



Adoum Ismail, a cultural mediator for Oxfam, looks at a highway bridge close to the border of France and Italy. Migrants often walk this road on their way to France. Photo: Agostino Loffredi/Oxfam

NOWHERE BUT OUT

The failure of France and Italy to help refugees and other migrants stranded at the border in Ventimiglia

In Ventimiglia, near the border between Italy and France, refugees and other migrants are living rough, without access to the most basic services. Women, men and children are 'pushed' out of the Italian asylum system, which often fails to meet their most basic needs for safety, information and education. Across the border, the French police meet children with abuse, and send them back to Italy in violation of French and EU law. Stranded, hundreds of people are unable seek even basic support.

Update on recent developments in Ventimiglia:

The informal settlement in Ventimiglia, under a flyover close to the Roja river, was removed once again by Italian police shortly before the launch of this paper. This time, police cordoned the place off in order to prevent migrants from resettling. As a consequence, vulnerable people, especially unaccompanied children, are now scattered around town and its surroundings in small groups. This situation makes them even more exposed to risks, and it is a significant cause of concern. It also makes it harder for local NGOs and volunteers to reach out to the migrants to offer support.

EXECUTIVE SUMMARY

An estimated 16,500 refugees and other migrants¹ have been staying in and around Ventimiglia, a small Italian town 7km from the French border. One in four are unaccompanied children. A large number of the people passing through Ventimiglia have been pushed out of the Italian asylum system, which is struggling with a large number of applications. Many of them hope to join family members in other EU member states. Others gave up on waiting for a decision on their case – sometimes for over a year – and have grown tired of not being able to work or access education. In the first four months of 2018, volunteers counted more than 4,000 people arriving in the small town.

Since France tightened border controls in 2015, thousands of people have been stranded in Ventimiglia without sufficient assistance or access to basic services. Hundreds of refugees and other migrants sleep rough under a flyover, with no access to drinkable water, shelter or heating. Roja Camp, the official camp that was set up outside town, is not able to meet all their needs. The lack of clear information, the heavy police presence at the entrance and compulsory fingerprinting deter many from staying there.

Oxfam has been working in Ventimiglia, on the French-Italian border, since August 2017. Together with Italian NGO Diaconia Valdese, it is running the OpenEurope programme, which aims to give legal advice, information and material support to refugees and other migrants who have been pushed out of the Italian reception system.

The OpenEurope team has thus far reached almost 750 people. 150 of these were unaccompanied children aged between 11 and 17. Children often flee from the reception centres hosting them in Italy because they do not receive appropriate services for their age and specific vulnerabilities. In Ventimiglia, while aiming to move onwards, they are abandoned by the authorities and their future is uncertain.

71 percent of OpenEurope's beneficiaries are between 18 and 30 years old. Most are male, which is a typical feature of those migrating to and through Italy. However, the number of women, especially single women, has significantly increased in recent months, according to testimonies from Oxfam's partners. According to these first responders providing assistance, women passing through Ventimiglia are at heightened risk of being trafficked. Yet there are no specific services or accommodation tailored to the needs of these women, which leaves them vulnerable.

44 percent of the beneficiaries come from Sudan and 11 percent from Eritrea – both countries are host to serious human rights violations. 55 percent of all Sudanese asylum seekers and around 90 percent of all Eritreans asylum seekers are recognized as refugees in the EU.² The other 45 percent of beneficiaries come from

a range of countries, including Syria, Afghanistan, Bangladesh, Morocco and Nigeria.

Through Oxfam's work and interviews conducted in Ventimiglia, it has become evident that the French authorities are returning people who try to cross the border. The greatest source of concern is the dozens of unaccompanied children, some of whom have escaped from torture inflicted upon them while travelling through Libya. They often report abuse at the hands of the French police when trying to cross the border, and are frequently subject to arbitrary detention, in violation of French, European and other international laws.

'French police officers are not upholding international standards. They taunt children and mistreat them.... Some children have had the soles of their shoes cut off before being sent back to Italy,' says Chiara Romagno, Oxfam's OpenEurope project leader in Ventimiglia.

'This morning I have tried to cross the border. There were two of us. The police pushed us off the train; they shoved us and yelled at us; then they pushed us in a van in the railway station car park. We were given a document [*refus d'entrée*, refusal of entry] in the van and we were put on another train going back to Italy, without any explanation,' said Michael, who is 15 years old and from Darfur, Sudan.

The Administrative Tribunal of Nice has already acknowledged violations of guarantees provided in legislation and the illegality of the border authority's conduct in 20 cases involving children.³ However, more effort is needed, as the practice of returning unaccompanied children and others is still in place. In Ventimiglia, there are no arrangements to take care of the returned children. Once off the train, they are left to fend for themselves.

People not included in the official Italian reception mechanisms are particularly vulnerable, regardless of the reasons for their situation. These women, girls, men, boys and families with small children have no access to services and the information necessary for them to exercise their rights. Many told Oxfam that they did not have a meaningful opportunity to seek asylum; sometimes they did not receive the right information about the process or were not aware of their rights. Some prefer not to seek asylum in Italy because they believe they have better chances of integration if they rely on relatives and community support elsewhere in Europe.

RECOMMENDATIONS

Local authorities

The local authorities in Ventimiglia should:

- Rapidly identify adequate premises for a centre for unaccompanied children and women (with or without minor children), ensuring a sufficient number of places, safe access and stay, and adequate services.
- Convene on a monthly basis a technical coordination board including representatives of the municipality, the local representative of the Italian Ministry of the Interior, the police and organizations involved in the care of the migrant population, to share relevant information, coordinate interventions and allocate responsibilities.
- Cooperate in improving structural conditions in Roja Camp, in particular by improving sanitation and the common areas with access to information,

organizing information systems for migrants and providing a shuttle service connecting the camp to the town itself.

- Promote initiatives with the local Italian population and schools aimed at informing and engaging with the local population, including by investing in social mediation.

The Italian government

The Italian Ministry of the Interior should:

- Stop forced transfers of migrants from Ventimiglia to reception centres in southern Italy.
- Investigate and correct alleged illegal practices at Imperia province police headquarters, which jeopardize the inclusion of migrants in asylum procedures, to ensure the rights of migrants are protected.
- Ensure the proper implementation of laws on unaccompanied children in the whole of Italy; in particular, ensure the effective exercise of the right to family unity and that all officials engaging with children are properly trained on child safeguarding and child protection, also concerning the risk of trafficking.
- Verify that high-quality services are offered in reception centres, especially for unaccompanied children, when starting applications for asylum and in accessing education.
- Ensure that children who reach adulthood while waiting for a decision on their case are not pushed out of the reception centre, but can await the final decision on their case.
- Significantly improve the procedures for claiming asylum and options in a way that they can easily understand, including promptly notifying people of their rights and options in an accurate, comprehensible and timely fashion.

The Italian Ministry of Foreign Affairs should:

- Work with the French authorities to put measures in place to stop illegal returns of unaccompanied children.

The French government

The French government should:

- Immediately stop and adequately sanction illegal practices of the French police at the French-Italian border at Ventimiglia.
- Ensure the right to seek asylum for all foreign children in French territory, and take care of them according to the provisions of national, European and other international laws.
- Implement the guarantees provided for by national laws and policies on returning unaccompanied children who are not seeking asylum, including by immediately appointing a guardian.

The European Union and its member states

The responsible bodies within the European Union and all of its member states should:

- Redouble their commitment to share responsibility for hosting asylum seekers more equally, including by reforming the Dublin system, so that the rights and

needs of asylum seekers are addressed, and links with family and relatives are given priority.

- Guarantee the effectiveness of the right to family reunification, in particular for unaccompanied children, by ensuring that procedures work effectively, staff are at capacity to answer all requests and that applications are processed swiftly.
- Expand the criteria for who qualifies as a 'family member' for the purposes of family reunification to include:
 - young relatives who are reliant on the family unit for their well-being at the time of application, including stepchildren and de-facto adopted children;
 - adult siblings who had not formed their own family prior to fleeing their country of origin;
 - adult sons and daughters who had not formed their own family prior to fleeing their country of origin;
 - parents; and
 - any dependent relative, including where being separated presents risks to their safety and security.

1 BACKGROUND TO THE SITUATION

'They were also here in the past,' explains Vera Nesci, an assessor for social services in the northern Italian town of Ventimiglia since 2014. 'But we barely saw them. They came and went beyond. They only changed train here.'

She is referring to the refugees and other migrants who dock in southern Italy (Sicily, Calabria or Puglia) and travel overland to reach other European countries. 'Beyond' is over the French-Italian border, which is just 7km from Ventimiglia.

The northwards movement of refugees and other migrants arriving on Italian shores is not a new phenomenon. In 2014, more than 100,000 people arrived in Italy and moved onwards without applying for international protection.⁴ In the following years, the gap between the number of people arriving and the number of asylum requests submitted has narrowed somewhat but remained large.⁵

Many of the people arriving in Italy want to reach countries such as France, Germany or Sweden, where they have relatives or acquaintances waiting, or where they think they will find better employment opportunities. European legislation does not provide for this, as it determines that the first EU country of entry has the responsibility to process asylum applications.⁶ The current rules for family reunification, which provide an exception, are restrictive and prevent many family members – including siblings and children older than 18 – from joining their families.⁷

The EU has taken a stricter approach to identification through the implementation and gradual enhancement of a 'hotspot' approach for areas of Greece and Italy that have seen significant migrant flows.⁸ This involves identification, registration and fingerprinting of migrants.⁹ However, this system has not significantly changed the steady movement from the southern to the northern borders of Italy: Bardonecchia, Como, Brennero and Ventimiglia.

THE SITUATION IN 2015–2017

On 11 June 2015, France suddenly and unilaterally restored border controls at the border with Italy.¹⁰ Austria and Germany did the same, and the French government sent *gendarmérie* armoured vehicles to the border near Ventimiglia.

The small town of Ventimiglia saw its life changed: 'In the summer of 2015, we found 200 people on the streets, literally overnight,' says Maurizio Marmo, director of NGO Caritas Diocesana Ventimiglia San Remo.

Migrants were not allowed to cross the border, forcing them to stay in Ventimiglia, while others continued arriving. Those weeks saw protests by Eritrean girls and boys who were camping on the rocks on the coast of nearby Balzi Rossi. At the same time, a small settlement was set up at the border. Tensions emerged with the police, and the area was cleared at the end of September. The beginning of the winter and the subsequent reduction of landings in southern Italy drew attention away from Ventimiglia. However, in the spring of 2016, good weather favoured landings: despite the reintroduction of French border controls, the flow of people attempting to cross the border increased. This was not without danger – in a short period of time, 15 people died trying to cross the border.¹¹

'The resolution of people to reach their loved ones in other countries, and the lack of sufficient safe and regular pathways to do so leaves them no choice but to try until they succeed,' explains Chiara Romagno, Oxfam's OpenEurope project leader in Ventimiglia.

As a first solution, a temporary transit centre was set up in the centre of Ventimiglia, in premises belonging to Italy's national railway company. It was rapidly removed due to tensions with the local population. Without other options, the migrants started to settle spontaneously under a flyover just outside the city, on the riverbed of the Roja, in precarious conditions.

Due to the limited response from local authorities and institutions, the Sant'Antonio parish church started a voluntary and self-financed reception initiative in front of the flyover in May 2016. Don Rito Alvarez, a parish priest in Ventimiglia for 20 years, began to coordinate a group of up to 200 volunteers. 'There were local Italians, but also people from France, the UK and the United States. The Red Cross from Monaco came, a group of Muslims from Nice, Vietnamese volunteers, boy scouts from Monte Carlo. It was an extraordinary experience: so many different people helping people in need. We served up to 1,000 meals per day,' he says.

In July, the Italian Red Cross opened *Campo Roja* (Roja Camp) as a transit centre,¹² under an agreement with the Province of Imperia. All migrants were to be moved there, but their situation deteriorated quickly. 'At the entrance of the centre, there is massive police deployment. They search everyone, they even check children's bags,' says Romagno. 'Since last year [2017], people also need to leave their fingerprints in order to spend the night in the camp.'

For many migrants, this is a strong deterrent: 'They don't understand why they have to have their fingerprints taken again, as the majority of them were identified after arriving in Italy,' explains Marmo. 'They are frightened by the presence of the police. As a result, they settle under the bridge.'

Roja Camp does not have sufficient capacity to host all of those currently settling under the flyover. Since August 2017, when the church had to stop its reception activities because of strong opposition from the community, the situation has become even more dire. Don Rito Alvarez, who had already been threatened, along with the mayor, through anonymous letters, was asked by the municipality to stop receiving even women and children.

Even the proposal of opening a small centre for unaccompanied children was opposed by some neighbourhood committees. Two offers of premises – one in the Marina area, the other in premises of the Marian Fathers' Confraternity – were withdrawn because a small number of citizens aggressively demonstrated against them.¹³ The municipality gave up, without providing an alternative for the most vulnerable groups.

It is worth noting that, according to Italian legislation (transposing European directives), the municipality in which there are unaccompanied children is directly liable for their necessary assistance and reception.¹⁴ Implementing these legal requirements should be done in a consultative process that addresses any legitimate concerns of the host communities and communicates with them to relieve their fears.

2 THE SITUATION IN 2018

UNDER THE FLYOVER

Three years since the first settlements were set up, the situation under the flyover is still extremely precarious. Despite so-called ‘deterrence policies’ implemented at different levels,¹⁵ many migrants continue to attempt to cross the border.

In 2017, almost 23,000 transited through Ventimiglia. Between January and April 2018, the figure was 4,231, which will likely increase rapidly with the weather getting better.¹⁶

Box 1: Who are the people travelling through Ventimiglia?

There is no official data on migrants transiting through or staying in Ventimiglia in recent years. The most reliable survey is carried out by Caritas,¹⁷ and is based on the number of migrants served daily by their free canteen service. The number of migrants in Roja Camp is updated every day, but the data is likely to be inaccurate, for example, due to double counting.

Most of the migrants still come from Eastern Africa: in the first four months of 2018, almost 51 percent of migrants were from Eritrea and 23 percent from Sudan (including the war-torn province of Darfur). Ethiopia, Nigeria, Republic of Guinea and Afghanistan are less well-represented nationalities.

About 10 percent of the people stranded in Ventimiglia are women, many of whom are single – their number has significantly increased since January 2018.

Around 25 percent are children, mostly from Sudan, Eritrea and Afghanistan. Most are between 15 and 17, but some are much younger. Another 50 percent of all migrants are between the ages of 18 and 25.

People stay in the settlements for periods ranging from a few days to weeks. They sleep on the floor or on blankets and sleeping bags donated by volunteers, even during winter. Migrants build small camps of tents and cardboard shacks, but they are frequently destroyed on the orders of the local authorities.

One daily meal is provided by volunteers at a canteen run by Caritas. However, people in the informal settlement lack clean water for both drinking and washing. Rushes on the riverbanks are used as toilets. In winter, there is no heating and the only way for people to keep themselves warm is to sit close together around small fires.¹⁸

More than 80 percent of the 150 people interviewed by Refugee Rights Europe in the summer of 2017 reported that they did not have enough drinking water, and 60 percent did not have a daily meal. Almost all were washing themselves in the river Roja.¹⁹

IN THE OFFICIAL ROJA CAMP

In Roja Camp the situation is obviously different, but not without problems. First, it does not have enough capacity for the number of people in need of shelter. The centre has 74 containers, which can hold up to 444 people. Some tents can be added, but over the last summer more than 4,000 people per month passed through

Ventimiglia. Toilets are inadequate, unhygienic and often broken. There are no separate safe spaces for women, men, families with children and unaccompanied children.

Children should not be hosted in this camp in the first place: Italian law provides for strictly separated first reception centres for adults and children.²⁰ An exception is made for boys, but minor girls are not allowed to stay in the camp. For them, there is just one centre in the province of Imperia.

The presence of police and fingerprinting procedures are intimidating for many migrants. Additionally, the centre is located 5km from the city centre. It is not connected via public transport, and the unlit road is often dangerous. After 10 p.m., the police only allow women and children to enter the camp. 'But we have heard of children left on the street at half-past nine. On one occasion, I had to phone my Red Cross colleagues who convinced the policemen to let them in,' says Romagno.

Oxfam and partners have heard reports that some migrants on their way to Roja Camp have also been forced into a van by the police and taken to the Centre for Identification and Expulsion in Taranto in southern Italy, together with migrants settled under the flyover. Recently, unaccompanied children were taken from Ventimiglia and brought to the CARA (Reception Centre for asylum seekers and refugees) in Crotona in the south.

'These are the moments when you understand that it is difficult to convince people to stay in the official centre if, in addition to the inadequate housing, poor safety, distance and the fingerprinting, you also add the risk of being taken away while you go there,' says Simone Alterisio from the Italian NGO Diaconia Valdese, Oxfam's partner in the OpenEurope project.

These transfers can have very serious consequences. In August 2016, a group of Sudanese citizens was apprehended in Ventimiglia and sent back to Sudan on the basis of an existing agreement between Italy and the Sudanese police.²¹ Lawyers from the Association for Juridical Studies on Immigration (ASGI), another partner in OpenEurope, brought their case before the European Court of Human Rights on the basis of the prohibition of *non-refoulement* (forcing a person to return to a country where they may face human rights violations), among other abuses of the law.²²

Even when migrants decide they want to stay in Italy and join the official reception system, they are met with serious obstacles. The police headquarters of Imperia have been reported to 'not accept the reception statement issued by workers at Roja Camp, which is necessary to re-open asylum procedures or to renew six-month permits of stay, which the Italian government issues to those requesting asylum to give them access to services. This makes everything more complex for those who are trying to regularize their stay,' says Romagno.

CHILDREN AND WOMEN

Since there is no centre specifically for hosting children and women, they all face the same rough circumstances. Children who have escaped torture in Libya, carrying visible and invisible scars; families with very small children; and girls in advanced pregnancy: all are left to fend for themselves.

'I left home almost two years ago. In Darfur, you cannot do anything, I could not even go to school. I spent one month in Libya, in a sort of migrants' camp. We were given food every other day. We were beaten, always. I had to pay a lot of money to leave,' Nasr, a 15-year-old from Sudan, told us.

Michael, 15, who also fled from Darfur told Oxfam: 'I could never imagine I would find such a situation in Italy'.

After travelling for a long time, sometimes years, and facing terrible abuse along the way and during their stay in Libya, children are blocked in Ventimiglia without adequate protection or assistance. The municipality only takes care of children who accept being relocated to an official reception centre and give up the idea of crossing the border, which means having to enter a system that risks not providing for their specific protection needs and their wish to reunite quickly with their families.²³ The others remain under the flyover or in Roja Camp where there are no special services or spaces for children, and especially not those who have suffered most.

Allan, 16, told us: 'My family lives in Darfur (Sudan). The war broke out when I was one year old and my family was displaced in a camp. I have never experienced anything except war in my country. The refugee camp was my life. But I said to myself that I could not live that way forever and I left. I was 14.'

He goes on: 'I spent five months in Libya. I picked dates to collect money and continue my journey. The boss ordered us to work the whole day without giving us water to drink. He called us thieves. Then he sold us. We were brought to a sort of military camp; all the people were armed. There were more than 50 boys like me. We were continuously beaten and we were put on fire.' When asked what this meant, he explained: 'We were forced to walk on fire or put our bare feet on burning coal.' The scars that Allan shows us, taking off his shoes and socks, are silent witnesses of the suffering that this young boy has endured.

Women and girls are exposed to many risks too. Since January 2018, several very young girls have been living in the settlement under the flyover. They come from Eritrea. Some are pregnant, some have children just a few months old, conceived during the journey. Some women told the social workers of NGOs that they became pregnant after being raped in Libya or in refugee camps.

Daniela Zitarosa, from Italian humanitarian agency Intersos, told us: 'Eritrean women who are reaching Italy now started their journey two years ago. They spend at least one year in a refugee camp in Ethiopia, and then one year in Libyan prisons.'

It is possible that Ventimiglia has become a hub for human trafficking. 'Women come in groups, they have someone carrying their bags. When we approach them, they don't look us in the eyes. It is clear that they follow orders, they were told not to talk to us,' Oxfam's cultural mediator Adoum Ismail tells us. 'Then they disappear: many of the women arriving at the railway station do not show up under the flyover or at Roja Camp.'

3 WHY THE RECEPTION SYSTEM FAILS PEOPLE

According to the experiences gathered by the OpenEurope project, about 80 percent of their beneficiaries have spent a period of time in a reception centre. They left to reach another European country to join family members, people they know, or to seek job opportunities.

'I have two cousins in France. They work there. I do not really know them – I was a child when they left – but I want to join them...I think they will help me. I am a member of the family,' says Timania, 15, from Sudan.

The extensive waiting time between arriving in a reception centre, applying for asylum, being invited to an interview with the appropriate Territorial Commission and possible subsequent appeals discourages refugees and other migrants. People report average waiting times of months, sometimes years, in some cases without access to the most basic services, education or opportunities to look for a job and start a new life.

Of course, leaving reception centres can have dire implications for their ability to seek asylum and remain in Europe through regular channels. They risk living a clandestine life: once they leave Italy, they do not have the possibility to apply for asylum and protection elsewhere, and always run the risk of being apprehended and sent back to Italy – the country through which they entered Europe. However, serious inefficiencies in the Italian reception system mean that many migrants are willing to take this risk, even when they are entitled to be recognized as refugees or deserving of other forms of protection, for example because they have been victims of torture or trafficking.

'A Nigerian family of five arrived here after spending 1.5 years in the centre in Cagliari [in Sardinia]. They were still waiting for an interview with the Territorial Commission. They were demoralized and concerned for the future of their children in Italy, so they left and tried to reach their relatives in England,' says Alterisio.

The quality and professionalism of reception staff can make a major difference: when competence and care are demonstrated, even bureaucratic procedures and inefficiencies can be borne differently.

'Sometimes people wait months just to obtain an appointment with the responsible police headquarters to formalize their protection application, and then eight to 12 months to be heard by the Commission. Sometimes they wait two years without being given any sign. That would cause anybody distress. They need rapid integration, so they can start a normal life like anyone else,' say Andrea Bottazzi and Chiara Trevisani, legal operators of Oxfam's reception projects in Tuscany.

This is corroborated by research by the European Commission and the OECD, which identifies the need to holistically integrate refugees and other migrants into society as early and rapidly as possible.²⁴

THE VULNERABILITY OF UNACCOMPANIED CHILDREN

Children leave the reception centres for various reasons, but particularly because the system has failed them. They often attempt to cross the border because their rights are not being respected, and regulations are not properly implemented.²⁵ Many children told OpenEurope staff that they were placed in reception centres, where they were left to themselves: they were not registered in schools or on training courses, and were not given a guardian who can inform them about their rights, opportunities and supporting them to integrate.

Michael, 15, from Sudan told OpenEurope staff: 'I arrived in Calabria and applied for asylum. I spent seven months in a centre. The treatment was not bad, but they did not let us do anything. We were not enrolled in schools, we were not taught Italian, nothing...I saw older friends going out, they could not find a job, any kind of job. So I left. I have a cousin in France, I would like to reach him. I want a job.'

'I was in a big centre in Sicily. They treated me really badly. Older boys beat us and stole our food without anyone intervening. We didn't go to school. I spent my days laying on a mattress looking at the ceiling or chatting with people from my country. I did not want to stay there. No one cared about us,' said Amadou, 15, from Guinea.

'I spent 10 months in Milan in a centre with other boys and girls. I never received a document, I do not know if they submitted an asylum application for me. I did tell them that I wanted to apply for asylum when I arrived, but then I wasn't told anything. I don't know if I had a legal guardian. What is a guardian?' said Jemal, 16, from Eritrea.

Children who reached adulthood while waiting for a decision on their case reported being pushed out of the centres soon after celebrating their 18th birthday.²⁶

'Me and a friend of mine had to leave [the centre] when we celebrated our 18th birthdays. We were told to pack and we were given a bus ticket to Milan. We didn't know anybody in Milan. We heard that a lot of people came here to go to France, so we decided to do the same,' said Mohammad, 18, from Sudan.

Children with relatives in other EU member states have the right to family reunification,²⁷ but, according to testimonies from our partners and migrants themselves, almost none are informed about this right and the procedure is very complex. In many cities, children are unable to apply for asylum upon arrival, which means they cannot submit applications for family reunification without waiting for months. 'Instead of waiting more than one year without any certainty, they prefer to leave on their own,' says Laura Martinelli from ASGI.

4 PROBLEMS ON THE FRENCH SIDE OF THE BORDER

Since the reintroduction of border controls at Ventimiglia in 2015, effectively suspending the Schengen Agreement, the French police have been regularly committing abuses of the rights of migrants. Since such practices are illegal, there are no official numbers. However, in some cases, they have attracted attention from the media and politicians.²⁸

The Dublin regulation is an EU law that sets out which state is responsible for processing asylum applications. According to this law, unaccompanied children applying for asylum in France cannot be sent back to Italy: the criteria of the first country of entry is not applicable to unaccompanied children.²⁹

However, children crossing the border to apply for asylum are not allowed to exercise this right. The French authorities do not recognize any of them as asylum seekers and push them back to Italy immediately after crossing, even though they are required by law to assess the situation of each child. Moreover, there are no interpreters or lawyers present at the border.

Importantly, if a child does not want to apply for asylum in France and is stopped at the border, they can be sent back to Italy according to French law, but only after the French authorities provide certain guarantees: the immediate appointment of a guardian (*administrateur ad hoc*)³⁰ and providing a minimum period of 24 hours between police custody and the actual return (the so-called *jour franc*).³¹

According to dozens of testimonies collected by Oxfam and its partners, these provisions and guarantees are time and again violated, as French officers put children immediately onto a regional train to Ventimiglia.³² No guardian is appointed and no *jour franc* is ensured. Instead, the local French police have been reported by Oxfam's partners to be filling in the *refus d'entrée* (refusal of entry) documents on behalf of the children. In the field 'vos droits' ('your rights') they often write 'I want to leave as soon as possible', as if being immediately pushed back is the child's choice – which in almost all cases, it isn't.

In Ventimiglia, there are no facilities for receiving these returned children: once off the train, they have no option other than going back under the flyover and waiting for the next opportunity to cross the border.

After 7 p.m., in accordance with an unofficial agreement with the Italian police, no one can be pushed back from France. Adults and children are therefore illegally detained by local French police until the next morning, without food, water, blankets, mattresses or information about what is happening. Neither interpreters nor lawyers have access to these premises. As all of these are illegal practices, there are no official statements or documents. However, testimonies from our partners in the OpenEurope programme and migrants themselves are telling.

Physical and verbal abuse are common, according to testimonies collected.

'Policemen yell at them, laugh at them, push them and tell them "you will never cross here". Some children have their mobile phones seized and the SIM card removed.

They lose all their data and phonebook. They cannot even call their parents afterwards,' says Zitarosa.

Chiara Romagno explains what this is like: 'French police officers are not upholding international standards. It's unacceptable. Besides pushing them back illegally, without offering any guarantees, against the law, they taunt them and mistreat them. Some children even had the soles of their shoes cut off, before being sent back to Italy.'

According to people who spoke with Oxfam, abuses are not only suffered by children, but by many attempting to cross the border, with no consideration for their vulnerability.

'We spent one afternoon and one night in a small room [in France],' Fatima, 37, tells us. She fled Iraq with her elderly mother after being threatened and beaten by ISIS – her face is still scarred. 'We were left on chairs the whole night. We were not told anything, we were not given food or water.' Fatima shows the pictures she has taken of her mother laying on the floor with other people and the shirt she was wearing on that day. 'It is ripped, can you see? We were pushed and yanked all the time. They stepped violently on my feet, my big toes are black. I had not been treated in that way by the police in my life.'

Adults are forced to go back on foot on the road. 'It is also very dangerous, because in many cases the pavement is missing. It's about 10km,' says Alterisio. 'Along that road, we met people walking back under the rain or the burning sun. The last person we met was a very young Eritrean girl holding her 40-day-old baby in her arms.'

AFTER INTERVENTION BY THE FRENCH COURTS

In response to the conduct of the French authorities, Oxfam, Diaconia Valdese, ASGI and other organizations working in Ventimiglia actively cooperate with an NGO network in France to contest cases of illegal returns and arbitrary detentions of unaccompanied children before the administrative French courts.

In January 2018, the first case regarding a 12-year-old boy pushed back to Italy by the French police was brought before the Administrative Tribunal of Nice. In February, another 19 cases regarding unaccompanied children who were stopped, illegally detained and returned to Italy were contested. The Tribunal acknowledged the violations of the guarantees provided for in the legislation in these 20 cases, and thus the illegality of the border authority's conduct.³³

After these rebukes, children told Oxfam and its partners that some French police were changing their birth date on statements, so they can be officially treated as adults and 'legitimately' pushed back.³⁴

The case of Tekle, 16, from Eritrea, is representative of this new practice, as explained by Laura Martinelli from ASGI: 'On March 16, he tried to cross the border by train with three friends. They were forced to get off in Menton-Garavan and they were transferred to Pont St. Louis, as always. There they received a push-back statement on which their date of birth is different from the date they declared. Tekle took a picture of the document with the date of birth he declared, 1 October 2001, and a picture of the push-back document on which it said 1 January 2000.'

A French administrative (though independent) report published on 5 June 2018 reached very similar conclusions, in particular on lack of due process, and overall denying of dignity and not enforcing applicable legislation. The French authorities have so far failed to properly respond to the various shortcomings and issues identified in this report.³⁵

5 CONCLUSION AND RECOMMENDATIONS

The situation at the French-Italian border in Ventimiglia must be managed differently, with an approach oriented to the protection of vulnerable people – especially women, unaccompanied children and victims of trafficking, and those at risk of being victimized. Regardless of their legal status, it is unacceptable that people are forced to live in indecent conditions, exposed to danger and deprivation.

A large number of people are being pushed out of the asylum system into precarious living by the failure of Italian, French and European authorities to guarantee adequate accommodation and services, as well as the hurdles in the way of refugees seeking asylum in EU member states where family members live. Such people live without access to clean water, shelter, food and heating, fearing that if they approach authorities they will be sent back or not receive the help they need.

Authorities, community representatives and NGOs should work together to alleviate suffering and find solutions that work for refugees and other migrants, as well as the community in Ventimiglia. Allegations of abuse should be investigated and the responsible people held to account.

RECOMMENDATIONS

Local authorities

The local authorities in Ventimiglia should:

- Rapidly identify adequate premises for a centre for unaccompanied children and women (with or without minor children), ensuring a sufficient number of places, safe access and stay, and adequate services.
- Convene on a monthly basis a technical coordination board including representatives of the municipality, the local representative of the Italian Ministry of the Interior, the police and organizations involved in the care of the migrant population, to share relevant information, coordinate interventions and allocate responsibilities.
- Cooperate in improving structural conditions in Roja Camp, in particular by improving sanitation and the common areas with access to information, organizing information systems for migrants and providing a shuttle service connecting the camp to the town itself.
- Promote initiatives with the local Italian population and schools aimed at informing and engaging with the local population, including by investing in social mediation.

The Italian government

The Italian Ministry of the Interior should:

- Stop forced transfers of migrants from Ventimiglia to reception centres in southern Italy.
- Investigate and correct alleged illegal practices at Imperia province police headquarters, which jeopardize the inclusion of migrants in asylum procedures, to ensure the rights of migrants are protected.
- Ensure the proper implementation of laws on unaccompanied children in the whole of Italy; in particular, ensure the effective exercise of the right to family unity and that all officials engaging with children are properly trained on child safeguarding and child protection, also concerning the risk of trafficking.
- Verify that high-quality services are offered in reception centres, especially for unaccompanied children, when starting applications for asylum and in accessing education.
- Ensure that children who reach adulthood while waiting for a decision on their case are not pushed out of the reception centre, but can await the final decision on their case.
- Significantly improve the procedures for claiming asylum and options in a way that they can easily understand, including promptly notifying people of their rights and options in an accurate, comprehensible and timely fashion.

The Italian Ministry of Foreign Affairs should:

- Work with the French authorities to put measures in place to stop illegal returns of unaccompanied children.

The French government

The French government should:

- Immediately stop and adequately sanction illegal practices of the French police at the French-Italian border at Ventimiglia.
- Ensure the right to seek asylum for all foreign children in French territory, and take care of them according to the provisions of national, European and other international laws.
- Implement the guarantees provided for by national laws and policies on returning unaccompanied children who are not seeking asylum, including by immediately appointing a guardian.

The European Union and its member states

The responsible bodies within the European Union and all of its member states should:

- Redouble their commitment to share responsibility for hosting asylum seekers more equally, including by reforming the Dublin system, so that the rights and needs of asylum seekers are addressed, and links with family and relatives are given priority.
- Guarantee the effectiveness of the right to family reunification, in particular for unaccompanied children, by ensuring that procedures work effectively, staff are at capacity to answer all requests and that applications are processed swiftly.

- Expand the criteria for who qualifies as a ‘family member’ for the purposes of family reunification to include:
 - young relatives who are reliant on the family unit for their well-being at the time of application, including stepchildren and de-facto adopted children;
 - adult siblings who had not formed their own family prior to fleeing their country of origin;
 - adult sons and daughters who had not formed their own family prior to fleeing their country of origin;
 - parents; and
 - any dependent relative, including where being separated presents risks to their safety and security.

NOTES

(All links last checked June 2018, except where specified.)

- 1 Between July 2017 and April 2018, local Caritas volunteers registered 16,475 people.
- 2 Eurostat, Asylum Quarterly Report, Q4 2017. Available at: http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report
- 3 La Cimade. (2018, February 27). *Frontière franco-italienne : associations et avocat.e.s font respecter le droit des enfants étrangers devant le tribunal administratif de Nice*. French. Available at: <https://www.lacimade.org/presse/frontiere-franco-italienne-associations-avocat%c2%b7e%c2%b7s-respecter-droit-enfants-etranagers-devant-tribunal-administratif-de-nice/>
- 4 According to data from the Ministry of the Interior, 170,100 people landed in Italy in 2014: http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_31_dicembre.pdf
According to Eurostat, in the same year, only 64,625 submitted an asylum request. Eurostat (n.d.) *Asylum and Managed Migration: Statistics illustrated*. ec.europa.eu/eurostat/web/asylum-and-managed-migration/statistics-illustrated
- 5 70,302 in 2015 and 58,476 in 2016. (Italian Ministry of the Interior and Eurostat, n.d.).
- 6 EU Regulation no. 604/2013 (Dublin III). Furthermore, the EU denies so-called 'secondary movements', so those who obtained a permit of stay for international protection cannot move to another country in the EU.
- 7 A. Nika. (2017). *Dear Family: How European migration policies are keeping families apart*. Oxfam briefing paper. www.oxfam.org/en/research/dear-family-how-european-migration-policies-are-keeping-families-apart
- 8 European Court of Auditors. (2017). *EU response to the refugee crisis: the 'hotspot' approach (pursuant to Article 287(4), second subparagraph, TFEU)*. www.eca.europa.eu/Lists/ECADocuments/SR17_6/SR_MIGRATION_HOTSPOTS_EN.pdf
- 9 The EU introduced the 'hotspot' approach with the European Agenda on Migration in May 2015. For more information, see G. Capitani. (2016). *Hotspot, Rights Denied: The lack of a legal framework is threatening the rights of migrants reaching the Italian shore*. Oxfam briefing paper. www.oxfam.org/en/research/hotspot-rights-denied
- 10 La Repubblica. (2015, June 12). *Francia blocca la frontiera con l'Italia. Ue: "Nessun dietrofront su quote"*. Italian. www.repubblica.it/esteri/2015/06/12/news/francia_blocca_frontiere_ue_avanti_con_redistribuzione_-_116732997/
- C. Fusani. (2015, June 13). *"La Francia sta violando Schengen. Hanno chiuso le frontiere e non è consentito": l'accusa dei vertici del Dipartimento di pubblica sicurezza*. L'Huffington Post. Italian. www.huffingtonpost.it/2015/06/13/francia-viola-schengen_n_7576994.html
- 11 Since the reintroduction of border controls, a number of migrants have died in accidents while attempting to cross the border. According to Open Migration, 15 people died between September 2016 and August 2017 falling in crevices, being electrocuted by high voltage cables on the roofs of trains, or being run over by trains or lorries and cars. M. Luppi and A. Quadroni. (2017, July 12). *I morti di confine a Ventimiglia*. Open Migration report. Italian. <http://openmigration.org/analisi/i-morti-di-confine-a-ventimiglia/>
- 12 The term 'transit camp' is not present in any legal definition or provision of applicable laws.
- 13 Redazione Il Nazionale. (2017, August 9). *Manifestazione contro I migrant – Ventimiglia*. YouTube video. Italian. www.youtube.com/watch?v=ickYA56jF1o
Redazione Il Nazionale. (2017, November 11). *Manifestazione Ventimiglia Libera davanti al Comune*. YouTube video. Italian. www.youtube.com/watch?v=PebgAAb4z7M
- 14 According to Italian legislation, also while transposing EU Directives. See Italian Civil Code [1942] and the Italian Decree transposing the EU Reception Directive. (<http://www.altalex.com/documents/codici-altalex/2015/01/02/codice-civile>, <http://www.gazzettaufficiale.it/eli/id/2015/09/15/15G00158/sg>)
- 15 For example, there have been several camp clearings and controversial municipal ordinances, such as one dated August 2016 forbidding volunteers to give food to migrants. La7 Attualità. (2017, March 30). *A Ventimiglia vietato dare cibo ai migrant*. YouTube video. Italian. www.youtube.com/watch?v=1WtOoRgZld4
- 16 All figures on the presence of migrants in Ventimiglia were provided by Caritas Intemelia.

- 17 Caritas Ventimiglia Facebook page. Italian. <https://it-it.facebook.com/caritasventimiglia/>
- 18 P. Barabino and G. Destefanis. (2018, February 28). *Ventimiglia, anche un bimbo di 3 mesi fra i migranti bloccati nel gelo. Ma il centro di accoglienza non si fa*. La Repubblica. Italian. <https://video.repubblica.it/edizione/genova/ventimiglia-anche-un-bimbo-di-3-mesi-fra-i-migranti-bloccati-nel-gelo-ma-il-centro-di-accoglienza-non-si-fa/298430/299055>
- 19 M. Welander. (2017). *In Dangerous Transit: Filling information gaps relating to refugees and displaced people in Ventimiglia, Italy*. Refugee Rights Europe. refugeerights.org.uk/wp-content/uploads/2017/10/RRDP_InDangerousTransit.pdf
- 20 Legislative decree 142/2015, art.19 par.1–4
<http://www.gazzettaufficiale.it/eli/id/2015/09/15/15G00158/sg>.
- 21 Associazione per gli Studi Giuridici sull'Immigrazione (ASGI). (2017, October 30). *Memorandum d'Intesa Italia-Sudan: un'analisi giuridica*. Italian. www.asgi.it/allontamento-espulsione/memorandum-sudan-italia-analisi-giuridica/
- 22 ASGI. (2018, January 10). *La Corte Europea ammette i ricorsi contro l'espulsione collettiva dall'Italia di cittadini del Sudan*. Italian. www.asgi.it/allontamento-espulsione/sudan-italia-rimpatri-cedu/. Violations of Arts. 3, 13 and 14 of the European Convention of Human Rights and Art. 4 of the Protocol Number 4 are the ones being raised.
- 23 Recently, upon the request of all the associations working in Ventimiglia, a social worker comes to Roja camp to assess the needs and requests of children. The associations working in Ventimiglia are Oxfam, Diaconia Valdese, Intersos, Terres des Hommes and WeWorld.
- 24 OECD. (2018). *Working Together for Local Integration of Migrants and Refugees*. dx.doi.org/10.1787/9789264085350-en
- 25 Law dated 7 April 2017, no. 47, which is known as 'Law Zampa'.
<http://www.gazzettaufficiale.it/eli/id/2017/04/21/17G00062/sg>. See also Oxfam Italia. (2016). *Children Alone*. Policy briefing. Italian.
- 26 Oxfam Italia. (2016, September 8). *Grandi speranze alla deriva*. Media briefing. Italian. www.oxfamitalia.org/wp-content/uploads/2016/09/MSNA-Sicilia_mediabrief_8-set-2016_FINAL_DEF.pdf
- 27 EU Regulation no. 603/2013 (Dublin III) art. 8. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0604&from=en>.
- 28 For example: Il Messaggero. (2018, March 31). *Bardonecchia: Ong denuncia: «Polizia francese armata a caccia di migrant in territorio italiano»*. Italian. www.ilmessaggero.it/primopiano/cronaca/bardonecchia_ong_denuncia_polizia_francese_armata_a_caccia_di_migranti_in_territorio_italiano-3639942.html
- Il Fatto Quotidiano. (2018, April 5). *Migranti, polizia francese trascina fuori da un treno una donna incinta proveniente da Ventimiglia*. Italian. www.ilfattoquotidiano.it/2018/04/05/migranti-polizia-francese-trascina-fuori-da-un-treno-una-donna-incinta-proveniente-da-ventimiglia/4273435/
- 29 See note 27.
- 30 *Code de l'entrée et du séjour des étrangers et du droit d'asile*, art. 221-5.
<https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070158>
- 31 *Code de l'entrée et du séjour des étrangers et du droit d'asile*, art. 213-2. (ibid.)
- 32 See also J. Pascual. (2018, June 5). *A Menton, l'accueil « indigne » des migrants par la police aux frontières*. French. https://www.lemonde.fr/police-justice/article/2018/06/05/a-menton-l-accueil-indigne-des-migrants-par-la-police-aux-frontieres_5309644_1653578.html
- 33 La Cimade. (2018, February 27). *Frontière franco-italienne : Associations et avocates font respecter le droit des enfants étrangers devant le Tribunal Administratif de Nice*. Op. Cit. Although French authorities are required to take responsibility for the cases, many of the children had already disappeared.
- 34 A. Giuffrida. (2018, April 12). *French police accused of falsifying migrant children's birth dates*. *The Guardian*. www.theguardian.com/world/2018/apr/12/french-police-accused-of-falsifying-migrant-childrens-birth-dates
- 35 Contrôleur général des Lieux de Privation de Liberté. (2018, June 5). *Rapport de la deuxième visite des services de la police aux frontières de Menton (Alpes-Maritimes)*. http://www.cglpl.fr/wp-content/uploads/2018/06/Rapport-de-la-deuxieme-visite-des-services-de-la-police-aux-frontieres-de-Menton-Alpes-Maritimes_web.pdf

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