

# The Maritime Alps

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## Stories of rejection and "spaces of exception" at the Italo-French Border

*Cinqet, cinqet, cinqet.*

Dawit, Eritrean, just over fifteen, repeats this word to me a thousand times.

Cinqet is a Tigrinya term, which corresponds to an excess of thoughts and worries, a stress that leads to madness.

Cinqet becomes for me who am listening to him a sound that shows my whole painful impotence.

This place, he says, referring to Ventimiglia, creates cinqet.

S. has already spent 600 euros in four attempts to cross the border with France through the Sudanese passeurs, who with 150 euros carry people across the border, towards Nice. 150 euros to let the dream of a better existence be continued.

But things do not go as planned, and for 4 consecutive times, S. is taken by the French police and sent back. He is starting to doubt that it is a lack of attention to him on the part of the Sudanese passeur. He now has \$80 left, with which the passeur will not take him aboard his car. That dream of a better life breaks down in front of the double wall of blindness of frontier policies and the business mentality of those who, favored by repressive policies, offer in an alternative way, service under a monopoly regime. So S. keeps floating for a month in the narrow space of that limbo between the journey from which he made it safely and the new life beyond a blind barrier erected under the aegis of the European migration government. Escape from the Eritrean dictatorship, from the regime that forces everyone to a virtually infinite military service. The better life, with access to the world seen and wanted through the media, reminds a little bit of that image of America of those who stayed at home told about by Guccini: "the dreamy and mysterious world of Donald Duck!". Everything is useless: France blocks access also to him, to him who is a minor, actually, in a technical language, **a non-Accompanied Foreign Minor**.

How is it possible that this happen can be explained through a complex interweaving of laws, regulations and measures justified by the emergency. As is well known, Dawit's story falls

within Schengen space, that free movement space defined by a specific code. However, all that applies to European citizens in terms of free crossing of internal borders, is forbidden for third country nationals. The so-called Dublin System (now under revision with the Dublin 4 regulation, whose measures are still to date to be comprehended) prohibits what is defined as “secondary moves”, i.e. the movements of migrants from the landing Country to another one within Europe. Based on fingerprints (recorded in a European-wide system) taken in the first landing place, the latter is defined as the country responsible for the single asylum application. However, that system is precisely based on electronic check of fingerprints once the asylum application has been presented, while the possibility remains forward it where you want. For some time, though, along some “internal borders”, it is no longer so and people are being denied entry a priori. This happens, for example, along the Brennero border, where trilateral (German, Austrian and Italian) patrols act on trains long before crossing the border with Austria, based on some 2014 police agreements.

Likewise, people are automatically denied entry by Austria, in accordance with a treaty between the two national police forces in 1997 and on the basis of a reinstatement of border checks by the Austrian Government which exploits Article 25 of the Schengen border code. The Italian-French border of the Maritime Alps, a few kilometers further down from Ventimiglia, lives the same structural situation by effect of the interweaving of a Schengen border code clause, the declaration of the State of Emergency in France and the 1997 Treaty of Chambéry, a police force agreement.

Based on Article 25 of the Schengen Borders Code, border checks can be reintroduced temporarily and extraordinarily on the part of member states facing serious threats to their domestic security.

The situation at the Italian-French border, according to the Amnesty International report, is the demonstration of the possibility to exploit these exceptions to stop migration flows, on the basis of the never-proven convergence between migrants paths and the paths of international terrorism:

**“after November 2015, checks already in place were in fact reinforced and better organized. [...] the temporary reinstatement of checks at the France-Italy border, justified by “serious threats to public order and domestic security”, based on Article 25 of the Schengen Borders Code, were extended on December 9 2015, following the November 2015 bombings, due to a heightened terrorism threat and the need to fight crime cross borders.”**

From November 2015 until February 2016 there are several 30-day renewals each, and a further extension is requested on May 27th of the same year, renewed after the July attacks until 27 January 2017. The reason presented by the French delegation to justify such request lies in the alleged connection between migratory paths and the entry of terrorists into the Schengen area's border. So, although the Schengen Border Code emphasizes that reinstatement of internal border checks must remain an exception and must respect the principles of proportionality, and that it must be applied only in extreme cases and for the time needed to restoring the normal state of things, the French case shows us two things: the first is that exceptionality can be in fact prolonged to indefinite time (the Schengen code sets a two-year limit) and the second, perhaps more

important, is that internal security-related emergency justifies, without much evidence, a stricter border regime, thus further limiting migratory movements. The French border is therefore patrolled by the various police forces that, on the basis of the 1997 agreement, sends migrants back to Italy.

The peculiarity of the current situation lies, however, in the creation of an additional level of exceptionality: **a complex administrative mechanism** that in fact **expands the French border area for about thirty kilometers within its territory.**

To resume border checks at the internal border, the Code provides for the establishment of a number of PPAs (Authorized Crossing Points) and PPFs (Border Crossing Points). By virtue of the Declaration of State Emergency in France, a number of checks are carried out by the Gendarmerie and the Police Aux Frontiers, at the main PPPs and PPFs that are well within French territory, on trains, on buses and on the motorway networks, and they still rely on the hypothesis that the channels of terrorism follow the path of “illegal” migration.

In Maritime Alps, the Menton – Garavan railway PPA is the first check point within the border; checks are performed at the next stations: mobile force units are present in Nice, in Antibes and Cannes. North of the Department, checks on the flow of vehicles and some buses and commercial vehicles, is carried out at the La Turbie highway PPA, located 20 kilometers inside the border. The fact that checks between PPA and PPF provide for activities along such a wide internal area means that within a radius of 20-30 km beyond the border, within the French territory, forces act as if they were still in the border area.

## **The handling of the bodies in transit is entrusted to the law enforcement authorities rather than to the judiciary authorities.**

Within this “space of exception”, police checks clearly do not focus on tourists or white cross-border workers, but a specific category of people who, in some official documents, are defined as “of migrant appearance”. If exotic, migrant people are associated with threats to security and to public order, a discursive space opens up in which exception spaces are easy to accept, where the borders and the regulations appear elastic and flexible devices that can be modified with the goal of halting those who are deemed not entitled to mobility. Within this framework, migrants passing through Ventimiglia towards France are stopped in various ways.

Mainly on trains but also on buses and on private cars on the highway and at border crossings. They are pulled down from trains and forced to board trains going in the opposite direction, in other cases they are handed over to the Italian police at the Ponte San Luigi Commissariat, the last Italian outpost one hundred meters from the high border.

However, this situation still represents an exception case that this time acts in violation of regulations: despite the Declaration of State Emergency and the reinstatement of border inspections, denied entry to asylum seekers without an assessment of their legal status remains an illegitimate practice.

First of all, the fact they come from Italy is not a proof of the fact that Italy is the country concerned in their case.

Secondly, denied entry to asylum seekers remain illegal, and some migrants I met told me that they had a note in French in which they declared that they intended to ask for asylum, notes that were simply torn away by police officers.

Likewise, **“unaccompanied minor foreigners”, being legally minors in state of abandonment, according to the international definition of “supreme interest of the child” should not be denied entry in any case.**

In the exceptional situation arisen at the border they are instead considered of age or simply not considered as falling under the “Not Accompanied” category, based on the fact that they travel with adults to whom they are artificially entrusted. Also, the 24-hour period provided for by the French law is not observed: that is, 24 hours when the alien is in a liminal jurisdiction status in which they may apply for asylum. They are not offered interpreter services and the most illegitimate element from a legal standpoint, such refusals do not provide for the initiation of formal administrative procedures and are simply managed by police officers, in total contradiction with the fundamental principles of the State of Law.

**Collective denied entry, despite being prohibited by the Agreement for the Safeguarding of Human Rights, are in fact the most widespread practice at the French border.**

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In the conclusions of this column, the emerging open questions will lead to a wider reflection, based on the latest literature in the field of social sciences, boundaries and devices in the current migration governance.

The **“European Migration Government”** column is organized by OSVALDO COSTANTINI, an associate researcher at the [Center for Religious Sciences](#) of the Bruno Kessler Foundation, which is involved in the lifestyle and conflicts research lines. Within this interest moves between scientific publications and public press releases, especially in relation to those aspects of the #migration more closely related to the imaginations, the desires, and the related frustrations and disillusionments that move the actions of these new “damned of the earth”.

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#### RELATED MEDIA

- ASGI \_ Documento Ventimiglia: <https://www.asgi.it/wp-content/uploads/2015/07/Documento-Ventimiglia.pdf>

- European Commission - Migration and Home Affairs: Temporary Reintroduction of Border Control : [https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control_en)
- Rapporto Amnesty International Francia: [https://amnestyfr.cdn.prismic.io/amnestyfr%2F97f9ee3c-f7f6-4549-bf7d-d04483c7ec01\\_aif\\_synthese\\_mission+a+la+frontiere+franco-italienne\\_2017\\_fr+.pdf](https://amnestyfr.cdn.prismic.io/amnestyfr%2F97f9ee3c-f7f6-4549-bf7d-d04483c7ec01_aif_synthese_mission+a+la+frontiere+franco-italienne_2017_fr+.pdf)

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