⁷ Human Rights Watch interview with Ousmane A., Gap, France, May 14, 2019.

¹⁶⁸ Arrêté du 17 novembre 2016, art. 3.

¹⁶⁹ See Committee on the Rights of the Child, General Comment No. 6, para. 31(i); Joint General Comment No. 4 (Committee on Migrant Workers and Members of Their Families) and No. 23 (Committee on the Rights of the Child), para. 4.

it is the premises set aside for the activity of the Unaccompanied Minor Unit.¹⁷⁰

Arbitrary Bases for Decisions

Human Rights Watch reviewed 36 age assessment decisions made by departmental authorities in Hautes-Alpes between July 2017 and June 2019. All but one was a negative assessment, meaning that authorities found that the individual was not a child.

Perceived confusion or lack of coherence in the account, whether with regard to the journey to Europe or schooling or other aspects of life in the home country, was a common ground for rejection in the decisions we reviewed.

Evaluators cited errors with dates, particularly for school attendance,¹⁷¹ failure to remember the names of towns passed in transit¹⁷² or the precise mode of transport used between specific towns,¹⁷³ and similar mistakes as a basis for a negative age assessment. Repetitive or disorganized accounts were also held against children.¹⁷⁴

Moreover, many of the reports dismissed reasonably detailed accounts as imprecise. In one account criticized for lack of detail, a 15-year-old boy from Mali stated that after his mother died when he was very young, he lived with his grandmother until her death, when he was nine years old. At that point, he started living with his stepmother. He described a typical day in his grandmother's house activity by activity, beginning with the moment he woke up and greeted her, noting what he usually ate at each meal, and ending with the chores he would help her with before they went to bed. His account of a typical day with

¹⁷⁰ Letter from Jérôme Scholly, director general of services, to Bénédicte Jeannerod, France director, Human Rights Watch, June 24, 2019, p. 2.

¹⁷¹ See, for example, Evaluation Report, March 20, 2019, p. 2; Evaluation Report, March 7, 2019 (Senegalese boy); Evaluation Report, March 7, 2019 (Gambian boy); Evaluation Report, November 6, 2018, p. 3; Evaluation Report, October 23, 2018, p. 2; Evaluation Report, February 16, 2018, p. 3; Evaluation Report, December 15, 2017, pp. 3-4.

¹⁷² Evaluation Report, May 3, 2018, p. 4; Evaluation Report, February 15, 2018, p. 4; Evaluation Report, December 15, 2017, p. 5. In other cases, even when children name the major towns on their journey and describe the vehicles in which they travelled, examiners find that their accounts lack sufficient detail. See, for example, Evaluation Report, October 29, 2018, pp. 3-4 (describing bus journey to Agadez followed by a ride in a pickup truck to Tripoli).

¹⁷³ Evaluation Report, February 16, 2018, p. 4; Evaluation Report, December 15, 2017, p. 5.

¹⁷⁴ Evaluation Report, February 15, 2018, p. 4; Evaluation Report, December 4, 2017, p. 3.

his father and stepmother, after his grandmother's death, was no less specific, noting that he would play with his friends after giving hay to the sheep his family owned. In addition, he described the beatings his stepmother gave him, pointing out the parts of his body where she hit him and showing scars that were still visible on his torso. Summing up this part of his account, the evaluation report concluded: "[He] is able to give benchmarks and details before the age of 9 but not afterward, leading to misunderstandings. The speech is confused, succinct, and not very detailed, which creates confusion."¹⁷⁵

In another account, a 15-year-old from Mali told the examiner his mother was unmarried when she gave birth to him and said that he was raised in his grandmother's household, consisting of about 20 people. He never went to school. Instead, he worked in the fields and did household work. He did not eat meals with the rest of the family and slept in the common area instead of with the other children in the household, and generally did not feel part of the family. Assessing this aspect of the boy's account, the examiner concluded that he "delivers a story with few details. He gives little information on his way of life and the tasks he did in the fields."¹⁷⁶

In a third case, a 16-year-old from Cote d'Ivoire described his house in Abidjan (brick, with electricity and piped water), his apprenticeship to a tailor, and his forced recruitment by two gangs, an account of his life in his home country the examiner judged to have "few details."¹⁷⁷

Accounts that are very precise may also be interpreted as an indication of adulthood. For instance, a 16-year-old Malian boy who left school partway through his fourth year, when he was about 11, gave a detailed description of the places he travelled through in Mauritania and Morocco with his uncle but stated that he did not know where they were heading each time they moved on because he had never seen a map of Africa or of the world. Evaluating his account, the examiner wrote that it "contains particularly precise

¹⁷⁵ Evaluation Report, December 4, 2017, p. 3.

¹⁷⁶ Evaluation Report, October 26, 2017, p. 2.

¹⁷⁷ Evaluation Report, September 14, 2018, p. 2.

temporal and geographic references. It seems amazing that he claims not to know the geography of Africa, nor of France, as a country where French is spoken.”¹⁷⁸

Work in the home country or on the journey to Europe may be taken as a sign of adulthood,¹⁷⁹ even though many children work around the world, sometimes at young ages.

Examiners in some cases reached adverse conclusions about children’s age based on an apparent presumption that children’s experiences should conform to formal legal requirements, such as the minimum working age for work or the age of schooling. For example, one examiner judged a Guinean boy’s account that he had begun to learn a trade at the age of 12 not credible “whereas article 142.4 of the Guinean Labour Code states that ‘no one may be an apprentice unless he is at least 14 years old.’”¹⁸⁰

In another case, an examiner based a negative age assessment in part on the fact that a boy “says he began the first year [of school] at the age of 12 while ordinarily children are educated at the age of 5 in Guinea.”¹⁸¹ The examiner also concluded that the following aspects of the boy’s account supported a negative age assessment:

- “Once in Algeria, [the boy] worked, which is ordinarily [an activity] reserved for adults”¹⁸²
- “In Italy, [he] was in a camp with minors and adults while according to the law ‘Zampa’ . . . for the protection of unaccompanied minors, it is not possible for them to be in the same camp.”¹⁸³

¹⁷⁸ Evaluation Report, June 18, 2018, p. 4.

¹⁷⁹ See, for example, Evaluation Report, June 14, 2019, p. 4; Evaluation Report, March 27, 2019; Evaluation Report, November 12, 2018, p. 4; Evaluation Report, October 23, 2018, p. 3.

¹⁸⁰ Evaluation Report, June 4, 2019.

¹⁸¹ Evaluation Report, March 27, 2019, p. 2. See also Evaluation Report, February 15, 2018. In the case of another Guinean boy, school entry at the age of six was judged “late,” calling his account into doubt, Evaluation Report, November 12, 2018, p. 3, even though other evaluation reports state that “children [in Guinea] begin schooling around the age of six,” Evaluation Report, February 15, 2018.

¹⁸² Evaluations Report, March 27, 2019, p. 4.

¹⁸³ Ibid.

- “He decided to leave for France to be protected while he was being cared for in Italy, which makes his purpose not credible.”¹⁸⁴
- “When he crossed the border, he was arrested and returned to Italy, which shows that the police recognized his physical maturity.”¹⁸⁵

As with working, taking the decision to travel alone,¹⁸⁶ to leave Italy,¹⁸⁷ or to cross the mountains between Italy and France alone¹⁸⁸ may be taken as a sign of maturity, even if other aspects of their account are consistent with their claimed age. In one case, the examiner wrote that an Ivoirian boy’s decision to cross the mountains was a sign of maturity because that route “was usually taken by adults, as minors can present themselves at the border post without risk.”¹⁸⁹ In fact, as discussed in the previous chapter of this report, border police sometimes summarily return people whom they believe to be adults, without regard to their declared age.

Making their own choices about their religion or their education may also be taken as an indication of adulthood. For instance, a Senegalese boy who said that he chose to follow his mother’s Catholic faith at the age of 12 was judged to show “autonomy and emotional maturity . . . incompatible with his age.”¹⁹⁰ To support this conclusion, the examiner stated that “Senegal is composed 94% of Muslims and traditionally it is the head of the family and so the father who passes on religion [to the children].”¹⁹¹ In another case, an Ivoirian boy told the examiner that he left a Koranic school against the wishes of his father because he wanted to attend school in French, a decision the examiner concluded was a clear sign of maturity and autonomy.¹⁹²

¹⁸⁴ Ibid.

¹⁸⁵ Ibid. The evaluation report for a Gambian boy cites the same factor in support of a negative age assessment. Evaluation Report, March 7, 2019, p. 4.

¹⁸⁶ See, for example, Evaluation Report, October 23, 2018, p. 2; Evaluation Report, June 18, 2018, p. 3; Evaluation Report, May 3, 2018, p. 2; Evaluation Report, February 16, 2018, p. 2.

¹⁸⁷ Evaluation Report, October 29, 2018, p. 4.

¹⁸⁸ Evaluation Report, October 23, 2018, p. 5. See also Evaluation Report, September 14, 2018, p. 4.

¹⁸⁹ Evaluation Report, September 20, 2018, p. 3. See also Evaluation Report, September 14, 2018, p. 4.

¹⁹⁰ Evaluation Report, March 7, 2019, p. 3.

¹⁹¹ Evaluation Report, March 7, 2019, p. 3.

¹⁹² Evaluation Report, October 29, 2018, p. 2.

Deciding to leave an abusive situation may also be taken as an indication of maturity. For example, a 15-year-old Malian boy told the examiner he left his stepmother’s house and spent time living on the streets because she beat him regularly; the report concluded, “It seems that he showed a certain emotional autonomy, especially when he managed to spend several days on the streets alone.”¹⁹³

In another case, a youth received a negative age assessment because he travelled on his own and offered a plan for making a living that the official deemed unrealistic:

[He] recounted his family history clearly and accurately. The reason for his departure is set forth. His migratory journey is also presented in a coherent way with regard to his itinerary as well as its duration. [He] has confirmed his isolation in France and in Europe. His physical appearance may correspond to the date of birth he tells us, but his plan to open a “tele-center” at the age of 15½ and the autonomy he showed during his journey call his minority into question. An administrative refusal is proposed.¹⁹⁴

In some cases, examiners found that accounts show “autonomy” and “maturity” even in circumstances that suggest the opposite, as with a child who “followed people he did not know to unknown destinations just because he wanted to study.”¹⁹⁵

Some reports conclude that other aspects of accounts are “unusual,” without stating which, if any, sources the examiners consulted to verify the account. Some of these questioned elements are not implausible, and in any event are not material to the issue of the youth’s age. For instance, the age assessment of a 15-year-old Malian boy stated that his account that he did not sleep in the same room as his uncle, who had lived in Tripoli for many years, was one of several “unusual facts” contributing to a negative evaluation.

Other aspects dismissed as “unusual facts” are instead adverse inferences drawn from accounts deemed to be insufficiently precise. At the same time, the evaluation report does not clarify whether the examiner asked for additional information about these points. The

¹⁹³ Evaluation report, December 4, 2017, p. 3.

¹⁹⁴ Evaluation Report, September 15, 2017, p. 4.

¹⁹⁵ Evaluation Report, June 18, 2018, p. 4.

same 15-year-old, for example, told the examiner that his uncle arranged for him to be apprenticed to a Sudanese man to learn to lay tile. The boy also said that the man he was apprenticed to was absent from Tripoli for several months, during which time the boy's uncle taught him to read and write in French and also had him study verses from the Koran. Discussing these aspects of the boy's account, the report concludes, "He is unable to give details about his apprenticeship in Libya."¹⁹⁶

One boy said he said he was housed in Italy in a reception center that also held adults, a statement the examiner found not credible¹⁹⁷ even though human rights groups in Italy have reported that some centers hold a mix of adults and children.¹⁹⁸

Examiners sometimes appear to disregard the explanations children offered for leaving their home countries. For instance, evaluating the account of the 16-year-old Ivoirian boy who said decided to flee after gangs forced him to work for them, the examiner wrote that the boy "gave no justification for what led him to go from tailoring to being part of two gangs."¹⁹⁹

Hesitation in answering, including when asked about traumatic events such as abuses in Libya or the dangers of crossing the Mediterranean, may be taken as evasiveness.²⁰⁰ Similarly, requests that interpreters rephrase questions or statements by children that they do not understand the interpreter were also taken as signs of dissimulation in some cases.²⁰¹

On the other hand, responses that indicate confidence or certainty are also held against children. One examiner cited a boy's "use of a firm tone"²⁰² as among the reasons for a negative age assessment. Another boy displayed "an assured and confident attitude."²⁰³

¹⁹⁶ Evaluation Report, October 26, 2017, p. 3.

¹⁹⁷ Evaluation Report, October 29, 2018, p. 4.

¹⁹⁸ See "Neglect and Abuse in Italy" section, above.

¹⁹⁹ Evaluation Report, September 14, 2018, p. 2.

²⁰⁰ See, for example, Evaluation Report, December 4, 2017, p. 4.

²⁰¹ See, for example, *ibid.*

²⁰² Evaluation Report, March 20, 2019, p. 4.

²⁰³ Evaluation Report, October 23, 2018, p. 5.

Several reports cited attempts to correct mistakes by translators as an indication of adulthood:

- In one case, a Malian boy “showed a certain psychological maturity” when, “understanding French, he took over the interpretation when he did not agree with the translation of the names of towns.”²⁰⁴
- When a girl “understood that her responses were not sufficiently developed [by the interpreter], she became annoyed with the translator with a level of aplomb demonstrating a certain maturity.”²⁰⁵

As in the girl’s case, irritation or impatience may be taken as a sign of maturity,²⁰⁶ as, on the other hand, are “nonchalance” and “lack of seriousness.”²⁰⁷

Several of the evaluations reviewed by Human Rights Watch cite “emotional distance”²⁰⁸ and “lack of registration of emotions” when discussing separation from friends or family during the journey,²⁰⁹ when describing abuses,²¹⁰ or throughout the interview²¹¹ as evidence of maturity. In fact, as discussed more fully in the following section, such reactions are indicators of trauma, a reality that was not acknowledged in the evaluation reports Human Rights Watch reviewed.

Advocates suggested that examiners in the Hautes-Alpes do not consider the effects of trauma on children because they lack the specialized training necessary to conduct age assessments in the “multidisciplinary” framework required by regulations.²¹² Asked how a multidisciplinary evaluation should be conducted, Yassine Djermoune, a lawyer in Gap, replied:

²⁰⁴ Evaluation Report, March 20, 2019, p. 4.

²⁰⁵ Evaluation Report, August 14, 2018, p. 2.

²⁰⁶ Ibid.

²⁰⁷ Evaluation Report, October 31, 2018. See also Evaluation Report, March 5, 2019, p. 3.

²⁰⁸ Evaluation Report, November 12, 2018, p. 4.

²⁰⁹ Ibid.; Evaluation Report, September 20, 2018, p. 4.

²¹⁰ Evaluation Report, August 13, 2018, p. 3; Evaluation Report, June 22, 2018, p.3.

²¹¹ Evaluation Report, August 13, 2018, p. 5.

²¹² Human Rights Watch interview with lawyers, Gap, France, May 16, 2019.

Evaluations should be conducted by a team that includes psychologists, educators, [and] people who have knowledge of geopolitics because it's important to know where the young person comes from, the reasons that led him to leave his country, the situation of his country. And we are not dealing with that in Gap, we do not know the quality of those who carry out the evaluations, we aren't dealing with a multidisciplinary team that conducts evaluations—so we do not have psychologists, we have no experts in geopolitics, we do not have specialized educators who intervene, [and] in any case we are not able to assess their quality.²¹³

He added, “Evaluations should be carried out in principle in a spirit of benevolence. The law specifies that the minor should receive the benefit of the doubt. In reality, there is no sign of benefit of the doubt. There is never any suggestion of applying the benefit of the doubt. So the slightest inconsistency in the story will be turned against the young person, and the result will be a finding of majority.”²¹⁴

The Consequences of Trauma

Adverse inferences for the reasons described in the previous section do not appear to adequately account for the reality that many children and adults do not necessarily provide well-organized chronological accounts of their life and may often focus on details that seem irrelevant—particularly if they do not understand what is being asked of them or why. It is not clear that officials conducting evaluations appreciate the various ways children may respond to authorities—which can include curtailing responses due to intimidation or confusion and adjusting responses based on perceptions that the official wants a particular answer.

Such challenges may be factors with any child. In addition, unaccompanied migrant children have often experienced threatening, harmful, and potentially traumatic events—including harms in home countries; labor exploitation, arbitrary detention, and ill-treatment in Libya; and terrifying sea voyages.

²¹³ Human Rights Watch interview with Yassine Djermoune, lawyer, Gap, France, July 23, 2019.

²¹⁴ Ibid.

Doctors with the Réseau Hospitalité who have examined unaccompanied children in Gap see a high incidence of symptoms that are consistent with post-traumatic stress disorder (PTSD) and anxiety, and in some cases, depression. Some children have attempted suicide.²¹⁵ These outcomes are not surprising in light of the experiences children recounted to us. They are also consistent with studies of unaccompanied asylum-seeking children elsewhere in Europe.²¹⁶

Post-traumatic stress disorder has significant implications for age assessment evaluations. Adults and children with PTSD frequently report difficulties with memory, concentration, attention, planning, and judgement.²¹⁷ As Dr. Françoise Martin-Cola, of the Réseau Hospitalité, explains, “Inconsistencies in the accounts made by young people are often due to post-traumatic stress. They are in a confused state, and they do not retain clear memories of the most difficult experiences.”²¹⁸

Examiners should be aware of these outcomes—particularly the memory difficulties associated with PTSD—in conducting age assessments and evaluating the responses they receive. They should recognize that mistakes with dates and other details are not reliable indicators of dissimulation, should expect many of the people they interview to have difficulties in providing coherent chronological accounts, and should know that avoidance

²¹⁵ Human Rights Watch interview with Réseau Hospitalité, Gap, France, January 24, 2019; Human Rights Watch interview with Réseau Hospitalité, Gap, France, March 15, 2019.

²¹⁶ Unaccompanied children in the Hautes-Alpes are not necessarily seeking asylum in France (in part because entry into the child protection system after formal recognition as a child can provide a basis for regular immigration status upon adulthood), but they arrive in France with many of the same kinds of experiences and mental health outcomes as have been seen in asylum-seeking unaccompanied children elsewhere. See, for example, Marianne Jakobsen, Melinda A.M. Demott, and Trond Heir, “Prevalence of Psychiatric Disorders Among Unaccompanied Asylum-Seeking Adolescents in Norway,” *Clinical Practice and Epidemiology in Mental Health*, vol. 10 (2014), pp. 53-58.

²¹⁷ These outcomes for adults with PTSD are well-documented. See, for example, Kristin W. Samuelson, “Post-traumatic Stress Disorder and Declarative Memory Functioning: A Review,” *Dialogues in Clinical Neuroscience*, vol. 13 (2011), pp. 346-51. For studies of children, including adolescents, with PTSD, see R. Schoeman, P. Carey, and S. Seedat, “Trauma and Posttraumatic Stress Disorder in South African Adolescents: A Case-Control Study of Cognitive Deficits,” *Journal of Nervous and Mental Disease*, vol. 197 (2009), pp. 244-50; A.E. Yasik, P.A. Saigh, R.A. Oberfield, and P.V. Halamandaris, “Posttraumatic Stress Disorder: Memory and Learning Performance in Children and Adolescents,” *Biological Psychiatry*, vol. 61 (2007), pp. 382-88; A.R. Moradi, H.T. Doost, M.R. Taghavi, W. Yule, and T. Dalgleish, “Everyday Memory Deficits in Children and Adolescents with PTSD: Performance on the Rivermead Behavioural Memory Test,” *Journal of Child Psychology and Psychiatry*, vol. 40 (1999), pp. 357-61.

²¹⁸ Human Rights Watch interview with Dr. Françoise Martin-Cola, Réseau Hospitalité, Gap, France, May 15, 2019.

of reminders of trauma, difficulties in concentration, and “numbing” of feelings and emotion or, alternatively, irritability, are associated with trauma.²¹⁹

More generally, the age assessment process should take into account the likelihood that people being examined are experiencing PTSD. Screening for PTSD by qualified psychiatrists, with counseling prior to assessment for those found to have symptoms that could indicate PTSD, would improve examinations and result in a fairer process. In addition, specific protocols should be developed with input from experts in PTSD to determine when, how and by whom children with PTSD should be assessed.

Judicial Delay and Excessive Deference to Departmental Evaluators

The juvenile court can review negative age assessments, a process that takes six to eight months or more. For instance, Amadin N., a 17-year-old from Benin, was formally recognized as a child in June 2019, 10 months after he received a negative age assessment from the Departmental Council and sought review by the juvenile court.²²⁰ Gabriel F., from Nigeria, and Joshua F., from Cameroon, each saw the juvenile judge in April 2019, six months after they sought review, and heard in June that the judge would rule on their cases in September, meaning that they would wait 11 months in all to have their cases reviewed.²²¹

Commenting on the length of time required for a ruling from the juvenile court, a lawyer in Gap told Human Rights Watch:

In principle, everyone has the right to have their case dealt with in a reasonable time. When you are told that minors sometimes wait almost a year before seeing their minority recognized, there is clearly a delay that is unreasonable [with these cases.]²²²

²¹⁹ See Office of the UN High Commissioner on Human Rights, “Trauma and Self-Care,” in *Manual on Human Rights Monitoring* (New York and Geneva: United Nations, 2011), <https://www.ohchr.org/Documents/Publications/Chapter12-MHRM.pdf> (accessed July 2, 2019).

²²⁰ Human Rights Watch interview with Amadin N., Gap, France, July 24, 2019.

²²¹ Human Rights Watch interviews, Réseau Hospitalité, Gap, France, July 24, 2019; Human Rights Watch telephone interview with Gabriel F., Gap, France, July 24, 2019.

²²² Human Rights Watch interview with Yassine Djermoune, lawyer, Gap, France, July 23, 2019.

If the judge reverses the decision of the Departmental Council, the child is taken into the care of the child protection system. Because the effective date of entry into the child protection system is the date of the judge’s ruling, a child’s eligibility for immigration status upon reaching adulthood may be adversely affected, as discussed more fully in the following section. If the child turns 18 before or shortly after the judge’s ruling, the practical consequences of the order are negligible.

Lawyers and volunteers told Human Rights Watch that the juvenile court in Gap has frequently deferred to the decisions of the Departmental Council without considering whether evaluators complied with the procedures set forth in French regulations and in particular whether they adequately took into account the effects of trauma on children’s memory, concentration, and demeanor.²²³

Our own review of case files confirmed that the juvenile court in Gap has accepted departmental evaluations without appearing to consider these factors and without discussion of the principle of giving the benefit of the doubt if there is a reasonable possibility that the person is a child. For instance, in a November 2018 judgment reviewing the negative age assessment of a 16-year-old Senegalese boy, the juvenile court judge stated, “It is not up to the juvenile judge, who is not trained in sociological, ethnological, and psychological analysis, to substitute his own analysis for the evaluation work carried out by the Departmental Council.”²²⁴ The judge noted a doctor’s report that the boy presented symptoms consistent with post-traumatic stress disorder and that, in that light and on the basis of her observations in multiple consultations, the boy’s behavior, physical appearance, and mental state were consistent with that of a child. The judge stated, “Taken alone, these elements, even if they shed useful light on [the boy’s] situation, are not sufficient to demonstrate the minority of the applicant.”²²⁵

In another case, the juvenile court acknowledged “the suffering and trauma” of children and adults “linked to the long, difficult, often dramatic migratory route.”²²⁶ The court went on to say:

²²³ Human Rights Watch interviews with lawyers, Gap, France, May 16, 2019; Human Rights Watch interviews with Réseau Hospitalité, Gap, France, May 15 and July 24, 2019.

²²⁴ Judgment on Educational Assistance (Gap Juvenile Court, November 12, 2018), p. 2.

²²⁵ Ibid.

²²⁶ Judgment on Educational Assistance (Gap Juvenile Court March 11, 2019), p. 2.

The specialized team of the Hautes-Alpes Departmental Council, having been trained in the analysis of migratory stories to test their credibility, considers that the physical and psychological maturity and lack of coherence of the narrative of [the applicant] demonstrates his majority. It is not up to the juvenile judge, who is not trained in sociological, ethnological, and psychological analysis, to substitute his own analysis for the evaluation carried out by the Departmental Council.²²⁷

Other judgments by the Gap juvenile court reviewed by Human Rights Watch contain no discussion of the court's finding that additional evidence offered by the child was "insufficient to establish minority" and repeat in nearly identical wording that the court would not substitute its analysis for that of the departmental council.²²⁸

Some of the judgments we reviewed cited, as grounds for upholding negative age assessments, specific findings from the Departmental Council's evaluation that, as discussed above, are unreliable as indicators of age. For instance:

- Nine judgments relied in part on children's inability to provide well-organized responses to examiners' questions about their journeys, with no indication that examiners or judges considered the effects of age, education, and trauma on a child's ability to provide structured, coherent narratives.²²⁹
- Five judgments stated that a child "showed autonomy in taking the decision to leave his or her home country alone,"²³⁰ even though children regularly travel

²²⁷ Ibid.

²²⁸ See, for example, Judgment on Educational Assistance (Gap Juvenile Court March 25, 2019) (Ivoirian boy), p. 2-3; Judgment on Educational Assistance (Gap Juvenile Court March 25, 2019) (Guinean boy), p. 3; Judgment on Educational Assistance (Gap Juvenile Court March 18, 2019) at 2; Judgment on Educational Assistance (Gap Juvenile Court March 11, 2019), p. 2; Judgment on Educational Assistance (Gap Juvenile Court February 18, 2019), p. 2.

²²⁹ Judgment on Educational Assistance (Gap Juvenile Court March 25, 2019) (Guinean boy); Judgment on Educational Assistance (Gap Juvenile Court March 25, 2019) (Ivoirian boy); Judgment on Educational Assistance (Gap Juvenile Court March 18, 2019); Judgment on Educational Assistance (Gap Juvenile Court March 11, 2019); Judgment on Educational Assistance (Gap Juvenile Court February 18, 2019); Judgment on Educational Assistance (Gap Juvenile Court November 12, 2018); Judgment on Educational Assistance (Gap Juvenile Court November 5, 2018); Judgment on Educational Assistance (Gap Juvenile Court October 5, 2018); Judgment on Educational Assistance (Gap Juvenile Court April 9, 2018).

²³⁰ Judgment on Educational Assistance (Gap Juvenile Court March 25, 2019); Judgment on Educational Assistance (Gap Juvenile Court March 18, 2019); Judgment on Educational Assistance (Gap Juvenile Court February 26, 2019); Judgment on

unaccompanied to Europe and elsewhere in the world, as Human Rights Watch and other groups have reported.

- Five judgments relied on examiners' assessments of "physical and psychological maturity" (*maturité physique et psychique*), characteristics that vary widely among adolescents.²³¹

One ruling noted with disapproval that a child's description of his migratory route to the court was more detailed than that given in the original age assessment, without considering the possible effects of the opportunity for rest and reflection, psychological counselling, and the greater understanding of the need for detail and precision that legal assistance can provide.²³²

The juvenile court's ruling can be appealed, a process that can take an additional year.²³³ Eva L., a 17-year-old Guinean girl, told Human Rights Watch that she had appealed the juvenile judge's decision in her case, "but by the time it's over I'll have become an adult."²³⁴

An alternative that several lawyers in Gap have pursued successfully is to seek a ruling from the family court judge (*juge des tutelles*) that a person is a child in need of protection.²³⁵

The Consequences of Incorrect Age Assessments

Children who are incorrectly judged to be adults may face serious barriers in access to education and health services, even though education is in principle open to all in

Educational Assistance (Gap Juvenile Court February 18, 2019); Judgment on Educational Assistance (Gap Juvenile Court November 5, 2018).

²³¹ Judgment on Educational Assistance (Gap Juvenile Court March 25, 2019) (Guinean boy); Judgment on Educational Assistance (Gap Juvenile Court March 25, 2019) (Ivoirian boy); Judgment on Educational Assistance (Gap Juvenile Court March 18, 2019); Judgment on Educational Assistance (Gap Juvenile Court March 11, 2019); Judgment on Educational Assistance (Gap Juvenile Court November 5, 2018).

²³² See Judgment on Educational Assistance (Gap Juvenile Court March 25, 2019) (Guinean boy) at 2.

²³³ Human Rights Watch interview with lawyers, Gap, France, May 16, 2019.

²³⁴ Human Rights Watch interview with Eva L., Gap, France, July 24, 2019.

²³⁵ See Guardianship Order (Gap Family Court April 11, 2019); Guardianship Order (Gap Family Court November 23, 2018).

France,²³⁶ and some forms of health services should be available regardless of a person's migration status.²³⁷ In addition, because those who are not formally recognized as children are not under the protection of the child welfare system, they are dependent on the overstretched emergency accommodation system for adults or on the generosity of private citizens. This includes those who are seeking review of negative age assessments.

The Réseau Hospitalité has succeeded in persuading local schools to enroll many of the children they work with in Gap.²³⁸ It has also found accommodation for many of these children with private citizens who have agreed to open their homes to children in need. Without these private initiatives, many of these children would be homeless and would likely not be attending school while they waited for the judge to rule on their cases. These private initiatives are laudable, but they do not excuse the state from its responsibility to provide access to education for all and to ensure that children are not homeless while they exercise their right to review of negative age assessments.

Lack of recognition as a child has significant consequences for legal status. Children are not required to obtain a visa or residence permit (*titre de séjour*), regardless of their manner of entry to or length of stay in France,²³⁹ while adults—and those who are not formally recognized as children—may be detained and deported if they cannot produce evidence of lawful status. A recent decree provides for the systematic transfer of personal data of all those who receive negative age assessments to the prefectures, administrative authorities under the Ministry of the Interior, which may then arrange for their removal from France—potentially before they have had an opportunity to seek review by the juvenile court.²⁴⁰

²³⁶ Code de l'éducation, art. L.111-1; Ministère de l'Éducation nationale, Circulaire n° 2012-141, section 1.2 (October 2, 2012).

²³⁷ See Direction des affaires juridiques et Direction des patients, des usagers et des associations, Hôpitaux de Paris, Accueil et accompagnement des mineurs non accompagnés: points de repères juridiques et recommandations (Paris: Hôpitaux de Paris, 2018).

²³⁸ Human Rights Watch interviews, Réseau Hospitalité, January 24, May 15, and July 24, 2019.

²³⁹ Code de l'entrée et du séjour des étrangers et du droit d'asile, art. L.311-1.

²⁴⁰ Décret n° 2019-57 du 30 janvier 2019 relatif aux modalités d'évaluation des personnes se déclarant mineures et privées temporairement ou définitivement de la protection de leur famille et autorisant la création d'un traitement de données à caractère personnel relatif à ces personnes [Decree No. 2019-57 of January 30, 2019, on the Evaluation of Persons Declaring Themselves to Be Minors and Temporarily or Permanently Deprived of the Protection of Their Family and Authorizing the Creation of a Database of Personal Data Relating to These Persons], J.O. n° 0026, January 31, 2019, texte n° 37. See also "Le fichier biométrique des 'mineurs isolés' déclaré conforme à la Constitution," *Le Monde*, July 26, 2019,

Negative age assessments and delays in review may also affect future immigration status even if formal recognition is ultimately extended because the timing of being taken into care by the child welfare system affects eligibility for residence permits and French nationality. A child who is taken into care before the age of 15 can request French nationality at age 18,²⁴¹ and a child who enters the child protection system before age 16 is eligible at age 18 for a residence permit to continue studies or to work.²⁴² Those who are taken into care after reaching the age of 16 may be able to obtain a student or work permit, but the process is more complicated.²⁴³ Those who turn 18 during the age assessment process are ineligible for these permits.

Children’s Right to a Fair Process

As with adults, children have the right to a fair hearing when their rights are adjudicated,²⁴⁴ including in any age assessment procedures—which can determine whether an individual enjoys the rights afforded to children. French authorities may assess age where there are serious doubts that a person is a child, but age assessment procedures that are arbitrary infringe on children’s right to a fair hearing and can also result in violation of children’s right to an identity.²⁴⁵

https://www.lemonde.fr/societe/article/2019/07/26/le-fichier-biometrique-des-mineurs-isoles-declare-conforme-a-la-constitution_5493648_3224.html (accessed August 25, 2019). The French Defender of Rights has called for the decree’s repeal. Défenseur des droits, “Le Défenseur des droits demande l’abandon du projet de décret relatif à la mise en œuvre du fichier national biométrique des mineurs non accompagnés,” December 13, 2018, <https://www.defenseurdesdroits.fr/fr/communique-de-presse/2018/12/le-defenseur-des-droits-demande-labandon-du-projet-de-decret-relatif-a> (accessed August 27, 2019).

²⁴¹ Code civil, art. 21-12.

²⁴² Code de l’entrée et du séjour des étrangers et du droit d’asile, art. L.313-11(2bis).

²⁴³ Ibid., art. L.313-15.

²⁴⁴ See International Covenant on Civil and Political Rights, art. 14(1), December 19, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976).

²⁴⁵ See *A.L. v. Spain*, Views, Communication No. 16/2017, U.N. Doc. CRC/C/81/D/16/2017 (July 10, 2019), para. 12.10 (noting that “a child’s age and date of birth form part of his or her identity” and finding that Spanish authorities failed to respect the identity of a child by denying that his birth certificate had any probative value); *J.A.B. c. España*, Dictamen, Comunicación núm. 22/2017, U.N. Doc. CRC/C/81/D/22/2017 (July 9, 2019), para. 13.10 (same). See also European Asylum Support Office (EASO), *EASO Practical Guide on Age Assessment*, 2d ed., EASO Practical Guides Series (Brussels: EU Publications Office, 2018), p. 16 (“age is an innate characteristic of one’s identity”).

As a general matter, the child’s best interests should be “a guiding principle for determining the priority of protection needs and the chronology of measures to be applied in respect of unaccompanied and separated children.”²⁴⁶

Age assessment should be a last resort, used only where there are serious doubts about an individual’s declared age and where other approaches, including efforts to gather documentary evidence, have failed to establish an individual’s age.²⁴⁷ In such cases, authorities should clearly and formally offer reasons why an individual’s age is doubted before commencing age assessment procedures. With respect to documents, the Committee on the Rights of Migrant Workers and the Committee on the Rights of the Child state, “Documents that are available should be considered genuine unless there is proof to the contrary”²⁴⁸

When age assessment procedures are used, they should be multidisciplinary in nature. Age assessment should be a comprehensive process that “should not only take into account the physical appearance of the individual, but also his or her psychological maturity.”²⁴⁹ UNHCR notes that “the guiding principle is whether an individual demonstrates an ‘immaturity’ and vulnerability that may require more sensitive treatment.”²⁵⁰

To facilitate comprehensive assessments, one expert has recommended the establishment of “multi-agency teams based in regional age assessment centres. The multi-agency team would include social workers, paediatricians, psychologists, teachers and others able to

²⁴⁶ Committee on the Rights of the Child, General Comment No. 6, para. 31.

²⁴⁷ See *ibid.*, para. 31(i); EASO, *EASO Practical Guide on Age Assessment*, 2d ed., p. 23; UNHCR, Guidelines on International Protection: Child Asylum Claims, para. 75; UNHCR, Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum, February 1997, para. 5.11; UNHCR, Observations on the Use of Age Assessments in the Identification of Separated or Unaccompanied Children Seeking Asylum, Case No. CIK-1938/2014 (Lithuanian Supreme Court), June 1, 2015, para. 9(ix).

²⁴⁸ Joint General Comment No. 4 (Committee on the Rights of Migrant Workers) and No. 23 (Committee on the Rights of the Child), para. 4.

²⁴⁹ Committee on the Rights of the Child, General Comment No. 6, para. 31(i). See also Joint General Comment No. 4 (Committee on the Rights of Migrant Workers) and No. 23 (Committee on the Rights of the Child), para. 4.

²⁵⁰ UNHCR, Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum, para. 5.11(c).

contribute to the assessment process.”²⁵¹ The European Asylum Support Office recommends that two assessors be involved in the age assessment process when possible.²⁵²

Children should receive appropriate assistance, including the appointment of guardians before the commencement of age assessment procedures²⁵³ and the assistance of qualified interpreters²⁵⁴ throughout the procedure.

Interviews with children, whether as part of an age assessment process or for other purposes, require expertise and care. UNHCR cautions that “[c]hildren cannot be expected to provide adult-like accounts of their experiences”²⁵⁵ and observes that “time is crucial in building trust and allows for proper recollection and sharing of information about the child’s own story which is useful in establishing his or her age.”²⁵⁶ In particular, as the Committee on the Rights of the Child notes, children who have been living on the street “are often distrustful of adult intervention in their lives.”²⁵⁷ For these reasons, interviews should be tailored to the needs of children and should be conducted by examiners with the necessary training and skills.²⁵⁸

²⁵¹ Heaven Crawley, *When Is a Child Not a Child? Asylum, Age Disputes and the Process of Age Assessment* (London: Immigration Law Practitioners’ Association, 2007), p. 192. She cautions, “Those responsible for the assessment process need to be conscious of the fact that it is abusive for one child to see too many people for a formal assessment interview. However it is perfectly acceptable for those responsible for assessments to take into account the views of other professionals who are in contact with the child for other reasons.” *Ibid.*

²⁵² EASO, *EASO Practical Guide on Age Assessment*, 2d ed., p. 50.

²⁵³ Joint General Comment No. 4 (Committee on the Rights of Migrant Workers) and No. 23 (Committee on the Rights of the Child), para. 17(f); UNHCR, *Guidelines on International Protection: Child Asylum Claims*, para. 69.

²⁵⁴ See Committee on the Rights of the Child, General Comment No. 6, para. 25; Joint General Comment No. 3 (Committee on the Rights of Migrant Workers) and No. 22 (Committee on the Rights of the Child), para. 36; Joint General Comment No. 4 (Committee on the Rights of Migrant Workers) and No. 23 (Committee on the Rights of the Child), para. 17(d).

²⁵⁵ UNHCR, *Guidelines on International Protection: Child Asylum Claims*, para. 72.

²⁵⁶ UNHCR, *Observations on the Use of Age Assessments in the Identification of Separated or Unaccompanied Children Seeking Asylum*, para. 9(xi). See also *Separated Children in Europe Programme, Position Paper on Age Assessment in the Context of Separated Children in Europe*, 2012, p. 15, <http://www.refworld.org/docid/4ff535f52.html> (accessed May 1, 2018).

²⁵⁷ Committee on the Rights of the Child, General Comment No. 21 on Children in Street Situations, U.N. Doc. CR/C/GC/21 (June 21, 2017), para. 12.

²⁵⁸ Committee on the Rights of the Child, General Comment No. 6, para. 75. See also *ibid.*, paras. 95-97; Joint General Comment No. 4 (Committee on the Rights of Migrant Workers) and No. 23 (Committee on the Rights of the Child), para. 4; UNHCR, *Guidelines on International Protection: Child Asylum Claims*, para. 72; *Separated Children in Europe Programme, Statement of Good Practice, Part B10*.

Examiners should take particular care to avoid imposing their own culturally specific or other stereotyped notions of childhood in conducting age assessments. For example, working at young ages is uncommon in Europe but common in many parts of the world. Engaging in work, including very dangerous or difficult work or working for long hours, is not in itself an indicator of adulthood.

International standards call for individuals to receive the benefit of the doubt in cases in which age is uncertain or disputed. The Committee on the Rights of the Child has concluded that age assessment procedures “should accord the individual the benefit of the doubt such that if there is a possibility that the individual is a child, she or he should be treated as such.”²⁵⁹ In similar terms, UNHCR observes that “[t]he margin of appreciation inherent to all age assessment methods needs to be applied in such a manner that, in case of uncertainty, the individual will be considered a child.”²⁶⁰

The age assessment and asylum procedures used in the Hautes-Alpes—and, as Human Rights Watch has previously documented, in Paris²⁶¹—do not protect children’s best interests, do not afford them the benefit of the doubt, and in other respects do not afford them a fair process. As a result, many unaccompanied children in the Hautes-Alpes are denied their right to protection and assistance.

²⁵⁹ Committee on the Rights of the Child, General Comment No. 6, para. 31(i). See also Joint General Comment No. 4 (Committee on the Rights of Migrant Workers) and No. 23 (Committee on the Rights of the Child), para. 4.

²⁶⁰ UNHCR, Guidelines on International Protection: Child Asylum Claims, para. 75. Accord UNHCR, Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum, para. 5.11; UNHCR Observations on the Use of Age Assessment in the Identification of Separated or Unaccompanied Children Seeking Asylum, Case No. CIK-1938/2014, para. 9(ii).

²⁶¹ Human Rights Watch, “*Like a Lottery*,” pp. 17-32.

IV. Police Harassment of Aid Workers, Volunteers, and Activists

Border police and other law enforcement agents regularly subject aid workers, volunteers, and activists to document checks and vehicle inspections in circumstances that suggest that police are not employing them for public safety or other legitimate policing purposes. In many cases, police appear to employ these procedures selectively for the purpose of intimidation or harassment, or in order to create obstacles to humanitarian activities. These practices create a hostile environment for humanitarian workers and may undermine public trust in the police.

In addition, in some cases volunteers and activists have faced prosecution for what appear to be participation in search-and-rescue missions in the mountainous border region and other humanitarian acts that are permitted by law.

Such forms of harassment are not unique to the Hautes-Alpes; aid workers, volunteers, and activists operating in and around Calais have described similar practices to Amnesty International, the French Defender of Rights, Human Rights Watch, and UN special rapporteurs.²⁶² Police in France use overly broad powers to stop and search people in public spaces, even without any reasonable, individualized suspicion of wrongdoing, as a central tool in territorial control, leading to abuses particularly targeting France's "visible minorities."²⁶³

²⁶² See, for example, Amnesty International, *Targeting Solidarity: Criminalization and Harassment of People Defending Refugee and Migrant Rights in Northern France* (London: Amnesty International, June 2019); Défenseur des droits, *Exilés et droits fondamentaux, trois ans après le rapport Calais* (Paris: Défenseur des droits, December 2018); Human Rights Watch, "Like Living in Hell"; Human Rights Watch, "France: Aid Worker Convicted for Tweet," September 27, 2018, <https://www.hrw.org/news/2018/09/27/france-aid-worker-convicted-tweet>; Office of the UN High Commissioner for Human Rights, "France Urged by UN Experts to Take Effective Measures to Bring Water and Sanitation Services to Migrants," April 4, 2018, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22917> (accessed June 11, 2019).

²⁶³ See Human Rights Watch, *"The Root of Humiliation": Abusive Identity Checks in France* (New York: Human Rights Watch, January 2012).

Abusive Document Checks

Volunteers and activists who regularly take part in mountain searches told Human Rights Watch that they are subject to document checks, or “controls,” with a frequency that indicates the checks are more than just a means of establishing identity. “[They’ve stopped us] several times during the evening. It’s a form of harassment,” a volunteer said.²⁶⁴

Other volunteers gave similar accounts. “Systematically when we take part in searches in Montgenèvre there are controls . . . often several times in the evening. It’s common to be stopped by the same police in the same evening,” one told us.²⁶⁵ “I’m stopped by the gendarmes nearly every time I go up” to take part in a mountain search, another volunteer said.²⁶⁶

Describing these identity checks, a volunteer said:

They stop us. They stay 20 minutes with us. They are on the phone [to verify identity]. They ask a lot of questions about what we are doing. They want to take pictures of passports. In April, everybody was stopped two or three times in the [same] evening.²⁶⁷

Others interviewed by Human Rights Watch had similar accounts of repeated document checks. “There are identity checks several times in the same evening,” another volunteer said.²⁶⁸

The volunteers interviewed by Human Rights Watch said they believed they were singled out for their humanitarian activities. For example, one volunteer told Human Rights Watch:

²⁶⁴ Human Rights Watch telephone interview with volunteer, Briançon, France, May 26, 2019.

²⁶⁵ Human Rights Watch telephone interview with humanitarian worker, May 29, 2019.

²⁶⁶ Human Rights Watch interview with volunteer, Briançon, France, February 13, 2019.

²⁶⁷ Human Rights Watch interview with volunteer, Briançon, France, May 26, 2019.

²⁶⁸ Human Rights Watch interview with volunteer, Briançon, France, May 26, 2019.

It's targeted, very targeted. We could see that they did not stop tourists or pedestrians. . . . I have had identity checks on the way home. It's very targeted. They knew very well who they were talking to. It's routine—not all the time, but almost. It's almost every night. There really was a period there in February [when identity checks were particularly frequent].²⁶⁹

Police sometimes made comments that suggested they already knew the identities of those they stopped, volunteers said. For instance, one volunteer described a stop in Montgenèvre in August 2018:

I lowered the window and the policeman said to me, “Ah, you're back, where is your car?” And he quoted the make and model of my car. That day, I was driving someone else's car. When I told him I didn't see why he mentioned that, he said, “Stop fucking with us, we know you were here all summer.”²⁷⁰

Volunteers who questioned identity checks or police conduct when they were stopped described particularly prolonged searches that included comments from police suggesting retaliation. For instance, in May 2019 a group of volunteers had their car searched thoroughly by police after one of them asked why they had been stopped. The officers who conducted the search said they were giving the volunteers “the full treatment” for questioning the officers' authority, two of the volunteers present during the search told us.²⁷¹

Volunteers at the migrant shelter in Briançon, including those who do not take part in mountain searches, also said they are subject to frequent document checks. “We're stopped readily; our vehicles are known,” a shelter volunteer told Human Rights Watch.²⁷² Shelter volunteers who regularly took unaccompanied children to the police station the

²⁶⁹ Human Rights Watch interview with volunteer, Briançon, France, May 28, 2019.

²⁷⁰ Human Rights Watch interview with volunteer, Briançon, France, February 13, 2019.

²⁷¹ Human Rights Watch interviews, Briançon, France, May 2019.

²⁷² Human Rights Watch interview with volunteer, Briançon, France, January 29, 2019.

morning after they arrive at the shelter told us that police frequently check volunteers' documents even if the volunteers have been to the police station several days in a row.²⁷³

Repeated Fines for Minor Infractions

Volunteers and activists, including those who staff the migrant shelter as well as those who take part in mountain searches, said that police often issued citations for minor vehicle infractions. “During the controls, they look at everything. You’ll be fined for the smallest thing,” one volunteer told us.²⁷⁴ “We have to make sure our cars are in perfect order, because we can be fined for anything,” a volunteer with the shelter in Briançon, commented.²⁷⁵

Volunteers and activists gave the following examples, in many cases showing us copies of citations they had received:

- A group of aid volunteers received a 90-euro fine for tires that were too worn.²⁷⁶
- “Last week, [the police] issued a citation to a vehicle because the fog lights were on,” one volunteer told us in May 2019.²⁷⁷
- “I received a fine for not having a sticker showing that I had studded tires,” a volunteer said. “It’s a form of tacit harassment.”²⁷⁸
- A volunteer who took a group of children from the shelter in Briançon to the police station received a traffic ticket resulting in “four points on the license and a 90-euro fine. For whatever—for crossing the white line. There is no white line at the address there.”²⁷⁹
- In another case, a volunteer parked behind the migrant shelter to unload supplies, driving briefly the wrong way down a one-way street to do so. “It’s five meters

²⁷³ Human Rights Watch telephone interview with volunteer, May 30, 2019; Human Rights Watch interview with volunteer, Briançon, France, February 14, 2019.

²⁷⁴ Human Rights Watch telephone interview with humanitarian worker, May 29, 2019.

²⁷⁵ Human Rights Watch interview with volunteer, Briançon, France, January 29, 2019.

²⁷⁶ Human Rights Watch telephone interview with humanitarian worker, May 29, 2019.

²⁷⁷ Human Rights Watch telephone interview with volunteer, May 26, 2019.

²⁷⁸ Human Rights Watch telephone interview with aid worker, May 28, 2019. A vehicle using studded tires should display a disk. Arrêté du 18 juillet 1985 relatif aux dispositifs antidérapants équipant les pneumatiques [Order of July 18, 1985, on Anti-Slip Devices Fitted on Tires], consolidated version, August 16, 2019, art. 6.

²⁷⁹ Human Rights Watch telephone interview with volunteer, May 26, 2019.

long . . . Yes, I took it. I was in the wrong. The police were hidden there, a little further on. As soon as we pulled out, they approached us.” When the police asked for his identification, he removed his seat belt to reach into his pocket. For driving the wrong way, “I was fined 250 euros, and they took away three license points,” he told us. “And I received a second fine—for not wearing the seat belt. So another 250 euros and another four license points. So I got 500 euros in fines and they took away seven points all at once.”²⁸⁰

- Another volunteer, also ticketed for taking the one-way road the wrong way into the parking lot, said that police treated her as though she had committed a serious crime. “They put real pressure on you, you feel it,” she said.²⁸¹

We also heard of volunteers receiving fines for malfunctioning windshield wipers, broken tail lights, and low tire pressure.²⁸²

Some volunteers said they received citations for vehicle infractions after questioning the need for repeated identity checks. In one such case, police took a group of volunteers to the station and held them for an hour after they asked why they had been subjected to identity checks. One of these volunteers told Human Rights Watch:

When we were able to leave the police station with the car, we wanted to go back to Italy, but I crossed the white line to turn left, and we were stopped at the border post. They told us, “You are going to have a very bad night. We have the power to take away six license points.” They took my address in Briançon. They said, “One day we’re going to succeed in getting you.” I received fine of 180 euros and six points on my license.²⁸³

It is not improper for police to inspect vehicles and issue citations for infractions. But the circumstances of many of these citations, in particular the descriptions of statements made by police, suggest that police have targeted aid workers, volunteers, and activists in Briançon and Montgenèvre for harassment because of their humanitarian activities.

²⁸⁰ Human Rights Watch telephone interview with humanitarian worker, May 29, 2019. French license holders may receive a maximum of 12 points before their licenses are suspended.

²⁸¹ Human Rights Watch interview with volunteer, Briançon, France, February 13, 2019.

²⁸² Human Rights Watch interview with volunteer, Briançon, France, January 29, 2019.

²⁸³ Human Rights Watch interview with volunteer, Briançon, France, February 13, 2019.

The “Offense of Solidarity”

At least since 2016, French prosecutors have brought charges against activists and volunteers assisting migrants and asylum seekers in the border region between Italy and France. Most prosecutions that have gone to trial have resulted in suspended sentences, but they have taken a significant toll on the accused and have contributed to the creation of a hostile environment for humanitarian work in the region. In July 2018 France’s Constitutional Council ruled that “any act of aid provided for humanitarian purposes” could not be punished, regardless of the migration status of the person being helped. The ruling also specified that facilitating the movement of irregular migrants within France should not be criminalized “when these acts are carried out for humanitarian purposes.”²⁸⁴

The ruling that followed the prosecution of Cédric Herrou, a farmer who helped hundreds of migrants and asylum seekers, ultimately led to a constitutional affirmation of the protection of humanitarian assistance. In February 2017, Herrou received a fine of 3,000 euros, suspended, for helping asylum seekers cross the border and, once they were in France, providing them with shelter, food, and transportation.²⁸⁵ On appeal, the court increased his sentence to four months in prison, also suspended.²⁸⁶

Prior to Herrou’s case, there were many other instances of prosecution for humanitarian assistance to migrants in recent years. Pierre-Alain Mannoni, a marine ecology research professor, was arrested in October 2016 in the Alpes-Maritimes department after he picked up three Eritrean women who had just crossed into France, intending to give them a ride to Nice.²⁸⁷ “They are afraid, they are cold, they are exhausted, they have bandages on their hands, on their legs,” he wrote of seeing them on the roadside.²⁸⁸ He was initially

²⁸⁴ Conseil Constitutionnel [CC] [Constitutional Court], Décision n° 2018-717/718 QPC, July 6, 2018.

²⁸⁵ “Aide aux migrants : Cédric Herrou condamné à 3 000 euros d’amende avec sursis,” *Le Monde*, February 10, 2017, https://www.lemonde.fr/police-justice/article/2017/02/10/aide-aux-migrants-cedric-herrou-condamne-a-30-000-euros-d-amende-avec-sursis_5077536_1653578.html (accessed August 5, 2019).

²⁸⁶ Luc Leroux, “Coupable d’avoir aidé des migrants, Cédric Herrou ‘continuera à se battre,’” *Le Monde*, August 8, 2017, https://www.lemonde.fr/immigration-et-diversite/article/2017/08/08/poursuivi-pour-aide-a-l-immigration-clandestine-cedric-herrou-attend-son-jugement-en-appel_5169880_1654200.html (accessed August 5, 2019).

²⁸⁷ Edouard de Mareschal, “Un enseignant niçois jugé pour avoir aidé des migrants,” *Le Figaro*, November 23, 2016, <http://www.lefigaro.fr/actualite-france/2016/11/23/01016-20161123ARTFIG00330-un-enseignant-nicois-juge-pour-avoir-aide-des-migrants.php> (accessed June 12, 2019).

²⁸⁸ Pierre-Alain Mannoni, “Pourquoi j’ai secouru des réfugiés,” *Mediapart*, November 11, 2016, <https://blogs.mediapart.fr/pierre-alain-mannoni/blog/111116/pourquoi-j-ai-secouru-des-refugies> (June 12, 2019).

acquitted and then, after prosecutors appealed, convicted and given a two-month suspended sentence.²⁸⁹ The Court of Cassation, France’s highest court of ordinary jurisdiction, overturned Herrou’s and Mannoni’s convictions in December 2018.²⁹⁰

In another case, Martine Landry, an Amnesty International volunteer from Menton, across the border from Ventimiglia, Italy, faced charges of aiding illegal entry after she took two 15-year-old Guinean boys to a police station in July 2017.²⁹¹ In Landry’s case, decided after the Constitutional Council’s ruling, the criminal court dismissed the charges against her, finding that “[a]t no time did she seek to evade the law” but instead engaged in “a fraternal action for a humanitarian purpose.”²⁹² The public prosecutor’s office announced that it would appeal her acquittal.²⁹³ As of late August 2019, the appeal was pending, but no date had been set for it.²⁹⁴

More recently, in April 2018, a group of demonstrators walked from Claviere, in Italy, to Montgenèvre, in France, about three kilometers away, and from there to Briançon. The march was in part a reaction to the activities of an anti-immigration group that was engaging in actions intended to prevent migrants from crossing the border near Montgenèvre. Authorities initially claimed that some 20 migrants walked across the border

²⁸⁹ Luc Leroux, “Aide aux migrants: prison avec sursis en appel pour un enseignant-chercheur,” *Le Monde*, September 11, 2017, https://www.lemonde.fr/police-justice/article/2017/09/11/aide-aux-migrants-prison-avec-sursis-en-appel-pour-un-enseignant-chercheur_5184134_1653578.html (accessed June 12, 2019).

²⁹⁰ “La Cour de cassation annule la condamnation de Cédric Herrou,” *Le Figaro*, December 12, 2018, <http://www.lefigaro.fr/actualite-france/2018/12/12/01016-20181212ARTFIG00228-la-cour-de-cassation-annule-la-condamnation-de-cedric-herrou.php> (accessed June 12, 2019).

²⁹¹ Pascale Robert-Diard, “Au procès de la responsable d’Amnesty jugée pour aide aux migrants, le naufrage de l’accusation,” *Le Monde*, May 30, 2018, https://www.lemonde.fr/societe/article/2018/05/30/une-responsable-d-amnesty-jugee-pour-son-assistance-a-deux-immigres-mineurs_5307223_3224.html (accessed June 11, 2019);

Jillian Kestler-D’Amours, “French Woman Faces Charges for ‘Aiding’ Asylum Seekers,” *Al Jazeera*, February 12, 2018, <https://www.aljazeera.com/news/2018/01/french-woman-faces-charges-aiding-asylum-seekers-180129153709370.html> (accessed June 11, 2019).

²⁹² “Relaxe pour Martine Landry, la bénévole d’Amnesty poursuivie pour ‘délit de solidarité,’” *Le Monde*, July 14, 2018, https://www.lemonde.fr/police-justice/article/2018/07/14/relaxe-pour-martine-landry-la-benevole-d-amnesty-poursuivie-pour-delit-de-solidarite_5331246_1653578.html (accessed June 11, 2019).

²⁹³ “Aide aux migrants: Martine Landry relaxée, le parquet fait appel,” *Le Dauphiné Libéré*, July 24, 2018, <https://www.ledauphine.com/france-monde/2018/07/24/aide-aux-migrants-martine-landry-relaxee-le-parquet-fait-appel> (accessed June 10, 2019); Amnesty International, “Martine Landry: L’acharnement judiciaire,” July 24, 2018, <https://www.amnesty.fr/refugies-et-migrants/actualites/martine-landry-lacharnement-judiciaire> (accessed June 10, 2019).

²⁹⁴ Human Rights Watch telephone interviews with Amnesty International France, August 23 and 26, 2019.

with the demonstrators, although they eventually said that only one migrant had in fact entered France during the demonstration. The public prosecutor charged seven of the demonstrators with using the rally to help migrants enter France irregularly. Two activists received prison sentences; five others received suspended sentences. Their appeals are pending.²⁹⁵

Human Rights Watch heard of other threats of prosecution for humanitarian activities in Hautes-Alpes and elsewhere. For instance, in June 2018 two men picked up an unaccompanied child, whom they described as being in “obvious distress,” on the road between Claviere and Montgenèvre and drove him to the police post to ask that the boy be taken to the hospital. Police told the two men they could either immediately give statements for use in a criminal investigation against them or be held in custody pending interrogation.²⁹⁶

In a case outside Hautes-Alpes, a volunteer said that when she took unaccompanied children to the Isère Departmental Council in July 2018, she received a summons to report for police custody (*garde à vue*) pending interrogation. She explained:

They kept me on July 31 for five hours to ask me questions: “Do I know them?” “Why did I accompany them?” That kind of thing. It was so absurd. . . . I did not answer the questions.²⁹⁷

She has not heard the outcome of this investigation. “I think they gave up,” she said.²⁹⁸ It is possible that in light of the Constitutional Council’s ruling the police did not pursue any charges.

²⁹⁵ See Tribunal de grande instance [TGI] [ordinary court of original jurisdiction] Gap, December 13, 2018, jugement correctionnel, pp. 37-40; Serge Pueyo, “Aide aux migrants: le procès des ‘sept de Briançon’ s’ouvre à Gap,” *Le Parisien*, November 8, 2018, <http://www.leparisien.fr/faits-divers/aide-aux-migrants-le-proces-des-sept-de-briancon-s-ouvre-a-gap-08-11-2018-7937775.php> (accessed June 10, 2019); “Aide aux migrants: les ‘sept de Briançon’ condamnés,” *Le Monde*, December 14, 2018, https://www.lemonde.fr/societe/article/2018/12/14/aide-aux-migrants-les-sept-de-briancon-condamnes_5397154_3224.html (accessed June 10, 2019). See also Karina Piser, “The Swiftly Closing Borders of Europe,” *The Atlantic*, December 19, 2018, <https://www.theatlantic.com/international/archive/2018/12/europe-france-italy-immigration-border/578179/> (accessed June 11, 2019).

²⁹⁶ Email to Human Rights Watch, June 5, 2019.

²⁹⁷ Human Rights Watch telephone interview with volunteer, May 30, 2019.

²⁹⁸ Human Rights Watch telephone interview with volunteer, May 30, 2019.

Nevertheless, despite the Constitutional Council's ruling, in January 2019, in separate trials, two other volunteers who took part in mountain searches in and around Montgenèvre were charged with and convicted of aiding irregular entry. The two volunteers appealed their convictions.²⁹⁹ One of these appeals is scheduled for a hearing in late October 2019.³⁰⁰

And in March 2019, seven activists with *Roya Citoyenne*, a group advocating for the rights of migrants on the French-Italian border, were held in police custody for more than 24 hours and their computers and phones seized. One of their lawyers told reporters that the reason given for the lengthy period of police custody was to investigate possible facilitation “of the entry, movement and residence of foreigners in an irregular situation for the period from September 10, 2018 to March 5, 2019.”³⁰¹

These prosecutions, investigations, and police harassment come at a time of increasing hostility towards activists and volunteers providing vital assistance to migrants and asylum seekers in European countries. A recent study by the Research Social Platform on Migration and Asylum (ReSoma) found that between 2015 and 2019, at least 83 people have been investigated or prosecuted for facilitating irregular entry and transit, and 18 were investigated or prosecuted for facilitating the stay or residence.³⁰² The study found that in France, 31 people had been investigated or prosecuted on grounds of facilitating the entry, transit and/or residence of migrants in the same time frame.³⁰³

²⁹⁹ “Aide aux migrants: deux militants condamnés à de la prison avec sursis,” *Le Monde*, January 10, 2019, https://www.lemonde.fr/police-justice/article/2019/01/10/aide-aux-migrants-deux-militants-condamnes-a-de-la-prison-avec-sursis_5407459_1653578.html (accessed June 12, 2019).

³⁰⁰ Human Rights Watch telephone interview with Amnesty International France, August 26, 2019.

³⁰¹ “Migrants: 7 militants de *Roya Citoyenne* libres après plus de 24h de garde à vue,” *Le Figaro*, April 14, 2019, <http://www.lefigaro.fr/flash-actu/migrants-7-militants-de-roya-citoyenne-libres-apres-plus-de-24h-de-garde-a-vue-20190314> (accessed August 5, 2019).

³⁰² ReSoma Discussion Brief, “Crackdown on NGOs and volunteers assisting refugees and other migrants,” June 2019, http://www.ismu.org/wp-content/uploads/2018/10/Final-Synthetic-Report-Crackdown-on-NGOs-and-volunteers-helping-refugees-and-other-migrants_1.pdf (accessed July 31, 2019), p. 25. A further 57 people were investigated or prosecuted for facilitating entry, transit, and stay, as well as on other grounds including membership in a criminal organization, sabotage or waste management.

³⁰³ *Ibid.*, p. 26. See also Liz Fekete, Frances Webber, and Anya Edmond-Pettitt, *Humanitarianism: The Unacceptable Face of Solidarity* (London: Institute of Race Relations, 2017).

Because the stated aim of search-and-rescue operations by volunteers and activists is humanitarian, many speak of being prosecuted for the “offense of solidarity.” In an interview with *Le Dauphiné Libéré*, a regional newspaper, the Gap prosecutor took issue with this phrase. He stated, “Someone, including on a search-and-rescue mission in the mountains, finds a foreigner in the snow, who is on the other side of the border or who has just crossed it or who is on the French side, and notices that this person is in great distress—their duty is to help. [The issue] is not ‘do you have the right’; [it is that] you have the duty to help them.”³⁰⁴

Nearly every volunteer and activist we spoke with said the 2018 prosecutions in Briançon had focused their outrage and resolve but, at the same time, had seemingly emboldened police to escalate harassment against them. One activist commented that the prosecutions had had a “double effect”:

[They have] motivated people to fight despite the penalties that have fallen on them. [And] the police have changed their technique by harassing us. Identity checks, even when we’re walking in Montgenèvre and of course on the route [between Italy and France]. And even here [in Briançon] they’ve waited for us behind the shelter. And then it’s checking identity documents, the paperwork for the car, and being fined.³⁰⁵

Other activists agreed that police harassment had increased after the trials. Reflecting on the process, one commented, “All of this . . . the trials have changed our lives. This summer, there was no way [for me] to walk around Briançon without being stopped. I now have difficulties crossing the border.”³⁰⁶

And although all of the activists who were charged and convicted told us that the court case had motivated them to continue their humanitarian activities, they also said it had taken a personal toll. One stated:

³⁰⁴ Sandie Bircan, “Migrants: les explications du procureur,” *Le Dauphiné Libéré*, October 15, 2018, <https://c.ledauphine.com/hautes-alpes/2018/10/15/migrants-les-explications-du-procureur> (accessed June 12, 2019).

³⁰⁵ Human Rights Watch interview with volunteer, Briançon, France, May 28, 2019.

³⁰⁶ Human Rights Watch interview with volunteer, Briançon, France, January 29, 2019.

Between the police custody and the trial, I had the impression the police could just show up at my home at any time. It creates a bunch of tension to feel that they have the power to do that sort of thing. It keeps us on edge.³⁰⁷

Another said simply, “We are physically and morally exhausted.”³⁰⁸

Weak Legal Protections for Humanitarian Assistance

French law punishes facilitation of irregular entry, transit or stay in France with up to 5 years in prison and a 30,000 euro fine.³⁰⁹ While the immigration code already contained a vague humanitarian exemption to facilitation of irregular stay, parliament amended the code following the Constitutional Council ruling to exempt assistance to the transit and stay of irregular migrants if no compensation was received and the assistance was offered with “an exclusively humanitarian objective.”³¹⁰ Assistance that helps someone enter French territory irregularly—for example, rescuing someone lost in the mountains and driving them into France—is not covered by the humanitarian exemption.³¹¹

European Union law gives member states wide discretion in how they implement common rules on combating people smuggling and other infractions of national immigration laws. The key legislation in this regard, the 2002 EU Facilitation Directive, says member states “may” choose to not sanction a person who intentionally assists another person to enter or transit irregularly its territory if the aim was to provide humanitarian assistance.³¹² States are not obligated to ensure a humanitarian exemption, and the Facilitation Directive allows for prosecution even when there is no financial or material benefit.³¹³ Only seven

³⁰⁷ Human Rights Watch telephone interview with volunteer, May 30, 2019.

³⁰⁸ Human Rights Watch interview with volunteer, Briançon, France, May 28, 2019.

³⁰⁹ Code de l’entrée et du séjour des étrangers et du droit d’asile, art. L.622-1.

³¹⁰ *Ibid.*, art. L.622-4.

³¹¹ GISTI, “L’aide à l’entrée ou au séjour irréguliers selon le droit français,” April 27, 2019, <https://www.gisti.org/spip.php?article6022> (accessed August 1, 2019).

³¹² Council Directive 2002/90/EC of 28 November 2002 Defining the Facilitation of Unauthorised Entry, Transit and Residence, OJ L 328/17 (December 5, 2002), art. 1(2).

³¹³ *Ibid.*, art. 1(1)(a). The directive does require financial gain for the purposes of sanctioning assistance to a person to reside within the territory of a member state, See *ibid.*, art. 1(1)(b).

member states explicitly exempt from prosecution facilitation of irregular entry and/or transit if done for humanitarian purposes.³¹⁴

The UN Smuggling Protocol requires the criminalization of the smuggling of migrants only “when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit.”³¹⁵

Despite evidence of increasing criminalization of humanitarian activities and pressure from civil society organizations, in 2017 the European Commission declined to consider reforming the Facilitation Directive, concluding that the risks of prosecution for such activities are linked to problems with interpretation and implementation, rather than the legal text itself.³¹⁶ In 2018, the European Parliament urged the European Commission to adopt guidelines to “clarify those forms of facilitation that should not be criminalized” to, among other reasons, “limit unwarranted criminalisation.”³¹⁷ The European Union Agency for Fundamental Rights (FRA) has called for EU guidance that would “explicitly exclude punishment for humanitarian assistance at entry . . . as well as the provision of non-profit humanitarian assistance (e.g. food, shelter, medical care, legal advice) to migrants in an irregular situation.”³¹⁸

³¹⁴ European Commission, REFIT Evaluation of the EU Legal Framework Against Facilitation of Unauthorized Entry, Transit and Residence: The Facilitators Package (Directive 2002/90/EC and Framework Decision 2002/946/JHA), SWD(2017) 117 final (March 22, 2017).

[http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/swd/2017/0117/COM_SWD\(2017\)0117_EN.pdf](http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/swd/2017/0117/COM_SWD(2017)0117_EN.pdf) (accessed August 1, 2019), pp. 14-15. The seven countries are Belgium, Greece, Spain, Finland, Italy, Malta, and the United Kingdom.

³¹⁵ Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime, November 15, 2000, 2241 U.N.T.S. 507, art. 6(1).

³¹⁶ European Commission, REFIT Evaluation, p. 22.

³¹⁷ European Parliament Resolution of 5 July 2018 on Guidelines for Member States to Prevent Humanitarian Assistance from Being Criminalised, http://www.europarl.europa.eu/doceo/document/TA-8-2018-0314_EN.html (accessed August 1, 2019).

³¹⁸ European Union Agency for Fundamental Rights, “Criminalisation of Migrants in an Irregular Situation and of Persons Engaging with Them,” March 2014, p. 16, <https://fra.europa.eu/en/publication/2014/criminalisation-migrants-irregular-situation-and-persons-engaging-them> (accessed January 14, 2019).

Similarly, guidelines issued by the UN High Commissioner for Human Rights call on states to “[e]nsure that the organizations and individuals who rescue or provide assistance to migrants are not criminalized or otherwise punished for doing so.” Office of the UN High Commissioner for Human Rights and Global Migration Group, Principles and Guidelines, Supported by Practical Guidance, on the Human Rights Protection of Migrants in Vulnerable Situations (Geneva: Office of the UN High Commissioner on Human Rights, 2018), p. 28, <https://www.ohchr.org/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf> (accessed January 14, 2019).

The refusal by France and the European Union to adopt an unambiguous position that the provision of humanitarian assistance without financial or other benefit should not be considered a crime contributes to an environment where police feel empowered to harass aid workers, volunteers, and activists. Abusive identity checks, targeting volunteers and activists for minor vehicle infractions that in ordinary circumstances would receive no more than a warning, threatened or actual police custody for humanitarian activities, and criminal charges for those humanitarian activities violate the rights to liberty of person and to freedom of association and, in the case of police custody, amounts to arbitrary arrest.³¹⁹

³¹⁹ See International Covenant on Civil and Political Rights, arts. 9, 22; Human Rights Committee, General Comment No. 35, para. 17 (noting that arrest as punishment for the legitimate exercise of the right to freedom of association, among other rights, is arbitrary).

Acknowledgments

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We appreciate the willingness of officials with the prefecture to meet with us to discuss our findings.

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SUBJECT TO WHIM

The Treatment of Unaccompanied Children in the French Hautes-Alpes

French authorities have summarily returned unaccompanied migrant children who travel from Italy to France through the Alps, in violation of French law and child rights protection norms. To avoid apprehension and summary return by French border police, many children cross the border at night, hiking high into the mountains and running significant risks.

For those unaccompanied children who gain entry to France, many find that because of flawed age assessments, they are denied formal recognition as children. Age assessors have used minor mistakes with dates, a child's reluctance to discuss particularly traumatic experiences in detail, work in home countries or while in transit, and apparently unrealistic life goals as arbitrary grounds to justify negative age assessments.

An immediate consequence of a negative age assessment is that unaccompanied children can be evicted from emergency shelter, even if they are appealing the assessment before a judge. Some find shelter with volunteers who offer space in their homes or in squats run by volunteer networks. Others stay in shelters for adults or may find themselves living on the streets. Some children's negative age assessments are overturned on review, but delays in formal recognition as a child may affect their eligibility for regular immigration status when they turn 18.

French police have also harassed aid workers, volunteers, and activists who take part in search-and-rescue operations in the mountains. French law protects those engaged in humanitarian assistance but authorities have nevertheless on occasion brought criminal charges against aid workers, using provisions that criminalize the facilitation of irregular entry.

French authorities should end summary returns of unaccompanied migrant children to Italy and instead immediately transfer them to the child welfare system for appropriate protection and care.

Authorities should reform age assessment procedures and practices to conform to international standards and ensure that children are not arbitrarily denied formal recognition.

Authorities should also prevent and ensure accountability for police harassment of humanitarian workers.



Three migrants, one a child, walk through the Alps near Bardonnechia, Italy, hoping to cross into France, January 2018.

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