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

Unaccompanied children arriving in Frances Alpine region undergo flawed age assessment procedures that deny many access to needed protection.

Three migrants, one a child, walk through the Alps near Bardonecchia, Italy, hoping to cross into France, January 2018. 2018 Antonio Masiello/Getty Images

Unaccompanied children arriving in Frances Alpine region undergo flawed age assessment procedures that deny many access to needed protection.

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 fathers family took the house and his fathers workshop, turning the two children out. They left Douala and travelled to Yaound, 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 officers' 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.

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:

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 childrens 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 caregiver, but not necessarily from other relatives,^[8] meaning that they may be accompanied by other adult relatives.

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 Childrens Fund (UNICEF) and the International Organization for Migration (IOM) describe the Central Mediterranean route as singularly dangerous, one of the worlds 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 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]

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 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]

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]

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 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]

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 Cte 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:

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 Yaounde but never intended to leave his home country. He explained:

After some months in Chad, a group of armed men abducted him and his sister and took them to Libya.[\[41\]](#)

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.[\[42\]](#)

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 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 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, Skou 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.[\[47\]](#) Ousseny 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:

In a similar account, Siaka A., a 16-year-old from Cte 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 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.[\[58\]](#)

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.

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.

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 didnt 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 couldnt 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.[\[64\]](#)

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

Skou 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.[\[68\]](#)

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

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 childrens 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. Its not sufficient. I stayed at the *campo* for six months. I left the *campo* because I have to finish school and learn a trade, Skou 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 didnt go for six months. And even when we went to school [for language lessons], it wasnt the right way [to learn] only two times a week.[\[71\]](#)

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:

Racist insults and other discriminatory interactions were another factor in some childrens decision to leave Italy, they told Human Rights Watch.^[77]

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 Italys childrens ombudsman. Italys 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 facilities^[81] 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]

The European Asylum Support Offices 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 children^[87] 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 laws implementation, including access to education and information about seeking asylum in Italy or requesting reunification with family members in other EU member states.^[90]

Before the law was passed, human rights groups reported that unaccompanied children were not receiving enough food and clothing in some reception centers^[91] and that some were placed in centers for adults.^[92]

In addition, several children cited Italys 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 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]

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

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 childrens 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, Jrme 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. Thats at border posts, if theyre 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 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 Anaf 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 persons identity, including their date of birth. French police give a 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 Watchs 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 didnt want to hear it, he told Human Rights Watch. The border agents did not offer him a copy of the *refus d'entre* (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 didnt ask my age.[\[107\]](#)

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:

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:

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 Montgenvre.] Seeing me, the police officer said he was going to call somebody to take me to Brianon.[\[110\]](#) 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:

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 Brianon to pick him up.[\[112\]](#) Another boy, Ramatoulaye M., a 16-year-old from Cte d'Ivoire, said that after border police apprehended him in the mountains near Montgenvre, 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 boys successful entry seems to have been the result of persistence:

When 13 nongovernmental organizations documented police practices on the border between Claviere and Montgenvre 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 Agns 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.[\[122\]](#)

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'entre*), 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 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 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]

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

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]

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 Councils 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 Councils 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 under the allocation system known as *rpartition 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 youths 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:

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 persons age.^[156]

Although this report focuses on the Hautes-Alpes department, Human Rights Watch has found similarly capricious decision-making in Paris^[157] and has heard accounts of arbitrary age assessment practices elsewhere in France.

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:

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

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:

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.

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:

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

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, thats not good enough. I have a birth certificate with a supplementary judgment (*jugement supplitif*), referring to a process of authentication by a court in his home country.^[166]

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:

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 transit^[172] 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 grandmothers 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 his father and stepmother, after his grandmothers 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 grandmothers 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 boys 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 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 childrens age based on an apparent presumption that childrens 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 boys 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 boys account supported a negative age assessment:

As with working, taking the decision to travel alone,[\[186\]](#) to leave Italy,[\[187\]](#) or to cross the mountains between Italy and France alone[\[188\]](#) 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 boys 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 mothers 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.[\[192\]](#)

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 stepmothers 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:

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 youths 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 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 boys uncle taught him to read and write in French and also had him study verses from the Koran. Discussing these aspects of the boys 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 credible[\[197\]](#) 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] Several reports cited attempts to correct mistakes by translators as an indication of adulthood:

As in the girls 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 interview^[211] 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:

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]

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.

Doctors with the Réseau Hospitalier 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 Hospitalier, 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 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.

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:

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 doctors 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 boys 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 boys] 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:

Other judgments by the Gap juvenile court reviewed by Human Rights Watch contain no discussion of the courts 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 Councils evaluation that, as discussed above, are unreliable as indicators of age. For instance:

One ruling noted with disapproval that a childs 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 courts 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 judges decision in her case, but by the time its over Ill 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]

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 France,[236] and some forms of health services should be available regardless of a persons 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 Rseau Hospitalit 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 sjour*), regardless of their manner of entry to or length of stay in France,[239] while adultsand those who are not formally recognized as childrenmay 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 Francepotentially before they have had an opportunity to seek review by the juvenile court.[240]

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.

As with adults, children have the right to a fair hearing when their rights are adjudicated.[244] including in any age assessment procedureswhich 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 childrens right to a fair hearing and can also result in violation of childrens right to an identity.[245]

As a general matter, the childs 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 individuals declared age and where other approaches, including efforts to gather documentary evidence, have failed to establish an individuals age.[247] In such cases, authorities should clearly and formally offer reasons why an individuals 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 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 procedures[\[253\]](#) and the assistance of qualified interpreters [\[254\]](#) 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.[\[258\]](#)

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 Paris[\[261\]](#) 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.

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.[\[263\]](#)

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:

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:

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:

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. Were 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 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.[\[273\]](#)

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:

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:

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.

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 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 prosecutors' 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 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 vue*) pending interrogation. She explained:

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.

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.[\[303\]](#)

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 Dauphin 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 Brianon 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:

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 Brianon 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:

Another said simply, We are physically and morally exhausted.[308]

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 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]

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]

This report was written by Michael Garcia Bochenek, senior counsel on childrens rights at Human Rights Watch, based on research he undertook in the French Department of Hautes-Alpes from January to July 2019 with Helen Griffiths, fellow in the Childrens Rights Division; Bndicte Jeannerod, France director; and Camille Marquis, senior advocacy coordinator. Sara Chollet and Loan Torondel, interns in the Paris office, analyzed case files and assisted with legal research; Elisabeth Dotter, an intern in the Paris office, also assisted with research.

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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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Administrateur ad hoc A temporary guardian

AME State Medical Aid (Aide mdicale dtat), health care for those with irregular migration status

ASE Service de laide sociale lenfance, the child welfare service in France

Carabinieri Italys national gendarmerie, functioning both as a national police force and as military police

Csa Centre socialauto-grde lImprimerie, Gap

CESEDA Code de lentre du sjour des trangers et du droit dasile, 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 dpartemental, the governing body of a department, with responsibilities that include conducting age assessments of unaccompanied children and providing for their care and protection

Garde vue Police custody

Juge des enfants Juvenile court judge, exercising oversight of children at risk

Juge de tutelle Family court judge

Jugement suppltif 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 childs birth and parentage.

115 An emergency number that those who are homeless in France can use to find temporary shelter.

PAF Police aux frontires, the French border police

Prefecture The town in which the administration of a department is located; also refers to the departmental administrative authority.

Refus dentree Refusal of entry

Tiers digne de confiance 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.

[1] Email from Camille Marquis, senior advocacy coordinator, Human Rights Watch, to Batrice 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 Batrice 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 Batrice Longueville, director, Hautes-Alpes Directorate of Prevention Policy and Social Action, May 16, 2019; Letter from Bndicte Jeannerod, France director, Human Rights Watch, to Beatrice 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 Batrice Longueville, director, Hautes-Alpes Directorate of Prevention Policy and Social Action, June 25, 2019.

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

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

[4] Letter from Michael Bochenek, senior counsel, Childrens 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, Childrens 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.

[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.

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

[11] Human Rights Watch interview with Louis M., Brianon, France, January 23, 2019.

[12] Human Rights Watch interview with volunteers, Brianon, 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 Brianon. Human Rights Watch interview with volunteer, Refuge Solidaire, Brianon, France, January 22, 2019. Nationally, 67 percent of all recognized unaccompanied children were from these three countries of origin in 2018. Ministre de la Justice, Direction de la protection judiciaire de la jeunesse, Rapport annuel dactivit 2018: Mission mineurs non accompagns, June 2019, p. 7, http://www.justice.gouv.fr/art_pix/RAA-MMNA-2018.pdf (accessed August 8, 2019).

- [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., Brianon, France, January 23, 2019.
- [17] Human Rights Watch interview with Malick I., Brianon, France, February 16, 2019.
- [18] Human Rights Watch interview with Louis M., Brianon, 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., Brianon, France, February 14, 2019.
- [23] Human Rights Watch interview with Ismael K., Brianon, 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., Brianon, France, July 23, 2019.
- [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., Brianon, 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., Brianon, 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 Womens Refugee Commission, *More Than One Million Pains: Sexual Violence Against Men and Boys on the Central Mediterranean Route to Italy* (New York: Womens Refugee Commission, March 2019), p. 11.
- [34] Human Rights Watch interview with Aliou M., Brianon, 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.
- [38] Human Rights Watch interview with Fode A., Brianon, 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.
- [42] Human Rights Watch interview with Kebba S., Brianon, France, January 23, 2019.
- [43] Human Rights Watch interview with Anthony L., Gap, France, February 14, 2019.
- [44] Human Rights Watch interview with Moses P., Brianon, France, January 22, 2019.
- [45] Human Rights Watch interview with Gabriel F., Gap, France, January 24, 2019.
- [46] Human Rights Watch interview with Skou M., Gap, France, January 25, 2019.
- [47] Human Rights Watch with Louis M., Brianon, France, January 23, 2019.

- [48] Human Rights Watch interview with Oussenyou A., Brianon, France, February 13, 2019.
- [49] Human Rights Watch interview with Joshua F., Gap, France, January 24, 2019.
- [50] Human Rights Watch interview with Siaka A., Gap, France, January 25, 2019.
- [51] Human Rights Watch interview with Aliou M., Brianon, 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., Brianon, France, January 22, 2019.
- [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, *Psichiatria i Psychologia Kliniczna*, vol. 17 (2017), pp. 87, 90, <http://www.psichiatria.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.
- [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., Brianon, France, February 14, 2019.
- [64] Human Rights Watch interview with Joshua F., Gap, France, January 24, 2019.
- [65] Human Rights Watch interview with Sidiki A., Gap, France, February 15, 2019.
- [66] Human Rights Watch interview with Skou M., Gap, France, January 25, 2019.
- [67] Human Rights Watch interview with Issa B., Brianon, France, February 14, 2019.
- [68] Human Rights Watch interview with Ousseynou K., Brianon, France, February 13, 2019.
- [69] Human Rights Watch interview with Amadin N., Gap, France, January 25, 2019.
- [70] Human Rights Watch interview with Skou M., Gap, France, January 25, 2019.
- [71] Human Rights Watch interview with Fode A., Brianon, France, January 22, 2019.
- [72] Human Rights Watch interview with Ajuma L., Brianon, 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., Brianon, France, January 23, 2019.
- [75] Human Rights Watch interview with Issa B., Brianon, 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., Brianon, France, January 22, 2019.
- [78] For example, Human Rights Watch interview with Isaac T., Brianon, France, July 22, 2019; Human Rights Watch interview with Ismael K., Brianon, 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., Brianon, France, January 25, 2019; Human Rights Watch interview with Mbaye T., Gap, France, January 24, 2019; Human Rights Watch interview with Seydou D., Brianon, 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, Autorit garante per l'infanzia e l'adolescenza, *I movimenti dei minori stranieri non accompagnati alle frontiere settentrionali* (Rome: Autorit 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 Crotone, 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, *Lisola dei minori: l'accoglienza dei minori non accompagnati in Sicilia* (Rome: InterSOS, 2019), p. 20.

[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 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 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, e non ricevono informazioni sulle possibilità di richiedere asilo o ricongiungersi legalmente con la propria famiglia in altri paesi europei.).

[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 Law 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).

[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.

- [97] Human Rights Watch interview with Jrme Boni, director, Hautes-Alpes and Alpes de Haute-Provence Border Police, Gap, France, May 15, 2019.
- [98] Refus d'entre (Montgenvre, October 13, 2018, 10:00 a.m.) (on file with Human Rights Watch); Refus d'entre (Montgenvre, October 13, 2018, 10:25 a.m.) (on file with Human Rights Watch).
- [99] Anaf, *Persona non grata: consequences des politiques securitaires et migratoires la frontire franco-italienne* (Paris: Anaf, January 2019, p. 65. See also *ibid.*, p. 140 (photo of a *refus d'entre* issued April 27, 2018, in Montgenvre, stating that the individual has an adult appearance [*apparence majeur*])).
- [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 Jrme Boni, director, Hautes-Alpes and Alpes de Haute-Provence Border Police, Gap, France, May 15, 2019.
- [102] Code de l'entre et du sjour des trangers et du droit dsile, 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.
- [103] Human Rights Watch interview with Jrme 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.
- [108] Human Rights Watch interview with Issa B., Brianon, France, February 14, 2019.
- [109] Human Rights Watch interview with Kebba S., Brianon, France, January 23, 2019.
- [110] Human Rights Watch interview with Mbaye T., Gap, France, January 24, 2019.
- [111] Human Rights Watch interview with Sayo A., Gap, France, May 13, 2019.
- [112] Human Rights Watch interview with Malick I., Brianon, 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., Brianon, 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.
- [117] Anaf, Frontire franco-italienne : Brianon, les violations systmatiques des droits des personnes exiles doivent cesser, October 13, 2018, <http://www.anafe.org/spip.php?article497> (accessed June 14, 2019). The 13 organizations were Amnesty International France, Anaf, La Cimade, Mdecins du Monde, Mdecins sans frontires, Secours Catholique Caritas France, Chemins pluriels, Emmas France, GISTI, ASGI, Icare 05, Refuges Solidaires, and Tous Migrants.
- [118] Human Rights Watch interview with Agns Vibert Guigue, lawyer, Gap, France, May 16, 2019.
- [119] See Florence Renard-Gourdon, Le traitement des mineurs isols trangers Menton point du doigt, *Les Echos*, November 22, 2018, <https://www.lesechos.fr/pme-regions/provence-alpes-cote-dazur/le-traitement-des-mineurs-isoles-et-rangers-a-menton-pointe-du-doigt-149585> (accessed August 4, 2019); Mathilde Mathieu, la frontire 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 Childrens 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, Brianon, France, January 29, 2019.
- [121] Human Rights Watch interview with Issa B., Brianon, France, February 14, 2019.
- [122] Human Rights Watch interview with Eva L., Gap, France, July 24, 2019.
- [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 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 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 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.

[140] Arrêt 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.

[142] Arrêt [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 lenfance, 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 Jrme Scholly, director general of services, Hautes-Alpes Directorate of Prevention Policy and Social Action, to Bndicte Jeannerod, France director, Human Rights Watch, June 24, 2019, p. 1.

[149] Ministre de la Justice, Direction de la protection judiciaire de la jeunesse, Rapport annuel dactivit 2018: Mission mineurs non accompagns, 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 spcifiques aux mineurs isols trangers, October 22, 2016, <http://www.infomie.net/spip.php?rubrique272&lang=fr> (accessed June 10, 2019).

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

[152] Arrt [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 Rseau Hospitalit, 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).

[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.

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

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

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

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

[168] Arrt 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.

[170] Letter from Jrme Scholly, director general of services, to Bndicte 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.

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

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

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

[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.

[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.

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

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

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

[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.

[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.

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

[214] Ibid.

[215] Human Rights Watch interview with Rseau Hospitalit, Gap, France, January 24, 2019; Human Rights Watch interview with Rseau Hospitalit, 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. Franoise Martin-Cola, Rseau Hospitalit, Gap, France, May 15, 2019.

[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, Rseau Hospitalit, 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.

[223] Human Rights Watch interviews with lawyers, Gap, France, May 16, 2019; Human Rights Watch interviews with Rseau Hospitalit, 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.

[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 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).

[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, 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 decrees' 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/communiqu%C3%A9-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 nm. 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).

[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).

[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.
- [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.
- [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); Dfenseur des droits, *Exils et droits fondamentaux, trois ans après le rapport Calais* (Paris: Dfenseur 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).
- [264] Human Rights Watch telephone interview with volunteer, Brianon, France, May 26, 2019.
- [265] Human Rights Watch telephone interview with humanitarian worker, May 29, 2019.
- [266] Human Rights Watch interview with volunteer, Brianon, France, February 13, 2019.
- [267] Human Rights Watch interview with volunteer, Brianon, France, May 26, 2019.
- [268] Human Rights Watch interview with volunteer, Brianon, France, May 26, 2019.
- [269] Human Rights Watch interview with volunteer, Brianon, France, May 28, 2019.
- [270] Human Rights Watch interview with volunteer, Brianon, France, February 13, 2019.
- [271] Human Rights Watch interviews, Brianon, France, May 2019.
- [272] Human Rights Watch interview with volunteer, Brianon, France, January 29, 2019.
- [273] Human Rights Watch telephone interview with volunteer, May 30, 2019; Human Rights Watch interview with volunteer, Brianon, France, February 14, 2019.
- [274] Human Rights Watch telephone interview with humanitarian worker, May 29, 2019.
- [275] Human Rights Watch interview with volunteer, Brianon, 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. Arrt du 18 juillet 1985 relatif aux dispositifs antidrapants quipant 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.
- [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, Brianon, France, February 13, 2019.
- [282] Human Rights Watch interview with volunteer, Brianon, France, January 29, 2019.
- [283] Human Rights Watch interview with volunteer, Brianon, France, February 13, 2019.

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

[285] Aide aux migrants: Cdric Herrou condamné 3000euros 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, Cdric Herrou continuera de 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 niois 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).

[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 Cdric 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-DAmours, 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 bénévoles 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 Dauphin Libré*, 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: Lacharnement 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.

[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 ouvre 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.

[299] Aide aux migrants: deux militants condamnés 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 libérés après plus de 24h de garde 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).

[304] Sandie Bircan, Migrants: les explications du procureur, *Le Dauphin Libr*, 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, Brianon, France, May 28, 2019.

[306] Human Rights Watch interview with volunteer, Brianon, France, January 29, 2019.

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

[308] Human Rights Watch interview with volunteer, Brianon, France, May 28, 2019.

[309] Code de l'entre et du séjour des étrangers et du droit d'asile, art. L.622-1.

[310] *Ibid.*, art. L.622-4.

[311] GISTI, Laide l'entre 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).

[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).

[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).

Flawed Procedures in Alps Region Mirror Those in Paris, Elsewhere

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