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France: Police Expelling Migrant Children

Flout Child Protection, Immigration Rules



A member of the French border police checks identity documents in March 2021 at the Menton-Garavan station, the first French train station for those travelling between Genoa, in Italy, and Nice, in France. © 2021 Sipa via AP Image

(Paris) – [French](#) police summarily expel dozens of unaccompanied children to [Italy](#) each month in violation of French and international law, Human Rights Watch said today.

To enable the returns, the police frequently record on official documents different ages or birth dates than the children declared. The authorities have also summarily returned adults, including families with young children, without telling them they had a right to seek asylum in France.

“The French border police have no legal authority to decide who is and who is not under 18,” said [Bénédicte Jeannerod](#), France director at Human Rights Watch.

“Instead of making snap judgments based on appearance or caprice, border police should refer young people to child protection authorities for appropriate care.”

In late November 2020, Human Rights Watch interviewed six unaccompanied children pushed back to Italy who said they had told French police they were under 18. In every case, even though the children stated their age and in some cases offered documentary evidence, the French authorities had recorded birth dates to suggest they were adults. Human Rights Watch also spoke with 27 adults who had been summarily expelled from France. None of the children or adults interviewed were told by French authorities that they could seek asylum in France.

Human Rights Watch also conducted in-person and remote interviews between November 2020 and April 2021 with volunteers and staff of aid groups, lawyers, and others working on both sides of the French-Italian border.

Many of these returns take place at the border crossing between Menton, a French town about 30 kilometers from Nice, and the Italian town of Ventimiglia, on the Mediterranean coast. Police take children and adults found to have entered France irregularly to the French border post at the Saint-Louis Bridge and direct them to walk across to the Italian border post.

Such experiences are common, nongovernmental groups working on the French-Italian border told Human Rights Watch. Staff with [Diaconia Valdese](#) and [WeWorld](#), Italian organizations that provide legal support for migrants in Ventimiglia, said they see such cases nearly every day.

In the first three weeks of February 2021, volunteers with [Kesha Niya](#), a community kitchen in Ventimiglia offering meals and the opportunity to recharge phones to people who have been expelled from France, recorded accounts from more than 60 unaccompanied children who said they had been pushed back from France. The staff also recorded at least 30 such accounts from children in each of the previous three months, as well as in March and April.

In each case, the children showed them entry refusal forms on which French police wrote false birth dates. Human Rights Watch viewed many of these forms, including for two Sudanese boys who gave their ages as 17 and 16, but whose ages French police listed as 27 and 20 respectively.

People apprehended in the evening, including children, are often detained overnight in one of three prefabricated units, each about the size of a shipping container, before being pushed back to Italy. Children and adults said they were often hungry and cold in these cells.

The close quarters offer no possibility for the social distancing advised by French Covid-19 public health guidance. French authorities do not provide detainees with masks or other protective equipment, children and adults interviewed said.

Some children and adults also said the French police did not return all of their belongings before expelling them, including documents, phones with contact information, and, in a few cases, money.

The Conseil d'État, France's highest court for matters of administrative law, acknowledged in an April 23 [decision](#) that conditions of detention in the prefabricated units were "likely to undermine human dignity" but concluded that this risk did not meet the high legal bar required to order their immediate closure.

French law allows border police to use an expedited procedure known as "refusal of entry" to return people arriving from Italy while intra-EU border controls are in effect. France reestablished EU border controls in November 2015, just before a series of bombings and shootings in Paris killed 131 people.

Because Italian border agents do not accept unaccompanied children, French border police should transfer unaccompanied children to French child protection authorities. French border police are obligated to offer anyone, including unaccompanied children, the option of applying for asylum in France if they so request.

Groups working in Ventimiglia said that French authorities pushed back between 80 and 120 people each day between July and the end of October, including both adults and children. When Italy and France imposed [renewed restrictions](#) on movement in late October in response to the [Covid-19 pandemic](#), the number of summary expulsions fell to an average of 50 to 70 per day, they said. In the months since, the groups have seen considerable variation in daily expulsion numbers, with summary expulsions exceeding 100 on some days. Unaccompanied children are among those pushed back nearly every day, they said.

The French government has received repeated warnings in recent years that pushbacks frequently breached French law and international human rights law. In October, a [joint report](#) by Amnesty International and 10 other nongovernmental organizations found numerous cases in which French police wrote incorrect birth dates on entry refusal forms and then expelled youths who told police they were

under age 18.

France's [National Consultative Commission on Human Rights](#) has also documented police use of false birth dates to expel unaccompanied children from Menton to Ventimiglia. [French courts](#) have on occasion ordered police to allow children to reenter France upon finding that officials had written false birth dates on expulsion documents.

French authorities should direct border police to comply with French law and accept a person's [declared age](#) if there is a reasonable possibility that the person is a child. They should be transferred to the care of French child protection authorities.

French authorities should also ensure that border detention facilities for adults meet minimum human rights standards, including by providing conditions that are safe, sanitary, and consistent with human dignity. Unaccompanied children and families with children should not be detained in border cells.

Italian authorities should ask people pushed back from France if the information on their entry refusal documents is accurate and should offer those who state they are under 18 and unaccompanied the option of transfer to the care of Italian child protection authorities or return to France to be placed in the care of the French child protection system, Human Rights Watch said. The Italian authorities should also ensure that anyone pushed back from France, adults as well as children, have food, shelter, clothing, and necessary medical care while they are in Italy.

"Detention conditions in Menton's border cells are abusive for people of any age. For children, they can be traumatizing," Jeannerod said.

For additional details, please see below.

The Human Rights Watch researcher interviewed migrant children and adults in English, French, and Italian, according to their preference, assisted in some cases by a translation application. For instance, a 17-year-old Somali boy answered questions verbally in English after hearing the questions in English and reading them in Somali; similarly, Human Rights Watch checked its understanding of the account given in English by a man from Azerbaijan by using the application to translate follow-up questions into Russian. All names of children have been changed to preserve their privacy.

The prefecture of the Alpes-Maritimes department, which oversees the border police in Menton, did not respond to Human Rights Watch's request for comment on these findings.

French Police Falsify Birth Dates

Asif F., 17, from Pakistan, said that he had registered as under 18 with Italian authorities in Sicily. "When the French police stopped me, I said I was underage," he said. Nonetheless, French police wrote his date of birth as 2000 – three years earlier than the date he gave them – on the entry refusal document, held him overnight, and then expelled him.

Two Afghan boys, both 15, said that French police recorded their ages as 18 and 19, then sent them back to Italy. Tawfiq M., 17, from Somalia, said French police disregarded his efforts to explain that he was not an adult and wrote on his entry refusal form that he was 20. Human Rights Watch viewed the entry refusal forms for two Sudanese boys who gave their ages as 17 and 16, but saw that French police had recorded as 27 and 20.

Such cases are common, Human Rights Watch heard. Costanza Mendola of Diaconia Valdese, the legal assistance group in Ventimiglia, said that her organization had recorded more than 50 summary expulsions of unaccompanied children in October, "almost all with false dates on the *refus d'entrée*." WeWorld, the other legal assistance organization interviewed, has also [documented](#) such cases.

In the first half of November, volunteers with Kesha Niya, the community kitchen, which operates daily at a roadside site near the border post, saw at least 14 unaccompanied boys who said they were between 14 and 17. Among them, one from Côte d'Ivoire, another from Guinea, the third from Sudan, and the fourth from Tunisia said they had registered in Italy as under age 18 but that Italian authorities did not check the database after French police summarily expelled them. Three boys from Côte d'Ivoire said French police disregarded the photos of their birth certificates they showed. Two others said the police did not return their birth certificates before summarily expelling them.

Over three days at the end of November, Kesha Niya volunteers saw 12 unaccompanied boys who gave their ages as under 18. One group of six Afghan boys said French border police did not return documents showing that the boys had given their ages as under 18 to authorities when they arrived in Austria. The

other boys – from Côte d'Ivoire, Iran, and Sudan – all said that French police wrote down inaccurate birth dates on their entry refusal forms.

Kesha Niya volunteers saw at least 30 unaccompanied children a month in December, January, February, March, and April who had been summarily expelled from France. On a single day in late February, volunteers spoke with 9 unaccompanied boys who had been summarily expelled that morning.

Groups working in Ventimiglia began to see significant numbers of such summary expulsions [after January 2018](#), when rulings of the Nice Administrative Tribunal found that French border police were not observing child protection safeguards. That year, the Association for Legal Studies on Immigration (Associazione per gli Studi Giuridici sull'Immigrazione, ASGI), Diaconia Valdese, and Oxfam described the summary expulsions of unaccompanied children as “systematic.”

Human Rights Watch has documented such practices [elsewhere along the French-Italian border](#), but not with the frequency reported in the Alpes-Maritimes department.

Italian authorities have sometimes checked their database to verify whether a person registered as a child upon arrival. In such cases, they have refused to accept the child from French authorities. In one case, however, when Human Rights Watch accompanied a WeWorld representative to the Italian border station to notify them that a child had been improperly expelled, the officer in charge said that they treat as accurate the date of birth French authorities provide unless the person has a birth certificate or other proof of age.

Jacopo Colomba, a legal adviser with WeWorld, said: “Most of the time when we take a minor back to the [Italian] border station in cases like this one, the police agree to do a fingerprint check. They’ve taken the minor back to the French side if the fingerprint search shows he registered [in Italy] as underage. After Covid, though, we’ve seen a change. They often refuse to check the database.”

Although there is no obvious reason why the pandemic would affect Italian authorities’ ability to check their database, Colomba said that they seemed to use Covid-19 as a pretext to refuse.

If efforts like these are unsuccessful, [lawyers in France have obtained court orders](#) directing French police to accept unaccompanied children whom they have previously expelled. The legal process can take several weeks.

Because children do not always give their true ages on arrival in Europe, verification of age through the Italian database alone is insufficient. For instance, Jamal I., a 17-year-old from Sudan, told Human Rights Watch he said he was an adult when he arrived in Italy, believing that he would be able to travel and work more easily if authorities believed he was 18. Others may give incorrect answers or be misunderstood if authorities interview them without competent interpreters.

Locked Up Overnight in Crowded Cells Without Food

After 7 p.m., when Italian border officials stop accepting those who are refused entry to France, French officials hold people apprehended and transferred to Saint Louis border station overnight. Adult men are held in [prefabricated “modular units,”](#) temporary structures about the size of shipping containers. France’s Inspector General of Places of Deprivation of Liberty observed during a [2017 visit](#) that the modular units were each 15 square meters (160 square feet).

Women and children, including unaccompanied children, should be held in a separate cell inside the border station, but boys whom French police deem to be adults spend the night with adult men. Tawfiq M., a 17-year-old Somali boy, said he spent most of the night in a detention cell for adult men. “They didn’t give us any food,” he said, adding that he spent much of the night in tears from the stress of being locked up with men he did not know.

Describing the detention cells for adult men, a 19-year-old Tunisian man said: “It’s cold. There’s not much food. There’s no place to sit.” A 29-year-old man from Mali said, “It’s like you imagine a bank vault might be. It’s not big. There were at least 20 of us inside. There’s not enough space to be able to keep apart, there is no possibility of social distancing. It is not safe.”

“Young people can spend up to 13 hours in this place, with no blankets, no beds, no lights at night, no electrical outlets to charge phones,” said Zia Oloumi, a lawyer based in Nice. “On average, people spend five-and-a-half hours in this place, deprived of their liberty and without any knowledge of their rights.”

“When they are detained, there is no interpreter and no information about rights,” said Emilie Pesselier, who follows developments at France’s borders with other EU countries for the nongovernmental organization Anafé. “If they ask to call a lawyer or a relative, ask for medical care, ask to seek asylum at the border, most of the time these requests are ignored.”

Children and adults held in the detention cells said they did not receive medical care when they requested it, and other groups said the same thing. “People who ask for doctors or lawyers can’t see them,” said Agnès Lerolle, who manages Cafi, a joint migrants’ rights initiative of Amnesty International, La Cimade, Médecins du Monde, Médecins sans Frontières, and Secours Catholique.

“If they want to get medication from their own luggage, they can’t get access to it,” a Kesha Niya volunteer said. A November 30 Nice Administrative Tribunal [order](#) noted the lack of access to medical care for people held in the cells, among other shortcomings.

A 2018 review of the Menton border cells by France’s Inspector General of Places of Deprivation of Liberty observed that both the prefabricated units and the room for women and unaccompanied children “do not benefit from basic equipment (lighting, heating, air conditioning, chairs, mattresses, blankets).” Similarly, a [2018 briefing paper](#) by ASGI, Diaconia Valdese, and Oxfam noted that adults and children had been detained “in crowded conditions, without food or water, without blankets or mattresses, without any information on what is happening” before their expulsion to Italy the next morning. France’s National Consultative Commission on Human Rights [called for the closure](#) of the prefabricated units in 2019.

From the accounts Human Rights Watch collected, little appears to have changed in the intervening years. A November video of the interior of one of these cells viewed by Human Rights Watch and subsequently posted on [Kesha Niya’s Facebook page](#) shows people seated and lying on metal benches with no blankets or mattresses, conditions corresponding with the inspector general’s 2018 observations.

A Nice Administrative Tribunal judge [ruled](#) in July 2017 that people should not be detained for more than four hours in the prefabricated units, the [maximum time](#) allowed under French law for authorities to hold a person to verify identity. The Conseil d’État, France’s highest court for matters of administrative law, [upheld](#) this finding. “These are not lawful places of detention for longer periods. Juridically speaking, they are a black hole,” said WeWorld legal adviser, Colomba.

In an apparent effort to avoid having to apply the court ruling, the French authorities now describe the cells as [places of “shelter”](#) (*mise à l’abri*) rather than of detention. This euphemistic sleight-of-hand is legally baseless, said Zia Oloumi, the lawyer in Nice, an assessment shared by other lawyers who spoke with

Human Rights Watch. “At the end of the day, we can plainly see that it is detention,” said Pesselier, of Anafé. “The people held there are not free to leave.”

“For people who are in a fragile psychological state, detention in these conditions can be especially hard,” Lerolle said.

French Police Confiscate Documents, Phones, Money

Human Rights Watch heard from six adults who had been summarily expelled from France that French police did not return their identity documents. Their accounts are consistent with other reports of similar experiences.

A 21-year-old Nigerian man who had applied for asylum in France said that when French police apprehended him as he returned from a short visit to Italy, “the police took my letter showing I had an asylum case.”

“It’s quite common for French police to take these papers,” said Colomba. “We also hear that French police have taken identity cards and residence permits from Italy and other EU countries.” Amnesty International, Anafé, La Cimade, Médecins du Monde, Médecins sans Frontières, Secours Catholique, and other groups have also reported confiscation and destruction of identity documents by French police in and around Menton.

Four people, including one 17-year-old boy, said that the police had confiscated and failed to return their phones, money, or other personal possessions. In one such case, an adult man from Azerbaijan said the French police took his money and phone when they apprehended him while he was walking along the train tracks between Ventimiglia and Menton. “The phone had all my contacts,” he said.

Limited Services for Migrants in Ventimiglia

A reception center in Ventimiglia managed by the Red Cross, the [Roya camp](#), stopped accepting new arrivals in May 2020 to prevent the spread of Covid-19. The camp closed in July. Since that time, children and adults who are pushed back to Italy have often had to sleep on the streets in Ventimiglia.

The limited services for migrants in Ventimiglia are largely initiatives of religious or humanitarian groups. A [shelter for families](#) with children operates in a building owned by the local Catholic parish. Kesha Niya’s community kitchen is a volunteer initiative [supported by donations](#). Save the Children and Caritas opened a day

center for unaccompanied children and families at the end of February.

Consistent with the [human right to an adequate standard of living](#) and the [recommendation](#) of the Council of Europe's Committee of Ministers that states "should recognise, in their law and practice, a right to the satisfaction of basic material needs of any person in a situation of extreme hardship," Italy should ensure that children and adults summarily expelled from France have access to adequate food, shelter, clothing, and medical care, including in Ventimiglia.

Exceptional Border Checks; Refusal of Entry

Free movement within the European Union means, in principle, that people who travel between Italy and France are not subject to border checks. But France reestablished border controls in November 2015, just before [attacks in Paris](#) killed 131 people. The authorities initially justified these controls as a [precautionary measure in advance of the 2015 Paris Climate Conference](#). They have [regularly renewed](#) border controls at six-month intervals since then, using other rationales. People found to be in France irregularly may be subject to an expedited procedure, "[refusal of entry](#)" (*refus d'entrée*), if they are stopped by police within 10 kilometers of the border with another EU member state while the reintroduction of land border controls is in effect.

A reform of the immigration and asylum laws in September 2018 [eliminated](#) a procedural protection known as the *jour franc*, which gave people detained at or near the border for immigration violations a day to seek legal assistance before their expulsion.

In addition, French authorities can conduct [immigration checks within 20 kilometers of a land border](#) with another EU member state as well as at international train stations, marine ports, and airports. People found to be in France irregularly should not be refused entry if they are more than 10 kilometers from the border, but French authorities can apply a separate "readmission process," under a [contested bilateral agreement](#) between France and Italy known as the [Chambery agreement](#), to send them to Italy. All of those interviewed appeared to have been expelled under the entry refusal process.

The entry refusal process relies on the legal fiction that people who are on French territory within 10 kilometers of the border have not "entered" France, much in the same way that French law considers people detained at French airports to be in "[transit zones](#)" (*zones d'attente*) awaiting legal entry to France, even if they are

transferred to hospitals or hotels. In theory, people who are refused entry have the right to request asylum in France.

Prior to February 2018, French police turned people back without following any procedure. After the inspector general of places of deprivation of liberty recommended in September 2017 an “immediate end” to what she concluded were “illegal practices of refoulement [forcible return],” the prefecture ordered that anyone apprehended for possible immigration violations must be taken to the Saint-Louis border post for an investigation and, if warranted, the issuance of an entry refusal document.

Before refusing entry, authorities should issue a written refusal to a person found to be in France irregularly, 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. Children may be refused entry, but they should be appointed a guardian. This protection does not appear to be observed in practice.

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. 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.

In July 2020, the Conseil d’État, France’s highest court for administrative matters, [confirmed](#) that people who request asylum should not be refused entry until their asylum applications can be considered.

The children and adults interviewed by Human Rights Watch were not informed of their right to seek asylum, nor were they afforded an opportunity to do so. “People who say they want to apply for asylum are turned away in the same way as everybody else at the border,” said Mireille Damiano, a lawyer in Nice. “In the overwhelming majority of cases, the police response is that people coming from Italy should have applied for asylum in Italy,” she said.

“In practice, nobody is able to claim the right to asylum,” Lerolle said.
