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## **Crisis of Schengen? The effect of two “migrant crises” (2011 and 2015) on the free movement of people at an internal Schengen border.**

**Sara Casella Colombeau**

The reintroduction of border checks as a chain of reactions during the 2015 “migrant crisis” was interpreted as the dislocation of the Schengen area, and as a “Schengen crisis”. Free movement, understood as a complete removal of border checks at internal borders of the Schengen area, would be at risk. However, very few studies have examined the implementation of free movement, and consequently no work has been done on the consequences of such crises on the activities of street-level border guards. This article investigates the activities of the French border police at the France-Italy border in an open border setting in 2008 and 2009, and at two moments of crisis and border closing in 2011 and 2015–2016. By adopting a bottom-up approach toward EU policy implementation, this article shows that regardless of government’s attempt at *spectacularising* the checks at the internal border, the extent to which the border is either “closed” or “open” relies on the member states’ administrations. At the bottom of the chain of command, street-level bureaucrats are tasked with managing the inherent ambiguities of free movement as defined in the Schengen convention, concentrating the checks on third-country nationals and leaving the vast majorities of border crossings unaffected.

Key words: Schengen area; internal border control; irregular immigration; implementation; bottom-up europeanisation; targeted checks

### **Introduction**

Since<sup>1</sup> the beginning of the ‘migrant crisis’ in the Summer of 2015, most of the attention paid to the Schengen area has been directed towards its external border (Pallister-Wilkins 2015;

Cuttitta 2016; Hess and Kasperek 2017; Rozakou 2017; Crawley and Skleparis 2018; McMahon and Sigona 2018). Few studies have assessed the effects of this crisis on the implementation of the free movement of people *within* the Schengen area (Kallius, Monterescu, and Rajaram 2016; Dujmovic and Sintès 2017). During the crisis, commentators were quick to announce the ‘death of free movement’ (Le Figaro, 17 June 2015). Indeed, in a chain reaction starting in September 2015, Germany, Austria, Denmark, Sweden and Norway decided to reintroduce checks at internal borders. The reintroduction of border checks was interpreted as the dislocation of the Schengen area, and as a ‘Schengen crisis’ (Börzel and Risse 2018). The reinstatement of border checks at internal borders of the Schengen area is perceived a major backlash to the European project and the progressive integration of immigration policies at the European level (Niemann and Zaun 2018; Schimmelfennig 2018). One common presumption in analysis of this ‘Schengen crisis’ relies on the idea that free movement of people within the Schengen area means the complete removal of checks at internal borders. Indeed, free movement of people is only one marginal aspect of the Schengen Convention. Most of the articles adopted with the Convention are conceived as compensatory measures for this free movement (among them reinforcement of external border control, police and judicial cooperation, common visa and asylum policies). This narrative of ‘protecting [external] borders to guarantee free movement in Europe’, as Fabrice Leggeri, director of Frontex recently recalled (Euractiv, 16 April 2018), is at the basis of immigration policies in Europe (Bigo 1996). No wonder, then, that reinstatement of border checks at internal borders is perceived as highly disruptive. However, as previous works focusing on border practices at internal borders have shown (Schwell 2010; Darley 2008; van der Woude and van der Leun 2017; van der Woude and Brouwer 2017; Casella Colombeau 2017), border checks never disappeared from Schengen’s internal borders.

So, if an open border regime does not imply the absence of border checks, what does a closing of the border mean? What exactly was this ‘reintroduction’ of border checks? How is the closing of the internal borders implemented?

To address this question, this article offers a long-term analysis of the implementation of the Schengen Convention at the internal border between France and Italy. Implementation practices are examined in an “open” as well as “closed” setting of the internal border. This comparative framework offers an original analysis that sheds new light on the management of the internal borders of the Schengen area, and provides further understanding on the nature of free movement.

In France, in June 2015, before the ‘migrant crisis’ reached its peak, French authorities decided to reinforce controls at its southeast border with Italy. The France-Italy border crosses the Alps and reaches the Mediterranean Sea between two small towns: Menton on the French side, and Ventimiglia on the Italian side. This reinforcement resulted in the blocking of migrants who had landed on Italian coasts and were trying to travel north towards France and northern Europe. The number of border crossings registered by the local border police had been increasing since 2014, but the decision to reinforce staff numbers and more drastically limit circulation at this internal border of the Schengen area was taken on 10 June 2015. It was only in October that the European Council was notified of the official reinstatement of border checks at national borders (in preparation for the COP 21 Climate change conference<sup>2</sup> in November). The reinstatement was later extended until 26 February 2016 amid the state of emergency declared after the November terrorist attacks in Paris. The ‘reintroduction’ of border checks was, therefore, first unofficial, and linked to migration management concerns, and later officially notified as security and counter-terrorist measure<sup>3</sup> (Piçarra 2017). An

important discrepancy can be observed between the way national governments notify the reinstatement of border checks to the European institutions and the practices actually implemented at the internal borders of the Schengen area.

Drawing on an important literature on border control practices (Pratt and Thompson 2008; Heyman 2001; Côté-Boucher, Infantino, and Salter 2014; van der Woude and van der Leun 2017), this article explores the modalities of the implementation of migration management at a specific border site within the Schengen area, between the small towns of Ventimiglia, Italy and Menton, France. It specifically considers the implementation phase of border control and migration management. The analysis focuses on the daily work of the street-level bureaucrats in charge of this implementation: the French border police ('police aux frontières' or 'PAF') and other security forces involved in the border checks in France<sup>4</sup>.

This article draws on a bottom-up approach toward EU policy implementation that goes beyond the question of legal compliance (Thomann and Sager 2017), and it adopts an original comparative framework which aims at reintroducing time in the implementation literature. Indeed, the implementation of the EU policy framework cannot be analysed as 'once and for all' dynamic; change has to be assessed 'via process-tracing and time-sensitive political analysis' (Radaelli and Pasquier 2008, 41). It is specifically relevant at the France-Italy border, where, in the last decade, two situations have been labelled as 'crises'<sup>5</sup>. In 2011, a large number of Tunisian nationals came to European shores after the fall of President Ben Ali loosened emigration controls. Most of them continued their journey toward the northern Europe, and specifically France. As in 2015, this increase in migrant arrivals began to raise doubts about the future of Schengen (Zaiotti 2013; Guiraudon 2011; Jeandesboz and Pallister-Wilkins 2015).

The focus on the local level and on the implementation phase of border policy at the national border (Lindley 2015) allows for a grasp of the continuities between ordinary times and periods perceived by the actors themselves as a crisis (Boin 2004, 167). This article is built on a comparative framework between a period of ‘normality’ and ‘open’ borders (2008–2009) and two periods of ‘crisis’ during the large-scale Tunisian migration of 2011 and the refugee crisis of 2015. By comparing two situations defined as a ‘crisis’, the objective is to question their ‘exceptionalism’ (Jeandesboz and Pallister-Wilkins 2015), and to go beyond a legal analysis of the exceptional reintroduction of border checks, as provided by Articles 23 and 25 of the Schengen Borders Code (Groenendijk 2004; Guild et al. 2015, 2016).

### ***Methodology***

For the period of ‘normality’, the analysis is based on both interviews and archival documents. Twenty interviews were conducted mainly with street-level bureaucrats, but also with some of their supervisors, in the French border police in Nice and Menton in November 2008 and March 2009. During this fieldwork, I could circulate within different facilities — including at the airport and land border ports — and interview the officers who were working there. In the interviews, most of the questions regarded the daily tasks of the police officers, but we also discussed their portrayals of these tasks and more broadly of their role at the border. This part of the investigation also relied on analysis of documents in the archive of the French interior ministry, mainly written in the 1990s and focusing on the implementation of the Schengen Convention. I also interviewed a former Italian police officer from the Polizia di Stato who was working at the border in the 1980s and 1990s. In the aftermath of more recent ‘crises’, however, the PAF has become significantly less willing to grant interview requests.

Later interview requests were denied, citing the ‘circumstances and the sensitivity of the matter’ and ‘the availability of staff.’ However, I was able to interview a police officer who had since taken on a labour union role.

In June 2015, as the media coverage of the situation at the border was increasing, I returned to the border to gather testimonies from migrants who were being blocked from crossing into France. In 2016, as police authorities grew increasingly reluctant, I decided to conduct interviews with local actors who intervene at the border and could give information about police practices. Nine interviews were conducted with local NGO staff or volunteers. On the French side, interviewees mainly consisted of employees and volunteers of local NGOs or local branches of national NGOs (such as Secours Catholique and Médecins du Monde). Several interviews were also conducted on the Italian side with workers in the local branch of Caritas and activists who do not belong to any formal organisation. Questions were asked about both their actions at the border and their observations of the police practices in 2015, and in 2011 if relevant. Questions mostly concerned the places where the checks would take place, the nature of the police forces involved (PAF, riot police, *gendarmerie*), the conditions of migrants’ detention at the border (which because of overcrowding had become visible to the public), and the irregularities that they could identify. While these were valuable first-hand observations, this information was obviously partial and biased. However, there were no significant differences with the data I gathered from the interviews with the border police regarding their practices. Therefore, while this comparative framework is somewhat unbalanced, the first part of the research on the period of normalcy in 2008-9 is nonetheless used to inform on the latter part of the research on the crises of 2011 and 2015. Another source of data on these crises consists of grey literature (NGOs and associations’ general and daily reports, social media and national and local press coverage). An analysis of French

national press coverage in 2011 and 2015, comprising around 330 articles, also informs this article. That analysis mainly aims at establishing a precise chronology of the development of the two ‘crises’, with specific attention to distinguishing local, national and European actors’ interventions in the national press. The analysis of the national press is also used to detect the first signs of these crises in the media, with specific attention paid to the way the views of the forces in charge of border control were transmitted. This idea is to identify when and how ‘actors make sense of’ an event and develop ‘an interpretive framework’, or a ‘crisis narrative’ (Broome, Clegg, and Rethel 2012, 11).

For comparative and clarity purposes, the article proceeds chronologically. First, the ‘normal’ condition of border management at the internal border of the Schengen area is explored, focusing on the changes introduced by the implementation of the Schengen Convention in the 1990s, and how this convention was implemented before 2011. The second part is dedicated to the analysis of the border practices during the crises of 2011 and 2015.

### **Border checks and deportation at the internal border: old, routine practices**

The Schengen Agreement was signed in 1985, but it was only with the Convention Implementing the Schengen Agreement (Schengen Convention) in 1990 that the conditions for free movement of individuals, as we know it now, were set. Effective in 1995, this Convention was applied to the border between France and Italy in 1998.

Article 2 of the Convention provides that ‘internal borders may be crossed at any point without any checks on persons being carried out’<sup>6</sup>. In practical terms, this amounted to a prohibition of checks at border stations, which had previously applied to all travellers. Traffic could not be slowed at internal borders, and all infrastructure blocking traffic had to be



removed. However, checks did not disappear entirely. A captain posted to Menton describes the changes linked to the creation of the Schengen Area:

With the Schengen agreement, we abandoned fixed checks. Many people think there are no more borders, whereas it's just that control went from fixed and systematic to mobile and random<sup>7</sup>.

Indeed, checks could be carried out if they were mobile (law enforcement may not screen in the same place for more than six hours<sup>8</sup>) and random (police officers may not check all travellers systematically).

At the national level, the introduction of new legislation in the 1990s ensured a form of continuity in control practices at the Schengen Area's internal borders. First, in 1993, while the implementation of the Schengen Convention was still being negotiated, France adopted Law 93-992<sup>9</sup>, stipulating the creation of a 'Schengen Zone,' demarcated by a line 20 kilometres from the national border. In this zone, police officers could verify any individual's identity without providing any justification, an exception to national law which sets conditions and restrictions on law enforcement's use of identity checks (article 78.2 of the Penal Procedure Code). The legitimacy of these controls derived from the proximity to the national border, so paradoxically, the creation of a free-movement area helped to formalise border checks along the national land border.

Second, concomitantly with checks, deportations at the border persisted much as before. Another legislative modification made it possible for removal practices to continue. The Chambéry bilateral agreement, signed in October 1997, included provisions for readmission between France and Italy: each signatory state could request that its neighbour readmit persons, documented or not, who had transited via that other country. If the French police can prove that an unauthorised person had arrived through Italy (using official Italian

documents or a train ticket, for example), they may contact Italian law enforcement and request the readmission of this person. If the request is accepted, this person will be remanded to Italian authorities at the Police and Customs Cooperation Centre (PCCC), which was also created by the Chambéry agreement. Before the opening of the internal borders, those coming from Italy who were apprehended in the border zone outside of the ports of entry and refused access to French territory were handed over to Italian authorities at the frontier, several metres from the current PCCC. The lifting of borders was accompanied by legislative measures that allowed field officials to base their daily operations on previous practices. Radical change in European legislation does not necessarily translate into radical change in the practices of street-level bureaucrats.

The France-Italy border is situated on one of the main migratory routes across Europe. In 2008 and 2009, the main routes departed from Greece, where the migrants would take a boat from Patras to Italy, and then towards France or (especially) the United Kingdom. More recently, after the Patras camp was destroyed and the route to Italy cut, migrants crossing this border began to reach European territory mainly by traversing the Mediterranean Sea from Libya to Italy. They generally come from conflict zones, where European authorities have difficulty returning them<sup>10</sup>. Once apprehended by the border police, undocumented migrants are sorted depending on the possibility for the authorities to deport them to their home countries. The Chambéry agreement is then generally used to deport to Italy migrants that cannot be sent back to their countries of origin. The Italian police, facing the same difficulties in returning these deportees to their home countries, release them after having accepted their readmission. The migrants are then free to try their luck at crossing the border. In Menton, the PAF, which receives orders from its national headquarters, above all tries to slow down arrivals to the Paris region and the north of France near Calais. The latter area has been a

gathering point for thirty years for migrants wishing to travel to the United Kingdom<sup>11</sup>. Even in 2008–2009, PAF police officers in Menton received orders to curb the flow of migrants to Paris and Calais. These readmissions are a specific use of deportation, distinct from the intention to *allocate* migrants to a specific territory, which is the most common premise of deportation practices (Walters 2002). Rather, the PAF's aim was to 'suspend' these individuals' progression. The idea was to keep this population in forced movement, without allowing the possibility of settling. Police officers are well aware of their role in regulating this path between the Italian coasts and the attempted journey to the United Kingdom from the Calais region:

The immigrants don't want to stay in the department [Nice region]. Their destination is the north of France or even out in Europe, Great Britain most of all; these are the unauthorised immigrants that we find in Calais.<sup>12</sup>

PAF officers consider the European territory, rather than only the national one, as the relevant one with which to assess their own tasks. As put by Dörrenbächer, 'lower level implementers are surprisingly aware of the multilevel context in which they operate' (2017, 16). They are doubly enjoined to respect national and European norms: to implement free movement within the European territory and migratory control at the national border. A bottom-up approach to Europeanisation gives a sense of the strategic role played by the street-level bureaucrats at the frontline for dealing with this double bind, and the complex articulation between national and European loyalties for civil servants in charge of implementing EU rules at the national level (see Buchet de Neuilly 2009; Mastenbroek 2017). This tension lies at the heart of police officers' work at the France-Italy border and has various effects on the border practices of the PAF officers (Casella Colombeau 2017).

First, border police officers have, as at any other border, a dual objective: facilitating the crossing of ‘bona fide travellers’ and controlling the ‘crimmigrants’ (Aas 2011). They must therefore make choices, and these choices are based on discriminatory practices that are very typical in border control (Pratt and Thompson 2008; Chan 2011; Quinton 2011; Heyman 2001, 2004; Chalfin 2007; Darley 2008) and are perceived by implementers I interviewed as an inherent part of professional practice<sup>13</sup>. In the context of the Schengen area’s open borders, this selection of persons to be checked becomes even more blatant, since other travellers are not affected. More concretely, the creation of the Schengen Zone, as well as the formalising of border-related identity checks performed by the Menton PAF, facilitate targeted screening. Within the Schengen Zone, French law does not require any justification for identity checks. PAF officers have greater latitude to choose which persons to screen, as they cannot face a judicial or prefectural<sup>14</sup> review of the procedure, as would be the case anywhere else in French territory. The existence of the Schengen Zone in French law thus provides the legal tools for street-level bureaucrats to deal with their double bind and to ensure continuity in the practice of border checks.

Second, the tension is often expressed in negative comments about their Italian counterparts. An important component of the readmission procedure is that in the border region, it does not require a judicial decision; police officers can decide autonomously to deport an irregular migrant to Italy, depending on the acceptance of the Italian state police. This entails a strong dependence by the French border police on their Italian colleagues, whose interests are obviously opposite. However, the Italian agreement is plainly bypassed, as explained by a PAF officer in Menton:

This morning for example, we stopped 35 Afghans on the train [the Italians] didn’t come to take them, so we turned them back 25 metres away: ‘*RLT*:

*raccompagnement aux limites du territoire*’ [escorted back to the limits of French territory].<sup>15</sup>

This ‘RLT’ procedure is absolutely not legal; it could be applied legally at an external border of the Schengen area, but not at an internal border where deportation to Italy is regulated by the Chambéry agreements. The double bind is dealt with by an interplay with the legal rule, where Italian authorities’ cooperation is required when they need to go ‘by the book’ but where French border police also feel entitled to bypass it, if necessary.

Third, border police officers have a negative conception of the value of their work. They expressed their frustration in the face of the continuing arrivals of migrants and the apparent limited effect of their efforts.

In Menton, we can’t do much, we gather information on the “irregulars”, so it looks more like slowing down the flow, we just let them cross.<sup>16</sup>

But more than just a sense of uselessness, the agents express a genuine sensation of overflowing, even in a time of ‘normalcy’. The situation in 2008 was already perceived as ‘critical’ by PAF officers.

In Paris, there are many Afghans in the parks and in the Calais region, it’s the same thing. It’s going to explode!<sup>17</sup> .

This alarmist assertion was made during a period when media coverage and politicisation of the Calais situation were limited. Their attitude is generally defeatist when considering their checks in a context of the European area of free movement.

Because Schengen doesn’t work! [...] The external borders are permeable, and once they’ve entered the Schengen territory, it’s all over! It’s all over. It’s all over!<sup>18</sup>.

This remark can also be interpreted as a way to assert the importance and difficulty of their task.

In the Schengen borders code, police checks at the internal borders are restricted: they should “not have border control as an objective”<sup>19</sup>. In Menton, these checks are clearly aimed at border control and managing migration, but they are implemented within the legal framework defined by the CJEU case law. National borders are still considered relevant to managing migrations. More than stopping unwanted migrants, border police officers are tasked with suspending their progression, and slowing down their arrival in Paris and Calais. The double bind that these street-level bureaucrats have to deal with affects their practices and representations.

### **Reinstatement of border control: border practices in times of ‘crisis’**

In recent years, the border at Menton has been on the front pages of national newspapers on two occasions, in 2011 and in 2015. In both cases, the situation at this local border was framed as being part of a broader ‘European crisis of migration’.

In February 2011, an increase in the number of Tunisians crossing the border between Ventimiglia and Menton caused alarm to ring through the local authorities, the prefecture and police hierarchy. That same month, the police force made 436 arrests and 250 readmissions (Le Figaro, 5 March 2011), which corresponded to 10 times the amount in the preceding year (Le Point, March 3, 2011). The AFP’s dispatch, ‘Influx of *clandestine* in the South-East: police officers declare they are “submerged,”’ published on 3 March 2011, appeared in newspapers across France. The discussion was somewhat frantic: ‘police forces are working

around the clock despite reinforcements and under mind-blowing pressure from migratory flows from Italy' (Agence France Presse, 3 March 2011). Crossings at the French national border took place whilst Tunisian citizens' arrivals on the Italian island of Lampedusa were an object of intense media coverage. The lexicon of emergency and overflowing (Greussing and Boomgaarden 2017) was first mobilised by Italian politicians to describe the current and future arrivals of Tunisians on their shores. Franco Frattini, the Italian foreign affairs minister, asked the EU to not 'leave Italy alone' (Le Figaro, 14 February 2011) while it was facing the 'risk of Biblical exodus [...] ten times bigger than the arrivals of the Albanians in 1991' (Le Figaro, 24 February 2011). At the EU level, Ikka Latinen, the executive director of Frontex, claimed that this was the 'biggest arrival of illegal migrants, in volume and rapidity that we ever saw' (Le Figaro, 16 February 2011).

In reaction to these arrivals on the southern borders, Silvio Berlusconi's government reached an agreement with Tunisian authorities to stanch the flow of departures (ANSA.IT, 6 April 2011) on 5 April. He then decided to issue temporary humanitarian residence permits to 'citizens of Northern African countries' who had arrived in Lampedusa and registered in an Italian centre between 1 January and 5 April of that year<sup>20</sup>. This permit allowed Tunisian nationals to travel freely within the Schengen Area. As 'authorised nationals of a non-EU state', they could cross the internal borders and remain up to three months in another Member State. The French interior minister reacted the following day, publishing a circular reiterating the conditions of movement for nationals of non-EU countries who possess 'residence permits [...] issued by Schengen Member States'<sup>21</sup>. This circular did not introduce any regulatory changes, but reiterated the criteria already defined in the Schengen Borders Code. One factor was specifically stressed: 'justifying sufficient resources'. Foreigners must possess a

minimum sum to cross the border: €31 if they have lodging, €62 if not. Thanks to the leveraging of this criterion, checks were allowed to continue.

Consequently, the PAF's modes of operation concerning border checks remained essentially the same. Most of the checks were carried out in the railway stations of Menton-Garavan and Menton. These were long-standing practices, as migrants favour transport by train due to rarely owning personal vehicles. Since crossing this border does not usually require the services of a smuggler, rail was the simplest way to cross into France. Some checks were also carried out at the tollbooths on the highway. These control activities, however, grew more intense, as police reinforcements were sent to the region starting in February 2011. When Guéant, the French Interior minister, visited the PCCC in Ventimiglia in March, a *Compagnies Républicaines de Sécurité* (CRS, or riot police) unit comprising 80 officers was already present in the border area (Le Parisien-Aujourd'hui en France, 5 March 2011). While this may appear exceptional, the support of such police units has been a recurring practice at the border since these units' creation in the 1950s. In March 2011, PAF staff were expanded, and police officers from the south of France were sent as reinforcements. Thanks to these reinforcements, 'trains, and tollbooths to the extent possible, are checked systematically' (*Médiapart*, April 16, 2011). However, if all trains were checked, the same could not be said about all passengers. In 2011, local NGOs observing the controls, as well as many other witnesses, reported that the checks very specifically targeted<sup>22</sup> migrants identified as Tunisians travelling from Lampedusa.

As after 5 April most of the Tunisians held Italian permits, these checks were justified by migrants' need to 'justify sufficient resources'. No regulatory changes were introduced either at the national or European level. This "closing" of the internal border only relied on a



rise in staff sent to the Menton border. The traffic at the border remained mainly unaffected by the border checks, as the majority of passengers were not checked by the police. The only moment when rail traffic between France and Italy was entirely interrupted was on 17 April at the request of the French local prefect, when a group of about 200 Italian activists supporting 50–60 migrants decided to organise a collective crossing of the border by train. This is when media coverage really took off: politicians at all levels of government (local, national and European) and from various political parties made declarations about the situation at the border.

At the same time, the PAF had to adjust to greater difficulties in obtaining Italian authorities' agreement to readmissions. Deportations to Italy went on, but amid increased tension with Italian authorities. This administrative battle on the implementation level was reflected at a diplomatic level and in a high degree of hostility between the French and Italian ministries. Checks at this border suddenly became an issue in bilateral and even European relations. On 26 April 2011, at a bilateral summit between France and Italy, Berlusconi and Sarkozy managed to find agreement, blaming the situation on flaws in the Schengen regulations and sending a letter to the European Council asking for a revision of the Schengen borders code. Berlusconi and Sarkozy argued for a revision of the conditions under which a member state could reintroduce checks at the internal borders. This regulation was finally adopted in October 2013<sup>23</sup>: Article 29 provides for the possible temporary introduction of internal borders for up to two years where there are 'serious deficiencies' at external borders<sup>24</sup>. Interestingly, the French authorities did not employ this option in June 2015.

The strong politicisation, intense media coverage, and "spectacularisation" (De Genova, Garelli, and Tazzioli 2018) of the situation at the border contrasted with the continuity of practices and norms, and the limited extent of the rise in the arrivals. Street-level

bureaucrats who faced a limited upsurge of arrivals — and, more importantly, the greater visibility of their actions, and enhanced tensions with their Italian counterparts — had to resort to routine border practices of targeted border checks and deportation to Italy in an unchanged legal framework.

Between April and June 2015, the France-Italy border hit the headlines again. An article published in April 2015 stated that ‘in just a few days, around 550 (according to the prefecture) [...] were arrested in the department. 75% to 80% were handled to the Italian authorities’ (Le Figaro, April 26, 2015). This first (quite discreet) coverage followed a few days after the 12 and 18–19 April wrecks of ships full of migrants a few hundred meters off Libyan shores. This particularly deadly wreck, which claimed around 1100 lives, quickly became a symbol of the flaws in European immigration policies. The European Council of Ministers held an exceptional meeting on 23 April, which concluded with a proposal for greater sharing of responsibility for asylum seekers among member states. On 16 May, the French prime minister, Manuel Valls, and the interior minister, Bernard Cazeneuve, held an official visit to the Menton border police station. In his address, Valls did not refer to the local situation but rather addressed the European Council proposal, which he opposed (Agence France Presse, May 16, 2015). Valls and Cazeneuve’s official visit to Menton served as a ‘stage’ (Andreas 2001; De Genova, Garelli, and Tazzioli 2018) for the government’s statement on the European ‘migrant crisis’: the border at Menton was relevant only insofar as it allowed these political actors to link the European crisis to the French territory.

However, unlike Sarkozy’s strategy in 2011, the French government did not seek to attract media coverage to the situation at the border. In 2015, there was no feud between France and Italy. Whilst recognising the scale of the crisis, Valls’s main message was that the

situation at the border was ‘under control’. This logic of de-escalation was related to growing concerns regarding the management of the migrants in transit in Calais and in Paris. Calais has been for more than thirty years a transit and waiting zone for migrants to cross the Channel (Akoka and Clochard 2008). The number of migrants there was relatively stable and limited (around a hundred people) until the beginning of 2015, when numbers reached a thousand (Babels and Bouagga 2017). From 1 April, the authorities decided to close all the squats and destroy all the informal settlements scattered around the city of Calais, and force the migrants to gather in the outskirts of the town, at a site where an aid centre<sup>25</sup> had been created. This is the site where the Calais shantytown grew progressively until its destruction in October 2016. In Paris, hundreds of migrants waiting in transit started to settle in the streets, building informal shelters and camps in the North-East of the capital (Mediapart, 9 June 2015). Two of these informal camps were dispersed on 2 and 8 June.

At the France-Italy border, checks were carried out as usual. As reported by volunteers from a local NGO, the increase in the number of migrants transiting through the France-Italy border and staying at the Nice train station went unnoticed for several months. Up until the beginning of June, when the migrants arrived at Nice train station, the border police would check their identity and let them take a train to the destination of their choice, as long as they had a train ticket. The police were not registering the fingerprints, and were not issuing any administrative documents. On average, migrants would stay a few days in and around the station, waiting for a money transfer to buy their tickets and leave for another city in France or in Europe.

In sum, facing an increase in the arrivals, the police at this point did check the migrants but did not systematically deport them to Italy. However, from 10 June, the local prefect gave new orders: no migrants were allowed to take a train leaving from Nice train

station towards the Paris region. He declared, 'I cannot accept undocumented migrants wandering, venturing with the conviction that public order issues will arise in our département or anywhere else' (AFP, June 15, 2015). Suddenly, from one day to the next, migrants arriving in the small town of Ventimiglia started to be blocked at the border. The framing of the situation as a 'crisis' really kicked in after 10 June. National and international media coverage began when a group of about a hundred migrants who were blocked at the Ventimiglia train station decided to march the 9 km to France on 11 June 2015. When they arrived, the French police force blocked the road to prevent them from going any further. Facing an attempt from the Italian police force to compel them to come back, they found refuge on the rocks separating the road from the sea. The images of these black men covered with life blankets waiting under the French Riviera sun were broadcast widely. In the following days, they created an informal camp on these rocks. This camp received support from individuals and NGOs, and soon became the site of intense humanitarian activity, until the Italian Red Cross, at the request of the Questura<sup>26</sup>, established a reception centre for the migrants in the city centre of Ventimiglia. Most of the inhabitants of the camp, soon known as the 'Presidio No Border', chose to remain. They developed their own politicisation of the situation, writing banners stating 'open the borders' and 'we are not going back'.

Regarding border practices, just as before, even as checks increased in 2015<sup>27</sup>, they did not affect the vast majority of travellers, since only those identified as migrants were screened by the police. NGOs mobilised<sup>28</sup> to report on these practices, which they considered discriminatory. Readmission procedures to Italy were still implemented by French law enforcement, but the number of persons concerned was much higher than in 2011: NGOs reported hundreds per day<sup>29</sup>. The police were overrun, and respect for procedure suffered as a consequence. As an employee of a local NGO noted in his account of this time:

There was a lot of tension. They were very tense because, I think, they got lectured whenever [foreigners] passed them by ... so you felt it ... as proof, the arrests were conducted any which way (...) no interpreters at all, well, it was just a mess for a while<sup>30</sup>.

The greatest difficulties concerned the conditions of detention at the border as readmission procedures were being prepared. Persons arrested by the PAF were detained as the request for readmission to Italy was processed and Italian police made the trip to recover them. The detention centre (euphemistically called ‘welcoming centre’) in which these people were detained had recently been expanded from ‘15 to 20 seats’ to ‘40 seats’<sup>31</sup>. Despite these modifications, the facilities were insufficient. The PAF therefore had ‘modular and temperature-controlled blocks’ installed. Numerous witnesses testified to the poor detention conditions in these provisional facilities, which the migrants called ‘containers’. PAF practices regarding checks, detention and deportation went on in the same legal setting, but with different means to implement them.

As observed in 2008–2009, numerous deportations to Italy were carried out without the agreement of the Italian authorities<sup>32</sup> and without the correct procedure. When asked about the conditions for the deportations to Italy, the police trade unionist mentioned the difficulties his colleagues faced in cooperating with their Italian counterparts:

not well, not well at all, because the Italians were not playing the game, they were dragging their feet, for the readmission, and I can understand why, they had thousands of them at home, but that’s not the problem for the French police officers.

There was still low-key resistance from the Italian street-level bureaucrats, but it did not prevent the French border police from deporting undocumented migrants to the Italian

side of the border. With the migrants deported to Italy blocked on the Italian side, Italian authorities absorbed responsibility for the humanitarian implications of the situation. In 2015, as it had been the case in 2011 (Le Figaro, 6 April 2011), the Italian Red Cross opened a centre for the migrants.

Cooperation between the French and Italian authorities continued in the same touch-and-go manner throughout the year 2015. French authorities did not invoke the newly introduced Article 29 of the Schengen Borders Code to justify reinstatement of border checks. In November 2015, after the French declaration of a state of emergency, border checks were officially ‘reintroduced’ at all national borders in France. From this moment on, the procedure for deportation to Italy changed. French authorities did not need the agreement of their Italian counterparts. The police issued a ‘non-admission’ decision, as would be done at any external borders, and deported the migrant to Italy. This important change was not linked in any way to the management of migration within the Schengen area, but was automatically imposed as a consequence of the security measures adopted after the Paris attacks. In May 2016, as arrivals began to increase again per their annual pattern, the Italian interior minister, Angelino Alfano, travelled to Ventimiglia and declared his desire to solve the migrant problem. Migrants arrested since that date by the French police and handed over to Italian authorities have no longer been released several kilometres from the border: they are transported by bus to detention centres or asylum-seekers’ stations in the south of Italy<sup>33</sup>. Since that date, French and Italian authorities have cooperated to force these populations into movement, dispersing them and hiding them from citizens and the media. This forced movement within the European territory can be described as a form of “containment through mobility” (Tazzioli 2017). As for the reinforcement of border checks, this has been dealt with without

using the European instruments such as the Dublin Convention, but rather was taken bilaterally.

## **Conclusion**

Comparative analysis of the French border police practices across time at the France-Italy border provides insights on the implementation of free movement at internal borders of the Schengen area. Border checks never stopped, and the effect of the Schengen convention was the advent of more selective identity checks, as well as deportation to Italy meant to slow down the flow of migrants entering the country through this route. These two elements were mostly not affected by the two crises in 2011 and 2015. These crises only accentuated these practices as more migrants and more staff arrived on the border. Border police agents mainly fell back on their routine repertoire of practices.

Despite the attempts to introduce EU oversight of the ability of member states to reinstate border checks at internal borders (Guild et al. 2015), member states remain largely the final decision-makers on this matter. One of the reasons is that the implications for these border checks at the implementation phase are ambiguous. As the case of the France-Italy border shows, the reinforcement of border checks is completely unlinked to the act of notifying the European Council. Be it in 2011 or in 2015, border police staffing was reinforced and checks increased, with direct consequences on the possibilities for the migrants to cross this border, but without any notification to the European institutions. The reintroduction of border checks in November 2015, duly notified to the European Council (but unrelated to migration flow issues), only officialised practices that were already taking place.

Furthermore, contrary to what Groenendijk concluded in his 2004 study on reinstatement of border checks at internal borders, most of the checks targeted third-state citizens. Even in a “closed” border situation, most of the cross-border traffic remained unaffected. The French government played a double game in 2011 and 2015, when the border checks were used as a symbolic instrument to reassert the sovereignty over the territory but never took responsibility for this reinstatement of border controls in front of the European institutions. And this double game is only feasible because these border checks target third country nationals, and do not affect the free movement of goods, capital and services.

Third this study shows that regardless of government’s attempt at spectacularising the checks at the internal border, the extent to which the border is either “closed” or “open” relies on the member states’ administrations. At the bottom of the chain of command, street-level bureaucrats are tasked with managing tensions arising from a multi-level configuration, where local, national, European, and bilateral dynamics interact. It also demonstrates the importance of going beyond an *exceptionalist* reading of migration crisis, by analysing the often neglected pre-crisis situation and examining not only political discourse and legal rules but also border policing practices. Finally, it contributes to the literature on implementation of European migration policies, first it could open new research perspectives on the role of street-level bureaucrats in the regulation of migration within the Schengen area, and, second, could it be used as a basis for comparative research on border checks practices at the internal and external borders of the Schengen area.

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## Notes

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<sup>2</sup> Council Document 13171/15 – the reintroduction of border control was planned for the period from 13 November to 13 December.

<sup>3</sup> The official reintroduction of border checks was notified on the basis of Article 23 of the Schengen Borders Code.

<sup>4</sup> Riot police department, the Compagnie Républicaines de Sécurité (CRS), and the Gendarmerie, a military police force in charge of policing the rural areas.

<sup>5</sup> See (Hess and Kasparek 2017) on the effects of the 2011 “Arab spring” on the 2015 “summer of migration”.

<sup>6</sup> Schengen Acquis - Convention Implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the

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French Republic on the gradual abolition of checks at their common border, Official Journal No. L 239 of 22/09/2000 p. 0019 – 0062. It corresponds to Article 20 of the Schengen Borders Code.

<sup>7</sup> PAF officer from the Police and Customs Cooperation Centre, March 2009.

<sup>8</sup> C-188/10 and C-189/10, Aziz Melki and Sélim Abdeli, judgment of 22 June 2010

<sup>9</sup> Loi n° 93-992 du 10 août 1993 relative aux contrôles et vérifications d'identité, JORF n°184 du 11 août 1993 page 11303.

<sup>10</sup> During the investigation in 2008 and 2009, the conflicts affecting Iraq and instability in Afghanistan rendered deportation to these countries impossible. The Afghan question was mentioned by several interviewees, who deplored the lack of sufficient internal political structure even for providing interlocutors capable of recognising their co-nationals in order to obtain a laissez-passer for their deportations. In 2015, there were still nationals from Afghanistan, but also many people from Sudan and Eritrea.

<sup>11</sup> The recent media attention to it should not efface the long history of the French-British border's influence on the region.

<sup>12</sup> PAF officer in Nice, October 2008.

<sup>13</sup> During my investigation in 2008-2009, police officers I interviewed spoke rather freely about these practices, boasting about their professional skills that allowed them to spot the undocumented migrants in the train, while under pressure from the train company to not delay the traffic.

<sup>14</sup> The préfetures are the authorities representing the central authorities at the local level in France.

<sup>15</sup> PAF officer from Menton, November 2008.

<sup>16</sup> PAF officer in Nice, October 2008.

<sup>17</sup> PAF officer at the Nice train station, November 2008.

<sup>18</sup> PAF officer in Nice, October 2008.

<sup>19</sup> Article 23 of the Schengen Borders Code

<sup>20</sup> Misure umanitarie di protezione temporanea per le rilevanti esigenze connesse all'eccezionale afflusso di cittadini appartenenti ai paesi del Nord Africani, DCPM del 5 Aprile 2011, Ministero dell'Interno, <http://www.meltingpot.org/IMG/pdf/circ-interno-8-4-2011.pdf>, cited in L'Europe vacille sous le fantasme de l'invasion tunisienne. Vers une remise en cause du principe de libre circulation dans l'espace 'Schengen'?", Anafé, Gisti, 20 June 2011, p. 2.

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<sup>21</sup> Circulaire n° IOCK1100748C sur les autorisations de séjour délivrées à des ressortissants de pays tiers par les Etats membres de Schengen, 6 avril 2011.

<sup>22</sup> “L’Europe vacille sous le fantasme de l’invasion tunisienne. Vers une remise en cause du principe de libre circulation dans l’espace ‘Schengen’?”, Anafé, Gisti, 20 June 2011, p. 26.

<sup>23</sup> Regulation (EU) No 1051/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances

<sup>24</sup> « Internal border controls in the Schengen area: is Schengen crisis-proof? », Study for the LIBE committee, 2016, p. 27.

<sup>25</sup> The “Jules Ferry” centre opened in January 2015. It provided the migrants with “basic needs”: showers, access to health care, legal advice and meals.

<sup>26</sup> The police headquarter

<sup>27</sup> The increase of the arrivals was significant. According to the trade union police officer, around 27,000 checks were registered by the police in 2015, while in 2013 there were only 4500.

<sup>28</sup> Interview with an Amnesty International volunteer, July 2016.

<sup>29</sup> Report from local NGO volunteers, sent to a mailing-list specialising in help for migrants in Nice, 22 and 23 June 2016.

<sup>30</sup> Interview with N., a member of a NGO in Nice working with irregular migrants, July 2016.

<sup>31</sup> Interview with N., a member of a NGO in Nice working with irregular migrants, July 2016.

<sup>32</sup> Interview with M., local NGO volunteer in Nice, July 2016

<sup>33</sup> Interview with NGO staff member Ventimiglia, June 2016.