

II.3. The Deepening Crisis: March 1938 – October 1938

1938 is always seen as a watershed in the persecution of the 'Jews'¹ as it was the year when geopolitical changes brought more 'Jews' under German rule and when antisemitic policies were substantially radicalized. Yet even before the *Anschluss*, the Nazis were becoming increasingly worried about the slow pace of Jewish emigration. Their own policies, combined with immigration restrictions elsewhere, had served to limit the numbers able to leave. At the same time, Nazi strategy itself was contradictory, with the 'Jews' being pressed to leave while simultaneously being stripped of the assets that would have made them acceptable immigrants in other countries. Nevertheless, individual emigration remained the Nazi strategy for making Germany *judenfrei* and in general, everything possible was done to hasten the emigration of the – albeit increasingly impoverished – 'Jews'. A number of official instructions were issued to facilitate this. For example, the police record of Jewish emigrants could be 'cleansed' to make them more acceptable to countries of immigration. Professional qualifications that were in demand were also included on passports, and the *Handwerkskammern* were authorised to issue papers certifying the professional knowledge of Jewish emigrants.²

A partial solution to the fundamental contradictions in Nazi policy was found in more overt state violence and schemes for collective forced emigration that removed individual initiative or choice in destination. The latter element was tried at the beginning of 1938. Five hundred 'Jews' with Soviet passports were ordered to leave the country. As the Soviet Union would not permit their repatriation, and since Germany had no common frontier with the Soviet Union, transit visas were required from third countries, but these were all refused. As a result, the experiment failed and in May 1938, all Soviet 'Jews' still residing in Germany were arrested and held in concentration camps until they could organise their emigration. Their possessions were seized until the moment they left the country and they were given *Fremden* or Nansen Passports to facilitate their departure.³

In the meantime, the first expansion of Hitler's Germany had taken place with the *Anschluss* of Austria and its incorporation into the Reich. This had provoked a flight of political activists, albeit on much smaller scale than from Germany in 1933. The Austrian corporate state had already persecuted the parties of the left and their political activists had been emigrating since the coup of 12 February 1934. In 1938, former German émigrés who had found refuge in Austria after 1933, Austrian Socialist and communist activists, and even a small group of Austrian conservative opponents of National-Socialism chose the path into exile.⁴ However, the vast

majority of refugees from Austria were 'Jews'. The *Anschluss* prompted an almost immediate and unprecedented wave of violence against the 'Jews' in Vienna. Administratively, all the antisemitic legislation enacted in Germany over the previous five years was imposed overnight. In contrast to the *Altreich*, the SS took a much more prominent role in the organisation of antisemitic actions in Austria. Within a very short time, Adolf Eichmann had established the *Zentralstelle für jüdische Auswanderung*, (Central Office for Jewish Emigration) an organisation that systematically deprived the 'Jews' of their assets, made sure they complied with all the antisemitic legislation, and provided them with the barest minimum of resources to expedite their emigration from the Reich.⁵ This radical dynamism was in direct response to the perception that the piecemeal persecution of the 'Jews' carried out in the *Altreich* had failed in removing them from Germany as expeditiously as possible.

The 'success' of the *Zentralstelle*, albeit in combination with a high level of terror, was spectacular when compared with the limited numbers of emigrants then leaving Germany. Nearly 50,000 'Jews' left Austria in the first six months after the *Anschluss*.⁶ Even given this level of terror and the fact that Eichmann benefited from an initial emigration of people with limited attachment to Austria, the idea that coercive pressure might be combined with a greater degree of administrative collusion was novel, but one that clearly got results. 'Jews' would now receive the necessary travel documents and police certificates required by countries of emigration, rather than being left to the whim of individual bureaucrats. However, even this success was not considered sufficient and, as pressures to make Austria *judenrein* mounted but opportunities for legal emigration became ever more severely restricted, the German police and border authorities increasingly flouted international law and local conventions by dumping 'Jews' across the frontiers of neighbouring countries.⁷

In the aftermath of the *Anschluss*, Hermann Goering took steps to regulate what had become a scramble for Jewish assets. The widespread profiteering that had taken place in Austria could not be allowed to continue, or be spread to Germany. The state had good financial reasons for wanting its share of every available asset in the country. In April 1938 all Jewish Property had to be registered and it could henceforward only be sold or leased with permission from the authorities. In this way, the state could keep track of assets that might otherwise have fallen into private hands undetected. During 1938 the 'Jews' were increasingly excluded from the German economy and the impoverishment of the 'Jews' threatened to add to the state's welfare burden. In the meantime, the Evian Refugee Conference had come and gone without result. There was to be no international solution to the question and

the pressures on the 'Jews' continued to escalate. There was widespread antisemitic violence in the cities and June 1938 saw a wave of 10,000 arrests of a-socials, including so-called 'Jewish criminals', encompassing anyone who had been convicted by the courts, even for minor offences, at some time in the past. Some 1,500 Jewish men were taken to Buchenwald concentration camps and told that they would not be released until they were able to emigrate.⁸

The practical outcome of Munich Settlement of 29 September 1938 was also a major watershed. German annexation of the Sudetenland caused a considerable flow of political activists to the unoccupied part of Czechoslovakia, including at least 5,000 anti-Nazi Germans. The 30,000 'Jews' resident in the Sudeten areas transferred to German control were forcibly arrested and expelled to Czechoslovakia. The Czechs refused to accept them and sent them on to Hungary, who in turn returned them to German soil. This continued until some ended up on a riverboat in the Danube and others in no-mans-land at Mischdorf, between Czechoslovakia and Hungary.⁹ In the meantime, the newly autonomous Slovak state decreed that all non-Slovak Jews would have to leave the Slovak territory by 31 January 1939, while the Czech government decided that all German 'Jews' had to leave by 15 January 1939.¹⁰

The expansion of the German Reich and the radicalisation of antisemitic policy, served to increase the steady flow of refugees from Nazi controlled areas into a flood. Most countries surrounding Germany were subject to a form of human 'dumping'. In addition, in Italy and in Eastern Europe, Jews were threatened and under pressure to emigrate. Until March 1938 the Fascist government in Italy had not limited the entry of Jewish refugees. On the contrary Mussolini had granted asylum to German 'Jews' for diplomatic reasons, seeing Italy as the balance between Germany and the Western Powers. Italy also had no legislation to prevent foreigners from working and earning a living in the country.¹¹ From 1935 onwards this began to change as Italy and Nazi Germany became closer. In September 1938, Italy enacted anti-Jewish laws. Foreign Jews who had settled in Italy after 1 January 1919 had to leave the country within six months, that is, by the 12 March 1939.¹²

Slightly in advance of Italy, the Polish government embarked on a similar path. After the death of Marshal Josef Pilsudski in 1935, policies to tackle the country's 'Jewish problem' was extensively discussed among the Polish governing elite headed by Marshal Edouard Rydz-Smigly. The 3.5 million Jews in Poland in 1935 -10 percent of the population – were mostly urban and concentrated in the commercial sector and the liberal professions, both of which had been badly hit by

the Depression. The Polish regime embarked on a nationalist program in which the emigration of the Jewish minority figured prominently. The first coercive measure came in 1938 with a law that provided for the possibility that Poles who had lived outside Poland for more than five years and had shown no signs of attachment to their country of origin could be denationalised. Although the law did not specifically mention the Jews, they were undoubtedly the intended targets since the Polish government was determined to prevent the return of the 50,000 Polish 'Jews' still in Greater Germany who were threatened with expulsion. The Hungarian government followed suit and voted legislation by which Hungarian Jews living abroad could be stripped of their citizenship. All liberal states in Europe, fearing much greater refugee effluxes from Eastern Europe adopted a firm stand against any attempts by these states with much larger Jewish populations to begin a policy of eviction. However diplomatic considerations - making these countries into allies and preventing them from slipping into the Nazi camp - meant that the message about Western objections to policies against the Jews was not always clearly received.¹³

In October 1938, Warsaw decided that all Polish citizens living abroad had to renew their papers, and if they did not do so their citizenship could be revoked. The first to react were the German authorities as they were aware that they were the chief targets of the Polish legislation. To pre-empt the creation of many thousands of stateless 'Jews', Himmler ordered the rounding up of all male Polish 'Jews' and their deportation to Poland by 29 October. Wives and children would have to follow. The Polish authorities reacted swiftly by closing their border. As a result about 16,000 'Jews' succeeded in entering Polish territory, while 6,500 Polish 'Jews' were stuck in no-man's-land at Zbaszyn. Although some were later allowed to return, some 20,000 'Jews' were removed from German territory.¹⁴ This chaotic outcome of this experiment nevertheless taught the German authorities that any future mass deportations would have to be better prepared.

The Confidence of the European liberal states in 'Remote Control'

The Anschluss on 11 March 1938 and fears of a new wave of refugees meant that several western European states adjusted their policies almost immediately by introducing visa requirements that served to strengthen their remote controls and ensured that only a selected number of refugees could enter their territory legally. It had proven to be very difficult to make refugees leave once they were inside the country so preventing them from arriving there in the first place was considered the most effective strategy.

By the end of March 1938, a few hundred Austrians were already being assisted by the Jewish refugee organisation in Switzerland. As those who were capable of supporting themselves did not need the help of refugee organisations, the numbers in the country must have been somewhat larger. From 1 April 1938 onwards, former Austrian citizens were required to apply for visas. As there was no longer an Austrian state, the Swiss were able to act unilaterally and promptly without any fear of international retribution. The British authorities were pushed into action by similar concerns. On the day of the *Anschluss*, the Jewish Refugees' Committee announced that it was unable to accept financial responsibility for any future entrants. The blank cheque that the Jewish organisations had freely issued in 1933 - a time when they had not foreseen the possible explosion in refugee numbers - was withdrawn. The Jewish refugee relief organisation insisted on a right to choose those it would support and thus ended its unlimited guarantee. This served to strengthen the British government's determination to control immigration from Germany. By 2 May 1938, the Home Office had imposed immediate visa requirements for all Austrian nationals, but properly notified its intention to do the same for German passport holders as the German government was entitled to reasonable notice of termination of the existing agreement. The Germans went to great lengths to accommodate British interests during negotiations with the Foreign Ministry in London. They proposed that an aspiring emigrant would only get a passport valid for the UK if (s)he could show written evidence that the British government had authorised admission. This did not meet the demands of the British authorities as only those Germans who intended to leave directly from Germany for Britain would be pre-selected. All other Germans who succeeded in leaving Germany would be free to enter Britain. Beside this more pragmatic consideration the British authorities also considered this proposal unacceptable in principle. The British did not want to outsource their immigration control to the Germans, as this would imply collusion with Berlin 'to detain people in the Reich'.¹⁵ Visas for Germans coming to Britain became mandatory from 21 May 1938 onwards.

News of these decisions, coupled with Sweden and Norway also imposing a visa obligation for Austrian passport holders caused the Danish Chief of Police Eigil Thune Jacobsen to insist on taking similar measures.¹⁶ Since the *Anschluss* he had monitored the arrival of Austrians very closely. There had, in fact, been few arrivals and thus no immediate cause for alarm, but he feared that as Great Britain, Switzerland and the two neighbouring Scandinavian countries introduced visa requirements, Denmark would be a more likely destination for those fleeing Austria. He argued that Denmark, as the gate to Scandinavia, shouldered a heavy

responsibility, but the Danish Foreign Office was reticent about imposing a visa requirement as this might adversely affect relations with Germany. When the Germans informed the Danish authorities that Austrian passports were being replaced by German documents from 15 August 1938 onwards and the former would be deemed invalid by the German authorities from 1 January 1939 onwards, a visa obligation for holders of Austrian passports was introduced in July 1938 as the Danish Foreign Office withdrew its opposition.¹⁷ The Dutch were less charitable to former Austrians citizens than their Danish counterparts. The Dutch Foreign Ministry was convinced that Austrian citizens would soon be issued with German papers and should be treated accordingly. Thus as early as 22 March 1938, the Dutch decided that Austrian passports were no longer valid travel documents.¹⁸ The imposition of visa requirements during the Spring and Summer of 1938 meant that many more people from Austria and Germany had to obtain visas before entering France, Belgium, Denmark, Sweden, Norway and the United Kingdom. Confidence in this system for controlling immigration was again evident when, from September 1938 onwards, Italy and Czechoslovakia became sources of refugees. The authorities in several countries made access for Italians, Czechs and Slovaks to their territory more difficult by imposing a visa requirement.¹⁹

A new mechanism of remote control was introduced in early autumn 1938 when the Danish authorities, determined to stop the 'abuse' of temporary residence authorizations by German 'Jews', decreed that Germans admitted as temporary visitors would no longer be able to apply to settle in Denmark, even if they had enough means at their disposal, but would be obliged to leave the country in order to obtain a settlement visa from a Danish consulate abroad. The Netherlands had already introduced a similar scheme in March 1938. Germans who had entered the Netherlands as temporary visitors could only settle in the country if they had applied abroad for an authorization to do so.²⁰ In this way, the Dutch and Danish authorities preserved unrestricted travel between their country and Germany, but at the same time prevented refugees from staying legally beyond the validity of their visa. This new arrangement precluded jeopardizing relations with Germany and it became popular as a policy all over Europe. The Belgian authorities, albeit already having the means to control all immigration from their consulates in Germany, saw the advantages of a second barrier in order to discourage anyone overstaying their visa. Thus from the autumn of 1938 onwards, the Belgian authorities prohibited the use of tourist visas for settlement purposes; foreigners wanting to settle in Belgium also had to leave the country first and apply abroad for a settlement visa.²¹

The visa requirements, be it for entry or for settlement imposed across Western Europe were designed to stem the influx of uninvited aliens. Visa applications from German or Austrian 'Jews', even those with moveable wealth, were looked on unfavourably and the vast majority were refused. Analysis of administrative practice clearly shows that the Jewish applicants were singled out for special scrutiny, based not so much on antisemitic or xenophobic feelings, but rather on a 'rational' bureaucratic reasoning that applicants had to be treated on their merits and on the likelihood that they would actually return to their country of origin. In this respect, such an assessment was compatible with the liberalism of these regimes bordering Germany. All West European countries refused visitors' visa to Germans and Austrians whom they suspected of wanting to remain in the country. Only a small minority of wealthy refugees whose immigration was considered in the interest of the country concerned were granted the necessary permits.²² In addition, applications for (temporary) residence were sometimes approved when the individuals concerned could show they were able to leave for a destination overseas almost immediately.²³ A final category looked on more sympathetically were those with very close links to the country concerned.²⁴

With the phasing out of Austrian passports, emigration from Austria to Switzerland and Scandinavia was no longer subject to visa control. Only by imposing a visa obligation on the holders of German passports could external control on immigration from Austria be retained. Switzerland (and Sweden) thus informed the German authorities that they wanted to impose a visa obligation on all German nationals. For their part, the German authorities made persistent efforts to avoid any travel restrictions for its 'aryan' citizens, let alone the imposition of visas. Although the negotiations were separate, the Swiss and Swedish objectives were similar, namely to have a technical means to identify (and exclude) those - overwhelmingly 'Jews' - seeking entry into their countries with the intention of staying. At first, the Nazis opposed the idea, as it would make getting rid of the 'Jews' more difficult. However when it became clear that this was the only way 'aryan' Germans would remain free from the requirement to obtain a visa, they conceded. This led to a new passport for German 'Jews' that included a three centimetres high red letter 'J', on the left-hand side of the first page indicating their 'non-aryan' status.²⁵ All German 'Jews' had to exchange their old passport for a new passport by 22 December 1938 and by 7 October 1938 all Austrian passports held by 'Jews' had also to be marked with a 'J'. In the meantime, the Swiss introduced a new visa requirement for the holders of the new Jewish passports, effective from the 6 October onwards.²⁶ This 'J' stamp was thus introduced by the Germans at the behest of the Swiss authorities to distinguish

between Germans who did not have to carry a visa and those who did. Although the Swiss authorities introduced a clear-cut racial bias in their system, the authorities in the other liberal states were also not entirely free of antisemitism and even racism in their daily management of immigration. The denial of visa applications from Jews became routine in most consulates. Moreover, this attitude went beyond the German refugee crisis. Although the Polish authorities had given assurances that Polish Jews in Western Europe were not the intended targets of the Polish decree of 31 March 1938 designed to deprive Poles abroad of their citizenship the immediate result was that Polish Jews were very rarely granted visas by any country.²⁷

The category of 'Jew' also filtered through into the policy discussions of the authorities of the countries neighbouring Germany. For example, German 'Jews' were listed separately in the Dutch and Luxemburg immigration statistics for internal use.²⁸ The adoption of Nazi racial categorisation and Nazi terminology also penetrated the top level of decision making in Western European regimes. The guidelines for granting of visa are a clear case in point. These instructions served to make it far more difficult for 'Jews' than non-Jews to obtain visas. Mostly they were couched in moderate language and refrained from open use of antisemitic or racist language. Consulates were told to refuse visas to those applicants who wanted to settle in the country without having enough means to do so using ethnically and racially neutral terms, but in more detailed instructions one can see the use of coded language and even the term 'non-aryan'.²⁹

This overview of how external controls were imposed shows that all countries wanted to exercise a much tighter grip on immigration through their consular services. Remote control had the great advantage that the pressure of decision-making was shifted away from the borders and now took place outside the country. Remote control was not necessarily meant to exclude refugees altogether, but to keep the flow at manageable levels. Consular instructions were sometimes explicit in saying that visa applications from political refugees were to be handled in a liberal manner.³⁰ Several thousand British visas were granted to German and Austrian subjects during the Spring and Summer of 1938,³¹ including renewable permits for Jewish women to be employed as domestic servants in British households, and male Jewish entrepreneurs investing in Great Britain.³² Most Austrians and Germans entering Great Britain were refugees who had private sponsors and intended to re-emigrate. The Jewish refugee organisations ceased to underwrite admissions generally, but created guarantee funds supported by people in Britain. Once an arrangement had been agreed, the sponsor had to deposit actual sums of money and to sign guarantees to defray costs of maintenance and re-emigration before the

authorities granted a visa. Nevertheless, huge bottlenecks rapidly grew in the system for handling visa applications, and this served to delay the admission of many refugees to Great Britain.

Continental countries were seemingly less generous, as visas for these countries were granted only sparingly. However the porous nature of their borders made them much less capable of controlling the refugees entering their territory.³³ Thus, an important aspect of their migration control scheme was a strict border and internal control policy, including the use of expulsion, as would-be-immigrants would only respect the regulations if there was a high risk of being caught as an illegal resident. In addition to their remote control policies, the liberal states neighbouring Nazi Germany wanted to retain the right to repatriate unwanted immigrants, including those whose visas had expired. Thus, for example, a basic requirement for obtaining a Belgian visa from May 1938 onwards was that the holder's German passport was still valid for 5 years. In this way Germans who had resided lawfully in Belgium for several years could be deported as soon as they no longer satisfied the conditions by which they had entered.³⁴ The countries of continental Europe were therefore less confident in remote control as a means of stemming the refugee flow than Great Britain and insisted on extra control mechanisms.

The desire to exclude Jewish refugees at the border

In most countries, tighter frontier controls had been discussed during the course of 1937 but it was not until after the *Anschluss* that they were implemented. Officials had already been under strict instructions to turn away all foreigners without papers, but their competences were increased considerably after March 1938. Given its geographical position and linguistic affinity to Austria, Switzerland was the first state to experience the arrival of refugees, and also the first to strengthen its border controls. By the late spring, the authorities in other continental countries also noticed an increasing pressure at their borders. More and more people arrived from Austria without visas. A swift response followed. In May 1938, Luxemburg strengthened its frontier policing and mobilised the army to offset a shortage of suitable personnel. By July 1938, Belgium had supplemented its border police with 160 policemen stationed on the eastern frontier and mobile units on bicycles, popularly known in the border region as the 'Jew hunters'. The Netherlands deployed an extra 300 additional border guards and in France, police reinforcements were sent to the border early in June, followed in July 1938 by the *brigades de gendarmerie frontière* with 1500 men who

were assigned to securing the borders. In September 1938, Danish border control was also strengthened.³⁵

Facilities for asylum seekers remained in place in all Continental European countries. In Switzerland, Austrians who had arrived after 28 March 1938 without the necessary visa (or prior to this without a passport), but who could make a plausible case that they were in mortal danger were treated as applicants for refugee status.³⁶ Numerous Jewish refugees who arrived at the Swiss border during the Spring and early Summer of 1938 were neither sent back by the Swiss central authorities nor considered eligible for refugee status. If they could prove they had been threatened with incarceration in a concentration camp, they were given temporary permission to stay.³⁷ Sometimes these 'Jewish' refugees were pushed on into France. The Swiss Jewish refugee organisations could even pass on refugees to France legally by an arrangement with some French departmental authorities.³⁸ Initially, all countries kept to a generous admission policy in line with pre-1938 policy, distinguishing between permanent protection for 'refugees' and temporary protection for 'Jews'. Very soon this would all change.

In the Netherlands there was still no question of any formal asylum for refugees, but even providing temporary protection was brought into question shortly after the Anschluss. From March 1938 onwards, holders of Austrian passports arriving at the Dutch border were all refused access to Dutch territory. German passport holders could only be admitted if they had an official declaration that they could return at any time to Germany. The repatriation of such immigrants had to remain possible. The value of the assets they had to dispose of before being allowed to enter the Netherlands had also been considerably increased. This measure by the Dutch government was aimed specifically at German Jews, but as the issue was considered a particularly sensitive one, all Germans were subjected to the new rule. An exception was made for refugees. Even people without papers arriving at the Dutch border were to be admitted if they could prove that they were in mortal danger. Additional instructions were issued in May 1938 that talked not of mortal danger but 'imminent mortal danger' as being the only criterion for admission of people without papers. Restrictionism nevertheless went beyond this semantic change. The May 1938 circular letter abandoned all euphemistic language: there was no longer any question of scrutinizing all Germans' travel plans, but it was stated explicitly that refugees, foreigners who had to leave their country 'under the pressure of circumstance', were to be considered as unwanted guests. Administrative practice was changed accordingly. While 'ordinary' German travellers were less severely scrutinised at the frontier, refugees were blatantly refused admission and even the

possession of sufficient means of support was no longer accepted as a justification for admission. Only in few cases, where the Nazis had physically chased individuals across the border – thus substantiating the criteria of imminent mortal danger - could entry be granted.³⁹

In all other liberal states of Western Europe arriving Jewish refugees were still temporarily protected. The German dumping policy nonetheless placed great strains on this humanitarian policy. The high pressure on Jews to leave Austria meant that any rumour of an opportunity to emigrate was seized upon. According to interviews with Jewish refugees conducted by the French police, some Aachen residents had promised, out of greed, to assist Austrian 'Jews' in their flight abroad and the word had spread in Vienna. Other sources mention a rumour that the Joint had set up an aid committee in Brussels for Austrian Jews. As a result, a large number of Austrian 'Jews' flocked to Aachen and some tried to cross into Belgium where they were apprehended by the Belgian border guards. The German authorities decided to incarcerate the Austrian 'Jews' and while in the local prison, they were issued with short-term German passports and made to sign a declaration that they would never return to Germany. On the night of 22 May 1938, the German police sent fifty 'Jews' to Luxemburg. The following nights other batches of Jewish refugees were sent to Belgium and France, and possibly also to the Netherlands.⁴⁰

While the Belgian authorities offered to protect those refugees who had circumvented its border guards and whom the Jewish refugee committees agreed to support, the Luxemburg authorities wanted to show the German authorities that dumping these people into Luxemburg was unacceptable. The Luxemburg authorities thus rounded up the fifty 'Jews' , although the Jewish refugee committee had taken care of them. They were assembled at the military barracks in Luxemburg city, and then during the day brought them under military escort to the Remich bridge and handed over to German border guards. During this whole operation the soldiers were confronted with the despair of these refugees who tried to demonstrate that they could not return to Germany: one jumped into the Moselle and another tried to commit suicide with a razor.⁴¹

This example of gesture politics backfired as the Luxemburg government was castigated by the press and was strongly criticised for its inhuman treatment of these particular refugees. Even the American Joint Distribution Committee (JDC) intervened with the Luxemburg government - as Yehuda Bauer makes clear, a very rare thing for JDC to have done - to stop further expulsions.⁴² The fact that the expulsions had been ordered by the Minister in charge, the Socialist René Blum meant that liberal elements in the Luxemburg political elite made no public protests.

However, the experiment was not considered a success and alternatives to deportation such as internment were immediately discussed in government circles. The JDC provided undertakings to enable the local Jewish community to support refugees and assist them in finding countries of immigration overseas. The traditional policy of temporarily protecting refugees was thereby restored in the Grand Duchy and 'Jews' whom the local Jewish refugee committee were ready to support were admitted until they could organize their final emigration.

French border authorities were nevertheless inspired by the actions of their Luxembourgish counterparts. When the fifty Austrian refugees who had been returned to Germany on 23 May by the Luxemburg authorities were dumped in small groups in France the following night they were arrested by the French border authorities. The next day they were returned in an official convoy along the main road to the German border so as to impress the German authorities. The official in charge executed these orders without any remorse and he pointed out that these 'Jews' protested dramatically, but he qualified them as 'ruined traders, Jews wanting to leave for abroad and victims of vengeance by their neighbours'. They were definitely not political refugees and could thus be returned.⁴³ As this French repatriation operation took place in the border region, it received no media and there were no civic protests.

A month later, in June 1938, the Danish Chief of Police Eigil Thune Jacobsen instructed the border police to hold Germans for questioning at the Danish border. They had to be interviewed about their destination, their family background and their economic means. Even travellers with Eastern European and Austrian passports containing the necessary visa were to be subjected to this control. With this information, the local police chiefs could then decide, usually after consultation with Copenhagen, whether these travellers really wanted to settle in Denmark and whether they possessed sufficient means to finance a permanent stay. As was the case in the Netherlands, the measure was implicitly directed against the 'Jewish' refugees from Nazi Germany. Suspicion of wanting to settle in Denmark was based on factors such as having so-called 'semitic' facial expressions or travelling with family-members and/or with a lot of baggage. The border control was so strict that the German ambassador in Copenhagen was moved to lodge a formal complaint against the long interrogations and resulting delays that all German travellers, in contrast to other foreigners, had to endure at the Danish border.⁴⁴

On 12 September 1938, the Swedish authorities decided to impose stricter controls on the influx of 'Jewish' refugees: although Germans did not need a visa to enter Sweden those whom the border guards suspected of wanting to settle in

Sweden were to be refused access unless they had a so-called border recommendation of a Swedish consulate, a quasi-visa for German 'Jews' introduced to pre-select refugees.⁴⁵ The Swedish example, together with the knowledge that the financial reserves of the Jewish aid committee were dwindling, and that existing Jewish refugees in the country would eventually become a public charge moved the issue to the fore. Thus on 29 September 1938, the Danish council of ministers confirmed Jacobson's administrative directive of June 1938. Instructions were sent to the border guards and to consuls abroad to refuse entry to foreigners 'who, having left their country of origin with the intention of emigrating due to the difficulty of their situation, could not or did not wish to return to their country of origin'. Only if they had an entry permit authorised by the Ministry of Justice or a visa allowing them entry into a third country were they to be admitted. The radical strengthening of the border controls with regard to German 'Jews' thus became official policy.⁴⁶ Only 'persons who, due to political activities or political convictions, were liable to severe punishment should they remain in their country of origin' had to be protected. The official support for the strengthening of these border policies set the tone for the future. In a few cases the border guards even refused German 'Jews' who had a valid entry visa admission into Denmark. Likewise, Germans who had permission from the Danish consulate in Berlin to work in Denmark were refused entrance at the border when it became clear that these workers were regarded as 'Jews' in Germany and that they therefore came under the stricter regulations applied to German 'Jews'.⁴⁷ This 'mistake' by the Danish consulate in Berlin illustrates perfectly the difficult assignment given to both Danish and Dutch frontier guards: to allow 'bona fide' travellers in while excluding Jewish immigrants.

By the middle of August, the Swiss and Luxemburg authorities had rescinded the temporary protection for 'Jewish' refugees and orders were given to close the borders, except for political refugees. The Swiss border police was instructed to hand back to the German authorities those Austrians who attempted to cross into Switzerland without the necessary visa. The official excuse for this change of policy was that the German authorities would otherwise punish these refugees, as their involuntary return could not be documented. In fact, the real reason for this change was to improve efficiency rather than for any humanitarian concern. From 7 September 1938 onwards, the number of forced returnees increased as Swiss border officials were instructed to refuse entry to German 'Jews'. Even those with valid passports were kept out, although the rules in force indicated that they were, in fact, qualified to enter Switzerland.⁴⁸ Although we have no conclusive evidence, it seems that France closed its borders on 18 August 1938 for 'Jewish' refugees, this did not

imply that that these refugees were deported indiscriminately to Greater Germany, France had a preference for sending them on to neighbouring countries.⁴⁹ Switzerland strongly opposed this policy and reinforced its border controls at the Swiss-French border. The Belgian authorities were similarly indignant that their ally in devising an international refugee regime was now flouting its provisions. Thus from May 1938 onwards, refugees caught at the French-Belgian border attempting to enter illegally were returned to France and protests were made to the French authorities for not respecting the international refugee laws to which France had adhered. This attempt to take the moral high ground cut little ice with the French, who recalled the Belgian policy in 1933 of pushing their refugees into France.⁵⁰ However, this episode did serve to highlight the weakness of the French strategy of denying protection to refugees, but refusing to repatriate them back to Germany.

During the summer of 1938, the border authorities in those countries which had no visa requirement as a remote control mechanism had to investigate whether the would-be immigrants from Greater Germany were considered Jewish by the Nazis. The well-researched Danish and Swiss cases show that putting this policy into practice proved extremely difficult: it remained difficult to tell 'Jews' from other immigrants at the border, as passports bore no indication as to the bearer's religious denomination, let alone his or her racial categorization. Travellers from Germany faced close interrogations at the borders to find out if they were Jewish and, if so, whether they qualified for entrance. Admission at these borders was discretionary and not set out clearly in published regulations. This meant that many refugees arrived at these frontiers not knowing if they would be admitted. Not only did the Dutch, Danish, Swiss and Luxemburg authorities have to deploy increasing resources to guard their frontiers, but they also placed great strain on their border and customs officials in having to carry out this exclusionary policy. Harrowing scenes at the border posts became daily occurrences. Threats of suicide that could easily become a reality only added to the border guards becoming desensitised. Confronted with the stubbornness of desperate refugees many lost any sympathy they might have had with the refugees and increasingly employed brutal methods to implement their instructions.⁵¹ The authorities realized that their border guards had a difficult assignment and they tried to give them some further assistance. For example, from September 1938 onwards, the Swiss border guards had to stamp as having been 'turned back' the passports of Germans whom they considered as 'Jews' and had refused entry to Switzerland. In this way their colleagues at other border crossing points no longer had to decide themselves that these Germans were unwanted immigrants.⁵²

While France, Belgium and to a lesser extent Great Britain due to its geographical position, had to increase the policing of their frontiers, they did have the advantage of a clearly delineated set of regulations for entry. Border guards did not have to conduct investigations to find out whether a would-be visitor from Greater Germany was a *bona fide* tourist or an immigrant. The burden of initial face-to-face contact with applicants had been shifted abroad to the consular officials who handled visa applications. For the border guards a visa requirement could make control of border crossings a bureaucratic routine. Yet even in countries where remote control was well developed and an effective administrative barrier to entrance, border authorities were still charged with exempting 'refugees' from the regulations.⁵³ In France, a decree law of 2 May 1938 stipulated that illegal aliens who petitioned for asylum upon their arrival in France had to receive an administrative hearing. No legislation was introduced to provide eligibility criteria for refugee status, but internal instructions for police use stipulated some principles of French asylum policy. France had to be the first country of asylum, so admission had to be refused to foreigners coming from a third country where they could have requested asylum, and those previously expelled were also excluded. Central to the definition of a refugee was evidence of forced departure because of a danger to life and the complete loss of possessions. The border guards had to grant access to those foreigners who could provide outline proof that made their status as a refugee plausible. These admissible asylum seekers were then sent to a municipality where they were granted (renewable) residence permits valid for a month. In the meantime the Minister of Interior investigated, on the basis of additional information, whether the applicant was eligible for refugee status.⁵⁴

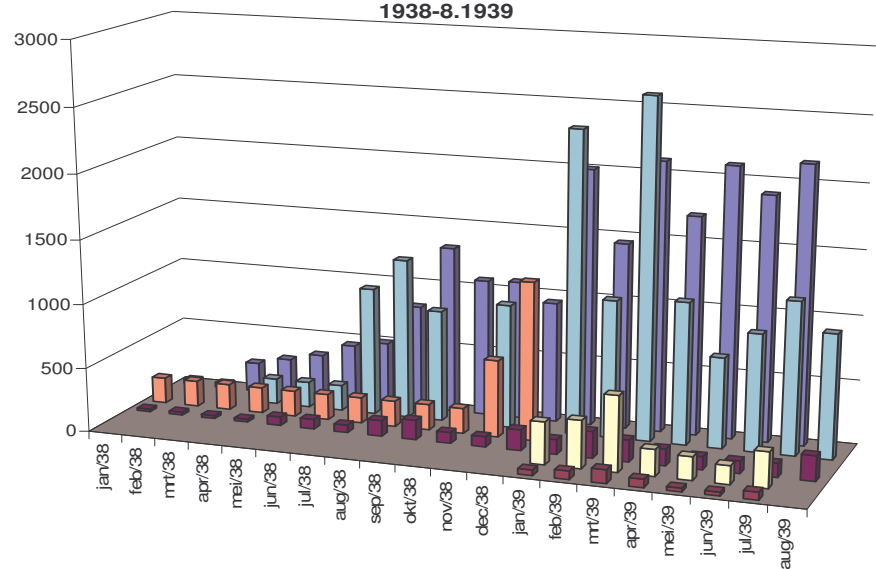
Notwithstanding the guarantees afforded to 'refugees' it seems that only a few people actually declared themselves as refugees to the border authorities. Germans and Austrians, and later also Italian and Czech nationals were reluctant to do so if they saw a chance to gain admission by normal means. They had little faith in the authorities of the countries to which they fled and were too afraid of being sent back to Germany if their petition for refugee status ultimately failed. Political as well as 'Jewish' refugees only declared themselves voluntarily to the authorities of the country of refuge after contacting 'their' refugee committees within the country of asylum. Armed with some local, albeit private protection and already inside the country they hoped to have a greater chance of being protected.

Although more systematic research needs to be done on the practical applications of policy at the border to compare and contrast with the well-

documented Danish and Swiss cases, the findings suggest that border officials of all Continental European countries were directly involved in denying access to ('Jewish') immigrants. Judgements on both 'Jews' and 'aryans' arriving from Germany and Austria, with or without the right papers, became a routine task for border guards from the summer of 1938 onwards. 'Jewish' refugees were turned away at the Western borders of Germany in droves, albeit that border officials still had considerable discretion in these decisions.⁵⁵ In the countries that refused to impose a visa requirement on the Germans for economic and political reasons, the discretion given to border guards was much wider. These countries had to persist with an *ad hoc* and unsatisfactory compromise that nominally kept the border open, but effectively excluded a large number of people who wished to cross it but whom the border guards treated as unwanted 'Jewish' refugees. In countries with decentralized border controls such as Denmark and the Netherlands, border control was much less homogeneous and it was local authorities who decided on who was an unwanted immigrant and also who could eventually qualify for refugee status.⁵⁶

No matter how stringent the security measures at the border were, they were incapable of securing the frontiers altogether. For all kind of motives, border guards sometimes turned a blind eye when refugees sought to cross the border, or in some cases even provided assistance.⁵⁷ Other refugees were able to circumvent border control altogether, and still others entered with a tourist visa or met other criteria of entrance and then stayed on, legally, quasi-legally, or illegally. The statistics of the Jewish refugee aid committees and the authorities (graph 2 and 3)⁵⁸ clearly illustrate that there was an increasing number of mainly Austrian 'Jews' arriving in the Spring and Summer of 1938 who had been able either to circumvent frontier controls altogether or who had convinced the border guards that they met the criteria for entrance. For whatever reasons, efforts by the Western liberal states to stave off further influxes of uninvited foreigners were by no means totally successfully. Illegal immigration had not been uncommon before 1938, with both 'Jewish' and political activists contriving to avoid border controls, either because they did not have valid documents or the necessary means, but during and after 1938, the scale of this immigration increased enormously, as did the types of people involved. Now it was not just young and single males who were involved, but respectable bourgeois 'Jewish' families from Germany desperate to do anything to escape from the Nazis. Increasingly, there was a trade in people across the 'green frontiers' from Germany where smugglers were paid huge sums to conduct would-be refugees to safety.

Monthly figures on (Jewish) refugee migration to liberal European states, 1938-8.1939



■ Luxembourg Jewish committee
 ■ Swiss Jewish committee
 ■ Denmark (aliens police's figures concerning all refugees)
 ■ Dutch Jewish Committee (average based on total for 1-9.1938)
 ■ Belgian Jewish committees (until 10.1938 aliens police's figures on Jewish refugees, from 8.1938 onwards Brussels and Antwerp Jewish committees)
 ■ French Jewish committees (1938 only Paris)

Internal control

Immediately after the *Anschluss*, once refugees had arrived in one of the liberal states of Europe the old policy of providing some form of protection remained, although controls became stricter. From 1938 onwards, refugees were admitted to Great Britain with (renewable) three-month permits and in France permits valid for one month. In the Netherlands after March 1938, German travellers with papers and means obtained permits for no more than fourteen days that were non-renewable.⁵⁹ All foreigners living legally (and illegally) in the Western liberal states were subject to greater administrative control and refugees became a particular focus. This is most conspicuously illustrated by the Dutch case. Earlier in the twentieth century, the Netherlands had been a country of emigration rather than immigration, and this caused it to be relatively lax in updating its controls on aliens. Thus it was the refugee crisis of the 1930s that became the catalyst for the first fully-fledged Dutch immigration control. Work permits had been introduced by the mid-1930s. By October 1938 internal controls had been considerably strengthened with all citizens obliged to inform the police authorities within 24 hours of the presence of foreigners in their homes. Before then, this obligation had existed only for hotels and guesthouses.⁶⁰ On 19 December 1938, the administrative web began closing around transit-refugees. 'Jews' and other 'non-aryan' refugees who had arrived in the Netherlands after 1 March 1938 could no longer be registered in the aliens' register. They had to be registered in a newly created central refugee register that allowed the authorities to monitor them even more closely.⁶¹

The Protection of Political Refugees: A Sacrosanct Principle of Liberal States

In the aftermath of the *Anschluss*, the French authorities allowed all resident and newly arrived Austrians to express their dissatisfaction with the German annexation of their country by signing a declaration that they refused to be covered by German diplomatic protection. In this way, the French authorities effectively reinforced the idea that these immigrants still claimed their (temporarily suspended) Austrian citizenship. On their French identity papers they were listed as *Ex-Autrichien*. This administrative categorization, an expression of the political stand taken by the second Blum government against the expansionist ambitions of Nazi-Germany, became the basis for a refugee policy similar to the hospitality afforded to Germans who fled to France after the Nazi takeover in 1933. Also those who claimed that they were Austrians and opposed the Nazi regime were protected by a set of bureaucratic

rules which were less restrictive than those applied to other foreigners. They were all granted a temporary residence permit. The Blum government did not last long and the more conservative Daladier government attacked the strategy outlined its predecessor. In the autumn of 1938, Austrians who had arrived illegally but who did not want to avail themselves of German protection were still tolerated, but controls became more severe. They now had to provide documentary proof of them being refugees and former Austrians arriving in France were no longer collectively a privileged category within alien policy. Even under the Blum regime, refugees from Nazi Germany with German passports had been excluded from this benevolence, but with the phasing out of the Austrian passports, more and more Austrian refugees were treated as Germans and handed an expulsion order. The final blow to the refugee policy created by the Blum government came in October 1938 when the Daladier cabinet decided that uninvited immigrants, even if they were Austrian refugees had to be stopped and only a very selective immigration was acceptable, controlled by consulates abroad. The immigrants who arrived in the country uninvited had to be returned. Only those travelling with German passports but claiming to be ex-Austrians and who could give firm proof that they were genuine refugees were to be tolerated. Only very few among those fleeing Greater Germany were granted an informal refugee status, exclusively political activists and the same applied to later arrivals from the Sudetenland and Czechoslovakia.⁶²

This humanitarian exception to a stricter immigration policy was only conceded half-heartedly, as can be seen by the attitude towards communist refugees, the political activists on the run least wanted by all the liberal states of Western Europe. The new political leaders in France, having ousted the French communists from the government, nonetheless still tolerated communist refugees. Those who had left France to join the International Brigades in Spain in 1936 and 1937 and who had returned in small batches by the end of 1938 were granted temporary residence permits, but at the same time they were banned from Paris and confined to small provincial towns cut off from their comrades.⁶³ This dispersal of political refugees was meant to limit their political activism so as not to endanger the potential for French-German reconciliation while appeasement still held sway within the Daladier regime.⁶⁴

The privileged position afforded to political refugees remained a characteristic of the liberal states in Western Europe, and even the virulently anticommunist Netherlands officially became a sanctuary for 'subversive' refugees. This Dutch protection for these previously undeserving political refugees was a complete reversal of previous policy and prompted not by a spirit of greater tolerance, but by

changes in the communist movement itself and the domestic and international pressure on the Netherlands. Since 1933 exiled German communists in Western Europe had been mobilised by the KPD for full-time political work to support the communist resistance in Germany, a prerequisite to qualify for help from the Red Help. By 1938 the political leadership of these refugees was in jeopardy. The Comintern had strongly criticized the inability of the KPD to maintain any meaningful resistance to the Nazis inside Germany itself, and also castigated its failure to implement a Popular Front strategy after 1935. The Stalinist purges and defeat in the Spanish Civil War added to a climate of demoralization among German communists. Internal divisions and disorganisation of the KPD caused the KPD to lose hold over its members in exile. German communist refugees became dependent on the strategies of communist parties of the countries of asylum.

At the same time the communist Popular Front strategy had changed the priorities of the national sections of the Red Help. International solidarity had been directed away from supporting exiles and towards supporting the Spanish Republic. Likewise there were attempts to find political allies within the country in line with the Popular Front strategy. These new obligations for the Red Help were detrimental to the German communist refugees who thus received a diminishing share of the organisation's scarce resources. The international communist movement decided to sacrifice the political activism of German communists in exile, so that its resources could be allocated for other (national) goals.

The refugees were forced to legalize their residence in host societies in order to enable them to provide for their own livelihood. Providing for their own income forced the refugees to limit their political activity.⁶⁵ When a refugee applied for legalization of their stay, usually via the Red Help as intermediary, cessation of all political activity was mostly invariably imposed as a condition. However in the case of the Netherlands, the authorities refused to negotiate with the Dutch Red Help about the legalisation of communist refugees. Only when a 'neutral' refugee organisation was set up by mid-1938 - in the wake of the Popular Front strategy - in order to attract non-communist militants and to underline national solidarity - were the Dutch authorities ready to legalise the residence of most communist refugees in the Netherlands. Nevertheless, they continued to suppress any political activity by these 'subversive' refugees and in mid-1939 there were about 50 communist refugees in custody, and the few KPD refugees still in contact with the resistance in Germany itself had to remain underground.⁶⁶

The Dutch change of policy cannot be entirely attributed to changes in the communist movement. They were also under strong international pressures to

liberalize refugee policy. The bilateral treaty enacted with Belgium in April 1937 bound the Dutch to accept political refugees for whom the Netherlands was the first country of asylum. Unwanted political refugees could no longer be moved on to Belgium and as repatriation to Germany was considered unacceptable, the Dutch authorities had to come to terms with these refugees. Nevertheless, the Belgian communists strongly criticised the 'extradition' of their comrades for whom the Netherlands was the first country of asylum. The Belgian authorities demanded guarantees that those returned would receive fair treatment from the Dutch authorities. From April 1938 onwards, the Dutch authorities agreed to inform the Belgians as to how the German political refugees were to be treated on their return. The refugee could remain at large in the Netherlands, he or she could be interned or even repatriated to Germany. The Belgian decision was then made depending on what awaited the refugee in the Netherlands. As the Belgian authorities did not use force to make these political refugees leave the country, this information was also used to convince these refugees to return to the Netherlands. The Dutch authorities were bound by this agreement for a year and were required to inform the Belgians of any alterations brought about by changing circumstances.⁶⁷ These concessions to the Belgian authorities increased the transparency and accountability of the Dutch refugee policy at local, provincial and federal levels. A third factor explaining the Dutch change of course was the increasing use in public discussion of the notion of 'protecting political refugees' as a basic principle of the liberal state. Throughout 1938 it was repeated time and again that the Netherlands protected the 'real' refugees, those fleeing because of their political activities. This statement meant that the Dutch authorities had to live up to their promises and it became increasingly difficult to exclude communists from the group who were entitled to some privileges.

Jewish refugees and the loss of (temporary) protection

For domestic consumption, decision-makers all over Western Europe claimed that they had strengthened immigration control, but at the same time they commonly expressed the mantra that this was done in a humanitarian way as the real, political refugees continued to be protected. The strengthening of immigration control had however a pernicious influence on the protection of Jewish refugees. The inflow of Jews was the subject of increasing opposition and repressive means to handle this uninvited immigration, be it forced deportation or imprisonment, gained increasing acceptance among policy makers and the public at large. Irrespective of the size of the local Jewish community and the number of the refugees already in the country,

the arguments legitimising restrictive measures were very similar in all the countries considered. The dangers of economic competition and the need to curtail unemployment, which had been central in bolstering a protectionist alien policy in the first half of the 1930s remained part of this restrictionist discourse. There was also the oft-expressed fear that the inflow of Jewish refugees would create a 'Jewish problem' as these new arrivals aroused antisemitic feeling among the population.⁶⁸ The notion of *Überfremdung* had been restricted to Swiss political discourse until the mid 1930s, but by the end of the decade it had found adherents among top-level bureaucrats and policy makers in all the liberal state of Europe. This xenophobic and even antisemitic discourse protected itself against accusations of illiberalism or a-humanitarianism by always underlining its commitment to national traditions of asylum. It was repeated time and again that political refugees were still granted asylum. The protection of 'refugees' thus remained assured. On the other hand it was argued that Jewish refugees were subject to less danger than political refugees and thus less in need of protection.⁶⁹

The Netherlands was the first to abandon the policy for 'Jewish' refugees formulated in 1933, but here decision-making was more complex and included local as well as national authorities. As mentioned before, by May 1938 the Dutch authorities had changed their border policy by refusing admission to ('Jewish') refugees, at the same time the policy of temporary protection for these refugees was exchanged for a more coercive policy towards those refugees 'who had left their country under pressure of circumstances...without being really in mortal danger'.⁷⁰ The Procurator-General in Amsterdam decided that imprisonment in a concentration camp was not sufficient reason for receiving refugee status in the Netherlands and he even couched his decision in anti-Nazi terms by stating that 'the Netherlands will not submit to these questionable German practices'.⁷¹ This tougher policy did not go unchallenged, even within the Dutch government. The Dutch Foreign Ministry was content to see a more robust policy at the border but was unwilling to countenance deporting Jewish refugees already in the country. These deportations tarnished the Dutch image as a country of asylum - just at a time when the Ministry was eager to polish up the country's image at the League of Nations.⁷²

The harsh judgement on 'Jewish' refugees provoked a public reaction and when some Jewish refugees committed suicide during their repatriation, the protests became louder.⁷³ The path from legislation to implementation is often indistinct and we do not have conclusive data as to how many undocumented Jewish refugees were indeed deported as this was habitually carried out in secret, but tracking down refugees, detaining them and then deporting them was also extremely resource-

intensive. The harsh language in the circular letters from government ministries tended to be moderated by the oral communication to local authorities given by the responsible civil servants. There was a certain reluctance to deny 'Jews' from Greater Germany protection completely. Thus for example, 'after fierce protest against expulsion' the asylum requests of alleged victims of persecution for *Rassenschande* or currency smuggling were to be submitted to the Minister of Justice. According to the civil servant in charge, granting this request would pose problems, because these persons 'had placed themselves in a position in which they knew to expect difficulties', but local authorities could in the meantime postpone the forced repatriation of alleged victims of persecution.⁷⁴ The autonomy afforded to local authorities added to this inconclusive picture. There are, however, indications of a radicalisation in Dutch deportation policy. Up to that point, repatriations had been mostly conducted on an individual basis, but some local authorities then began experimenting with collective deportations. In September 1938 44 'Jews' from Vienna, including 7 minors embarked on a ship in Cologne, in collusion with the German police. The ship sailed to Rotterdam and crossed the frontier undetected by Dutch officials. Upon arrival in the port of Rotterdam the passengers were immediately arrested. The Rotterdam police decided to repatriate them in two buses. The head of police in Rotterdam considered the advantage of a collective repatriation that suicide attempts would not occur so easily when the refugees were '*en famille*'.⁷⁵

The Dutch authorities were not the only ones to take energetic action against the mass migration from Greater Germany. As Vicki Caron shows in her article in this volume, from May 1938 onwards, the French authorities used prison terms as a mean to convince 'Jewish' refugees to leave France. The French executive prevented any flexibility being exercised by the judiciary, as the courts were not permitted any discretion in taking account of specific individual circumstances. An internal crackdown of unprecedented severity followed and thousands of refugees landed in jail.⁷⁶

As mentioned before, shortly after the Dutch decision to abort the protection for 'Jewish' refugees and the French decision to convict these refugees for illegal immigration the Luxemburg authorities implemented a high profile show of strength policy towards 'Jewish' refugees dumped by the Germans on their territory. Also Dutch policy had been induced by dumping practices of the German authorities, but in Luxemburg the authorities responded to the German policy in an even more spectacular way. However, public criticism and the readiness of Jewish charities to guarantee the upkeep and re-emigration of the refugees caused the Luxembourg authorities to return to the old policy of temporarily protecting 'Jewish' refugees after

this one incident and a very quick increase in the number of 'Jewish' refugees in Luxemburg. By the middle of August, the Socialist Minister of Justice, René Blum decided to close the border and also to repatriate 'Jewish' refugees. The local Jewish refugee committee, which did not have the means to meet the needs of this massive influx, agreed with the government that immigration had to be restricted. That same day, Blum gave instructions to his civil servants not to inform the press in any way about deportations. Blum had learned from the experience of May 1938 that expulsions were a sensitive issue and ones that should be kept as far as possible from the public.⁷⁷ As Regula Ludi shows in her chapter, the Swiss authorities decided to resort to the deportation of most 'Jewish' refugees at that time too. All those who had arrived illegally and had been found in the country after 19 August were to be returned to Greater Germany.

At the end of September 1938 Belgium joined Switzerland, the Netherlands and Luxemburg by deciding to abolish the temporary protection for 'Jewish' refugees and by enforcing their return to Greater Germany. On 30 September 1938 Joseph Pholien, the Catholic Minister of Justice launched a secret operation. He gave instructions to the municipal police in Brussels to arrest any Austrian 'Jews' living illegally in the country. Roundups took place in hotels and refugees were arrested in police stations when they came to report their arrival to the authorities, after being told to do so by the Jewish refugee committee. This netted at least 250 Austrian 'Jews' in a fortnight and about 150 of them were rapidly repatriated to Germany. One of the repatriates managed to poison himself on the journey and had to be treated in a Belgian hospital close to the border.⁷⁸

There was generally little public opposition to these increasingly restrictive practices and there was a consensus across Western Europe that a strict policy was necessary. Nevertheless, governments increasingly chose to alter policies through secret instructions and directives to the police forces and the local authorities, rather than to tinker with the legal framework, which would have involved a public debate. Yet this could not be avoided entirely as ministers had to defend their country's record on the admission of refugees in parliament. There was hardly any discussion on the general nature of border controls, but the arrest and expulsion of Jewish refugees already in the country became *causes célèbres* and were sometimes hotly debated in both press and parliament.

Only in Belgium can parliamentary debate, buttressed by a wider public discussion, be seen to have changed the course of state policy. Treating Jewish refugees like any other illegal immigrants and sending them back to their country of origin was a decision taken by the Catholic Minister of Justice Joseph Pholien in the

Catholic-Socialist-Liberal government led by Paul-Henri Spaak. This decision also has to be situated within a political struggle among the conservatives. Since 1936, the conservative wing of the Catholic party had been in a severe crisis due to scandals and the desertion of conservative Catholic voters to the extremist Rex party. In 1936 the Brussels lawyer and newcomer Joseph Pholien was launched in national politics as the new face of the discredited conservative wing of the Catholic party. Pholien was a very individualistic politician with hardly any support within the party apparatus, but at that time the party machine became increasingly important as the locus of power where political strategies were designed and party members were disciplined. Pholien hoped that by bringing the antisemitic or xenophobic card into play, just as the rival Rex had seemingly successfully done, his party would be able to regain ground among traditionally conservative electors. Repressive measures pandering to the populist groundswell against immigration were therefore considered as an electoral advantage.

The expulsion of German 'Jews' immediately became known to Emile Vandervelde, the president of the Socialist Party through an informer in the prison where the 'Jews' were being held prior to repatriation. Although Vandervelde led the Belgian Socialists, he was unaware of political deals struck by the independently-minded socialist Prime Minister Spaak, who took a far more pragmatic line in trying to maintain his political coalition. These differences caused severe frictions between the two men. Vandervelde chose to champion the cause of the 'Jewish' refugees and lobbied within his party to preserve an (informal) asylum for all 'Jewish' refugees in Belgium. The Jewish refugee aid committee in Brussels also wanted to restore the temporary protection of their clientele, but a mere return to the old policy seemed unrealistic and they tried to kill two birds with one stone by proposing the creation of a refugee camp as a solution. Such a camp, they argued, would act as deterrent to immigration for all but the most desperate (and most deserving) of cases. Some months earlier the Jewish refugee committee had already proposed setting up a refugee camp, similar to Swiss experiments, largely as a means of reducing the costs for the upkeep of refugees and providing professional training to make them more attractive for countries overseas. Greater control was also sought in order to reduce the incidence of prostitution and swindling among refugees. In October the motivation for setting up a camp shifted to making the Jewish refugees much less visible and thus minimising the increasing antisemitic agitation in the country. The camp thus became a means of reducing the public perception of immigration rather than a means of deterring future arrivals. The Socialist leadership went along with this

proposal and under pressure from his party colleagues, Prime Minister Spaak agreed to stop the expulsions and set up refugee camps.

Pholien was strongly opposed to this change of policy and highlighted the dangers of tolerating further illegal immigration of 'Jews' from Nazi Germany. As neighbouring France and the Netherlands were toughening their policy, Belgium ran the risk of becoming the weak link in the chain and to be overwhelmed with refugees. He thus predicted, due to the increasing arrival of refugees and the slowing down of their departure to countries overseas, a rising antisemitism and the bankruptcy of Jewish aid committee. A refugee camp would only attract would-be immigrants. In spite of his protests, Pholien had to back down completely: a refugee camp was set up in Merksplas and on 15 October 1938, Pholien ordered a halt to the expulsions although this latter decision was not made public. The next day, Emile Vandervelde, still unaware of the decision taken at top level, published a fierce protest against the expulsion of Jewish refugees in the Socialist daily *Le Peuple*. Vandervelde, having seen no result from his lobbying the previous week, took his demand for a humanitarian immigration policy to the street in order to bring his prime minister back to the ranks.

This public protest in Belgium caused immigration policy - which until then had been an uncontested prerogative of the executive power - to become a matter of public debate. Well-known members of the Jewish community and liberal politicians came out as advocates of the 'Jewish' refugees and criticized Joseph Pholien's expulsion policy. In the face of this, the hard-headed Pholien continued to defend the expulsion of 'Jewish' refugee albeit in an unsubtle manner, effectively portraying himself as a callous hard-liner with no empathy at all with the refugees' plight. He devalued their asylum claims by calling them economic immigrants and made a mockery of their suicide attempts. On 24 October, Vandervelde, obtained the backing of the council of socialist party and ordered 'his' Prime Minister Paul-Henry Spaak to stop the (already abandoned) expulsions immediately.⁷⁹

Enlisting German cooperation in immigration control

The *Anschluss* of Austria brought individual protests from many Western European states against the German policy of dumping people across frontiers, albeit with no immediate result.⁸⁰ Consequently, the countries concerned developed preventive measures to arm themselves against future unwanted immigration. As the Nazi use of denaturalization as a form of persecution became more widespread, Belgium and the Netherlands began to insist that German citizens applying for a visa or arriving at

the border possessed an official German declaration that they could return at any time to Germany. The German authorities refused to issue such documents; affirming time and again that all Germans, including 'Jews', could always return to Germany.⁸¹ This measure made travel for all Germans much more cumbersome and did lead to some German concessions to neighbouring states. A Belgian-German bilateral agreement concluded on 22 October 1938 stated explicitly that all German immigrants could return to Germany. In exchange for this guarantee the Belgian authorities agreed to the normalization of border controls for regular travellers from Germany.⁸² Clarifying that it was possible for all Germans to return to Germany placed the onus firmly on the 'Jews' for not *wanting* to return.

The protests against the flight of Jews caused not only the German authorities to promise to allow their citizens to return, and as a result of negotiations with the Swiss and Swedish authorities, to mark their passports, but they made also promises that went beyond that. German-Swiss negotiations in September 1938 led to a German promise not only to mark the passports of the German 'Jews', but also to instruct the German border guards to prevent the holders of German 'J' passports from entering Switzerland if they did not have a Swiss visa.⁸³ Similarly, the German-Belgian agreement of 22 October 1938 stipulated that the German authorities would help to combat illegal immigration into Belgium. To honour these promises, the German authorities issued orders in early November 1938 to arrest all 'Jews' found near the border who did not have the documents necessary to enter Belgium, Switzerland or France. Male would-be emigrants were to be locked up in police prisons before transfer to a concentration camp, while women and children were merely removed from the border area. This German willingness to assist neighbouring countries was not entirely 'philanthropic' as it also served to prevent political activists from leaving the country and acted as a control to make sure that 'Jews' were stripped of all their assets prior to their departure.⁸⁴

Numerous 'Jews' still tried to flee Nazi Germany by crossing the German border illegally and administrative capacities in the border areas were insufficient to enforce the orders properly. For example in November 1938 the *Staatspolizei* office in Aachen could not handle the large number of mostly Austrian 'Jews' who had tried to emigrate without permission and had been caught. As the local police prison was full to overflowing and as the transfer of these Jewish prisoners to a concentration camp could not be executed swiftly the local authorities were obliged to set free a number of the Jewish would-be emigrants they had arrested. These 'Jews' were thus reprieved from a term in a concentration camp and were only removed from the border region.⁸⁵

This cooperation in halting illegal immigration in the neighbouring countries represented a change of course in the manner in which the Nazis attempted the ethnic cleansing of the German Reich.⁸⁶ While at the Eastern border the German authorities tried by every possible means to expedite emigration, on the western side they actively tried to prevent people from leaving.⁸⁷ Thus from November 1938 onwards, refugees trying to leave German soil for Belgium, France or Switzerland had to outwit the German as well as the Belgian, Swiss or French border guards and thus increasingly relied on the ever more expensive 'passeurs', who for substantial rewards would smuggle people across the frontier.

¹ Seen that the National Socialist racial categorizations, such as Jew and Aryan were not at all transparent and self-evident categories we enclose those terms in quotation marks.

² Circular letter from the German Home Office, 24.8.1938: "to hasten the exodus of German and stateless Jews, convictions are not to be mentioned automatically in the excerpt of the criminal record which is transmitted to the authorities of the immigration countries". AMIA, individual files, A 316.576. The politically motivated convictions because of communist activities were still to be mentioned. G.Anderl and D.Rupnow, *Die Zentralstelle für jüdische Auswanderung als Beraubungsinstitution*, Wien 2006, p.97. Krause to Home Offices of the German states beyond Prussia (ausserpreussische Landesregierungen), 21.1.1939. BBR, 276.

³ W.Gruner, 'Von der Kollektivausweisung zur Deportation der Juden aus Deutschland (1938-1945). Neue perspektiven und Dokumente', in *Die Deportation der Juden aus Deutschland*, eds B.Kundrus and B.Meyer, Göttingen 2004, pp. 23-24; BBR 276.

⁴ W.Röder, 'The political Exiles: their Policies and their contribution to Post-War Reconstruction', in *International Biographical Dictionary of Central European Emigrés 1933-1945* (Vol. II, 1), eds H.Strauss and W.Röder, München 1983, p. XXX.

⁵ Anderl and Rupnow, *Die Zentralstelle*.

⁶ J.Moser, 'Osterreich', in *Dimension des Völkermords: Die zahl der Jüdischen Opfer des Nationalsozialismus*, ed. W.Benz, München 1991, p. 68. See also Zentralstelle für jüdische Auswanderung to SD-Hauptamt, 21.10.1938. BBR, 486.

⁷ B.Moore, *Refugees from nazi Germany in the Netherlands, 1933-1940*, Dordrecht 1986, pp. 82, 96; J.Toury, "'Ein Auftakt zur 'Endlösung': Judenaustreibungen über nichtslawische Reichsgrenzen 1933-1939', in *Das Unrechts-Regime. Festschrift für Werner Jochmann zum 65. Geburtstag*, ed. U. Büttner, Hamburg, 1986, vol. 2, pp. 164-196.

⁸ S. Friedländer, *Nazi Germany and the Jews. I: The years of persecution, 1933-1939*, London 1998, pp. 260ff.

⁹ J.Osterloh, *Nationalsozialistische Judenverfolgung im Reichsgau Sudetenland 1938-1945*, München 2006, pp.198ff.; Friedländer, *Nazi Germany and the Jews*, vol.1, pp.265f.

¹⁰ E.Mendelsohn, *The Jews of East Central Europe Between the World Wars*, Bloomington (Indiana) 1983, pp. 164-167; P.Heumos, *Die Emigration aus der Tschechoslowakei nach Westeuropa und dem Nahen Osten 1938-1945*, München 1989, p. 52.

¹¹ K.Voigt, *Zuflucht auf Widerruf. Exil in Italien 1933-1945*, Stuttgart 1989; C.Villanci, *Zwischen Rassengesetzen und Deportation. Juden in Südtirol, im Trentino und in der Provinz Belluno, 1933-1945*, Innsbruck 2003.

¹² Moreover, all foreign Jews who had been granted Italian citizenship after the 1 January 1919 were stripped of it, a decree that affected approximately 9,000 Jews, for the most part formerly German and Polish citizens. M.Sarfatti, *Gli ebrei nell' Italia fascista. Vicende, identità, persecuzione*, Torino 2000; Klaus Voigt, *Zuflucht auf Widerruf*.

¹³ V.Caron, *Uneasy Asylum: France and the Jewish Refugee Crisis, 1933-1942*, Stanford 1999, pp. 146ff.; Mendelsohn, *The Jews of East Central Europe*, pp. 68-83 and 112-28; Ben Eliahu Elissar, *Le facteur juif dans la politique étrangère du IIIe Reich (1933-1939)*, Paris 1969, pp. 301-321.

¹⁴ The Polish authorities retaliated by expelling Germans, and those Poles stuck at the border could return to Germany. Later a Polish-German compromise was reached that those who had been able to

enter Poland could stay and be joined by their family members still in Germany. S.Milton, 'The Expulsion of Polish Jews from Germany, October 1938 to July 1939', in *LBIYB*, 29, 1984, pp. 169-174; Friedländer, *Nazi Germany and the Jews*, vol.1, pp. 266-268.

¹⁵ L.London, *Whitehall and the Jews, 1933-1948: British Immigration Policy and the Holocaust*. Cambridge 2000, p. 63.

¹⁶ The Norwegian and Swedish authorities had imposed a visa requirement on Austrian travellers shortly after the Anschluss (April 1938). H. Müssener, *Das Exil in Schweden. Politische und kulturelle Emigration nach 1933*, München 1974, p.123; E.Lorenz, *Exil in Norwegen. Lebensbedingungen und Arbeit deutschsprachiger Flüchtlinge 1933-1943*, Baden-Baden 1992, p. 51.

¹⁷ L.Rünitz, *Afhensyn til konsekvenserne, Danmark og flygtningesporgsmalet 1933-1939*, Odense 2005, pp.246ff.; Petersen, 'Viel Papier und wenig Erfolg. Dänemark und die internationale staatliche Hilfsarbeit für Flüchtlinge vor dem deutschen Fascismus 1933-1939', in *Exil, Forschung, Erkenntnisse*, Ergebnisse, 2, 1985, pp. 60-84.

¹⁸ Report Belgian border police, 24.3.1938. AAD, 37C9.

¹⁹ La Revue Communale de Belgique. Journal de droit administratif et d'administration, 68, 1939, pp.172-173; A.Sherman, *Island Refuge: Britain and Refugees from the Third Reich, 1933-1939*, Berkeley, p. 190; Lorenz, *Exil in Norwegen*, p. 51; Czecho-Slovakian nationals could travel throughout 1939 without visa to Denmark. Rünitz, *Afhensyn*, p. 430.

²⁰ C.Van Eijl, *Al te goed is buurmans gek. Het Nederlandse vreemdelingenbeleid 1940-1940*, Amsterdam 2005, p. 188; Rünitz, *Afhensyn*.

²¹ Pholien to Spaak, 14.10.1938, but already since March 1938 this new procedure was being discussed (and possibly implemented). AAD, 785; F.Caestecker, *Ongewenste gasten, joodse vluchtelingen en migranten in de dertiger jaren*, Brussel 1993, p.229.

²² F.Caestecker, Onverbidelijk, maar ook clement. Het Belgische immigratiebeleid en de joodse vlucht uit nazi-Duitsland, maart 1938-augustus 1939. *Bijdragen tot de eigentijdse geschiedenis*, 13/14, 2004, pp.109-112; AL, J73/48. As Vicki Caron mentions in her article in this volume a fully restrictive French visa policy was only introduced from April 1938 onwards. Immediately after the Anschluss the government of Léon Blum, briefly back in power, granted Austrian Jews entry visas. Once Daladier took power on April 10, fear of an impending invasion of Austrian refugees took over and immediately instructions were given not to issue visa to Austrian refugees. For the Swiss administrative practice see the article of Regula Ludi in this volume.

²³ 358 Jews obtained a temporary residence permit in Denmark on their way overseas between July 1938 and September 1939, while in Luxemburg between November 1938 and September 1939 793 such residence permits were granted.. Rünitz, *Afhensyn*, pp. 376-390; AL, J(ustice)73/53 and J 74/11.

²⁴ Between July 1938 and September 1939 266 Jews obtained an authorization to settle permanently in Denmark because they had close relatives in Denmark. Danish restrictions were very harsh: follow on migration was mostly limited to the single and very old family members provided, however, that the relatives were able to put up substantial guarantees that the person in question would not become a burden on public funds. The fact that one's parents, children or siblings lived in Denmark or even one's wife gave an applicant no favorable treatment for a visa. These "insignificant ties" could earn one at most a visa for a short visit, insofar as one was able to promptly return to Germany afterwards. Rünitz, *Afhensyn*, pp. 273 and 376-390. In the Netherlands Dutch-born women who had married a German and thus had lost their citizenship, and parents of residents of the Netherlands, if the latter could assure their upkeep were granted mostly residence permits. All categories combined 800 persons were authorized to settle, mostly temporarily in the Netherlands between May and October 1938. Van Eijl, *Al te goed*, pp. 188-190; Moore, *Refugees*, p. 84.

²⁵ *Reichsgesetzblatt*, I, 7.10.1938, p. 1342.

²⁶ Anderl and Rupnow, *Die Zentralstelle*, p. 156. Sweden and Switzerland became also knowledgeable of each others negotiations and their common goal, but there was no coordination between the two countries. Sweden did refrain from using the word Jews in the Swedish-German agreement of October 15th 1938. C.Ludwig, *Die Flüchtlingspolitik der Schweiz in den Jahre 1933 bis 1952. Bericht des Bundesrates an die Bundesversammlung*, Bern 1957, p. 124 ff.; UEK, pp. 102-110. For the role of Switzerland in the introduction of the J-stamp see the article of Regula Ludi in this volume.

²⁷ Caron, *Uneasy Asylum*, p. 182. Rünitz, *Afhensyn*, pp. 215-222.

²⁸ From respectively 1933 and 1936 onwards. Van Eijl, *Al te goed*, p. 174; LSA, Ministère de la Justice J73/53, p.16.

²⁹ Danish instruction to consular services of 6.10.1938 referred explicitly to non-aryans from Central and Eastern Europe as a category to whom visa were to be granted only in exceptional circumstances and with explicit agreement of the Ministry of Justice. Runitz, *Afhensyn*, pp. 273f. In Luxemburg the

office granting work permits made a distinction between non-aryan German musicians and aryan German musicians, the first their work permits were more limited in time. M.Gloden, *Die Asylpolitik Luxemburgs von 1933 bis 1940. Der Anspruch auf Kontrolle. Wissenschaftliche Arbeit zur Erlangung des akademischen Titels eines Magister*, Universität Trier, 2001, p. 80. Applicants for British (tourist) visa who, according to the instructions of April 27 1938 'appear to be of Jewish or partly Jewish origin or have non-aryan affiliations' were ineligible as they were suspected of wanting to remain in Britain. London, *Whitehall*, p. 56. In Norway the authorities stated explicitly that Jews, defined as those of Mosaic faith were to be refused visa. Einhart, *Exil in Norwegen*, p. 51. In France from May 1938 onwards undocumented aliens had to fill in an identification card in which the French authorities asked for citizenship, religion and affiliation. J.Deschodt and F.Huguenin, *La république xénophobe, 1917-1939*, Paris 2001, p.271.

³⁰ Caron, *Uneasy Asylum*, p. 191; London, *Whitehall*, p. 65; Rünitz, *Af hensyn*, p. 274; Sherman, *Island Refuge*, pp. 90ff.

³¹ By the end of June 1938 Great Britain had granted 2740 visas to Austrian subjects. London, *Whitehall*, p. 70.

³² T. Kushner, 'An Alien Occupation: Domestic Service and the Jewish Crisis, 1933 to 1939', in *The holocaust and the Liberal Imagination. A Social and Cultural History*, ed. T.Kushner, Oxford 1994, pp.91-104; H.Loeb, Refugees from the Third Reich and Industry in the Depressed Areas of Britain. in *Second Change: Two Centuries of German-Speaking Jew in the United Kingdom*, ed. W.Mosse, Tübingen 1991, pp. 379-403.

³³ Van Eijl, *Al te goed*, pp.188-190.

³⁴ Caestecker, 'Onverbiddelijk', p.118.

³⁵ Rünitz, *Af hensyn*, pp. 271-276; Caron, *Uneasy Asylum*, pp. 52 and 181; Noiriël, *La Tyrannie du National*, p. 221; SAL, Ministère de la Justice, J73/45; G.Meershoek, *Dienaren van het gezag. De Amsterdamse politie tijdens de bezetting*. Amsterdam 1999 quotes Van den Hoek, *De geschiedenis van het Wapen der Koninklijke Marechaussee*, 1963, pp. 340-341; Note Gestapo, 2.9.1938. BBR 800; H.Arntz, *Judenverfolgung und Fluchthilfe in deutsch-belgischen Grenzgebiet*, Euskirchen 1990, p. 510; for Switzerland see the article of Regula Ludi in this volume.

³⁶ D.Bourgeois, La porte se ferme: la Suisse et le problème de l'immigration juive en 1938. *Relations Internationales*, 54, 1988, pp.188 ff.

³⁷ Jews were mostly excluded from Swiss formal refugee status. The Swiss instructions of March 1938 to the border authorities considered those who had left Greater Germany via a regular German frontier post (*Ausreisekontrolle*) as not eligible for refugee status. Jews had no difficulty in passing through German border posts. The border guards had to send a copy of the written record of the arrest of a foreigner to the Federal Prosecutor's Office (*Bundesanwaltschaft*) who had to decide if the applicant was a genuine refugee and thus their competence. Jews were as a rule not considered refugees. S.Keller, *Grünigers Fall. Geschichte von Flucht und Hilfe*, Zurich 1993, pp.14f.; G Koller, 'Entscheidungen über Leben und Tod. Die behördliche Praxis in der schweizerischen Flüchtlingspolitik während des Zweiten Weltkrieges', *Studien und Quellen. Zeitschrift des Schweizerischen Bundesarchivs*, 22, 1996, p.27.

³⁸ J.Wacker, *Humaner als in Bern! Schweizer und Basler Asylpraxis gegenüber den jüdischen Flüchtlingen von 1933 bis 1943 im Vergleich*, Basel 1992, pp. 96, 113 and 123; F.Battel, "Wo es hell ist, dort ist die Schweiz" *Flüchtlinge und Fluchthilfe an der Schaffhauser Grenze zur Zeit des Nationalsozialismus*, Zürich 2000, p.151.

³⁹ Moore, *Refugees in the Netherlands*, pp. 77ff; Van Eijl, *Al te goed*, p. 188f.

⁴⁰ Caestecker, *Ongewenste gasten*, p.182f.; Report prefect of Moselle, 27.5.1938; report of the local police Thionville, 30.5.1938. AN, F7/16072.

⁴¹ Belgian ambassador in Luxemburg to the Belgian Minister of Foreign Affairs, 26.5.1938. AAD, 289;LSA, Ministère de la Justice, J73/47; Report prefect of Moselle, 27.5.1938 and report of the local police Thionville, 30.5.1938. AN, F7/16072.

⁴² Y.Bauer, *My Brother's Keeper: A History of the American Jewish Joint Distribution committee, 1929-1939*, Philadelphia 1974, p. 242.

⁴³ Report prefect of Moselle, 27.5.1938. AN, F7/16072.

⁴⁴ According to police records, of the 527 'Jewish' refugees who arrived at the Danish border in the period between 1 July and 1 October 1938, 291 of them were refused admission. Rünitz, *Af hensyn*, pp. 271-276, 287, 428ff.

⁴⁵ H.Müssener, *Das Exil in Schweden. Politische und kulturelle Emigration nach 1933*. München 1974, pp.124f.; P.Levine, *From indifference to activism: Swedish diplomacy and the Holocaust (1938-1944)*, Uppsala 1996, p. 105.

⁴⁶ Rünitz, *Af hensyn*, pp. 246-274, 415 and. 410, 426; H.Petersen, 'Die Dänische Flüchtlingspolitik 1933-1941' in *Deutschsprachiges Exil in Dänemark nach 1933. Zu methoden und Einzelergebnissen*, eds R. Dinesen, B.S. Nielsen, H. Petersen, F.Schmö, Kopenhagen, 1986, p.80.

⁴⁷ Rünitz, *Af hensyn*, p. 429.

⁴⁸ Not all Jews were deported to Germany, a few were pushed on the other neighbouring countries such as Belgium and France. LSA, Ministère de la Justice, J73/47 and 48. LSA, Ministère des Affaires Etrangères, 3309 (P.1-172). The Luxemburg border policy has hardly been investigated. Ludwig, *Die Flüchtlingspolitik der Schweiz*, pp. 86f, 125, 90f, 156; Bourgeois, 'La porte se ferme', p. 204, see also the article of Regula Ludi in this volume.

⁴⁹ Wacker, *Humaner als Bern*, p. 113ff. ; « Une seule solution s'impose, le "refiler" subrepticement à la Belgique ». G.Noiriel, *La Tyrannie du national. Le droit d'asile en Europe 1793-1993*, Paris 1991, p.116.

⁵⁰ H.Bekaert, note pour la 2e direction, 29.4.1938. AAD, 1234. Note sur le libéralisme comparé des différents Etats. See also Lambert to Bérenger, 13.7.1938. AN, F7 16072.

⁵¹ At least one report of the Dutch Marechaussee mentioned using rubber truncheons against would-be refugees. Moore, *Refugees*, p. 83. See also LSA, Ministère de la Justice, J73/47.

⁵² See the article of Regula Ludi in this volume.

⁵³ London, *Whitehall*, p. 66; Belgian border policy has hardly been investigated, border guards had less autonomy than in other countries as all decisions were to be taken by the alien police in Brussels. For the difficulties for such research see S.Kirschgens, *Wege durch das Niemandsland. Dokumentation und Analyse der Hilfe für Flüchtlinge im deutsch-belgisch-niederländisch Grenzland in den Jahre 1933 bis 1945*, Köln 1998. Also British policy at the ports has hardly been investigated.

⁵⁴ The authorities enumerated the possible forms of proof: "Press clippings which deal with the evoked events which made the person leave the country,... documents, letters which prove that the person was present at that place and at that time when the events happened ...documents which prove that the foreigner was opposed to the regime of his country and that this hostility exposed the person to the cruelty against his person or his belongings". Minister of Interior to the préfets, 1938 quoted in C.Zalc, 'Des réfugiés aux indésirables: les pouvoirs publics français face aux émigrés du IIIe Reich entre 1933 et 1939', in *Construction des nationalités et immigration dans la France contemporaine*, eds Guichard E. and G.Noiriel, Paris 1997, p.265; Direction de la Police du Territoire et des Étrangers. Note sur l'applications de l'article 2, alinéa 2 du Décret du 3 Mai 1938. AN, F7 16072 ; Caron, *Uneasy Asylum*, p. 181; Noiriel, *La Tyrannie*, p.199.

⁵⁵ H.Rozenkrans, 'Entrechtung, Verfolgung und Selbsthilfe der Juden in Oesterreich März bis Oktober 1938', in *Oesterreich, Deutschland und die Mächte. Internationale und Oesterreichische Aspekte des "Anschlusses" vom März 1938*, eds G.Stourzh and B. Zaar, Wien, 1990, p.402.

⁵⁶ The Danish Red Help demanded, after the refolement of communist refugees for a centralized decision making in this field, but to no avail. Rünitz, *Af hensyn*, pp.246-279, 408f. In Switzerland border control became increasing centralized during this period.

⁵⁷ For a personal testimony on how Belgian border guards brought Jewish refugees to the German border, but gave them indications on how to return safely to Belgium. Gersten Walter, Leo Baeck institute New York, ME 185.

⁵⁸ For graph 2: The figures for France are based on the number of new arrivals (persons) from Germany (from March 1938 including Austria and from November 1938 including Czechoslovakia) in the monthly reports of the *Comité d'Assistance aux Réfugiés* (CAR) for Paris (AIU France X D 56), the figures for France, Luxemburg and Switzerland in 1939 are listed in a report of the JDC (UCL, Van Zeeland, 906); for Belgium the figures are passed on a weekly basis by the Jewish refugee aid committees to the authorities (ADA, 37C6). For Luxemburg in 1938 we used the figures in Note sur l'état actuel de l'émigration d'Allemagne et d'Autrich, 9.1938 YIVO, HICEM (Paris) –Emigration record.group 245.5, Serie France I. Microfilms reel 16.11. The Dutch figures for the arrivals in 1939 refer to those who are registered by the Jewish committee in Amsterdam, but not all of them received aid from the Committee. Excluded are the so-called 2551 transit refugees who mostly left the Netherlands shortly after arrival (only 2% failed to leave as plans collided, those few were added to the other arrivals). Nederlands Instituut voor Oorlogsdocumentatie, 181 k, comité voor Joodse Belangen Map 1a, annual report for 1938.

In order to have the total number of refugees registered by the refugee committees we should add up also the figures of the Jewish committees in other places and those registered by the catholic, protestant or non religious refugee aid committees.

Graph 3 refers for Denmark to all immigrants, thus not only 'Jews', who were registered in Denmark and who evoked that they had left Germany and other European countries because of persecution. The

figures for Luxemburg are based on the official number of Jewish refugees from (Greater) Germany admitted. From November 1938 onwards these refugees were admitted on the basis of a temporary residence permit valid from between 2 days to 2 years. These figures are slightly higher than the figures we have for 1939 of the Jewish refugee committee in the JDC report mentioned above as not all Jewish refugees admitted passed through this committee. LSA, Justice Department J73/53, J74/11 and Foreign Affairs 3309 (P.1-172).

⁵⁹ London, *Whitehall*, p. 61; Noiriël, *La tyrannie*, p.183; Van Eijl, *Al te goed*, pp. 189-190.

⁶⁰ A violation of this rule could lead to a prison sentence of up to 1 month or a fine. R.Weijdeveld, *Rode Hulp. Opvang van Duitse vluchtelingen in Groningerland, 1933-1940*, Groningen 1986, p. 111.

⁶¹ Kirschgens, *Wege durch das Niemandsland*, p. 189. For a similar evolution in France Noiriël, *La Tyrannie*, p.194; M.Lewis, *The Strangeness of Foreigners. French Politics, Culture and Society*, 2002, 20, no.3, p.10.

⁶² Deschodt and Huguenin, *La république xénophobe*, p.187; AN, F7 16072; B.Vormeier et H.Schramm, *Vivre à Gurs. Un Camp de Concentration français 1940-1941*, Paris 1977, p.236; U.Weinzierl, *Oesterreicher im Exil. Frankreich 1938-1945. Eine Dokumentation*, Wien 1984, p.44f.; U.Langkau-Alex, *Deutsche Volksfront, 1932-1939. Zwischen Berlin, Paris, Prag und Moskau. Vorgeschichte und Gründung der Ausschusses zur Vorbereitung einer deutscher Volksfront* (vol.2), Berlin 2004, p.447.

⁶³ H.Walter, *Deutsche Exilliteratur 1933-1950 (Band 2), Europäisches Appeasement und überseeische Asylpraxis*, Stuttgart 1984, p.105ff.

⁶⁴ René Girault, 'La politique extérieure française de l'après-Munich (septembre 1938- avril 1939)', in *Deutschland und Frankreich 1936-1939*, eds H.Klaus, K.Werner and K.Manfrass, München 1981, 507ff.

⁶⁵ B.Herlemann, *Die Anleitung des Widerstands des KPD durch die Exilierte Parteiführung in Frankreich, die Niederlanden und Belgien*, Königstein im Taunus 1982, p.151ff.; Caestecker, *Ongewenste gasten*, p.98ff and 230; Moore, *Refugees*, p.127.

⁶⁶ A.Gerrits, 'Solidariteit zonder eenheidsfront'. De Internationale Rode Hulp in Nederland, 1925-1938', *Cahiers over de geschiedenis van de CPN* 10, 1985, 55-80; Weijdeveld, *Rode Hulp*, p. 179; Moore, *Refugees*, p.128; Herlemann, *Widerstands des KPD*, p.151ff.

⁶⁷ Circular letter Dutch Ministry of Justice (2e section/1135), 26.4.1938. Amsterdam archive, city police, 5225. Only in June 1939 the Belgian authorities decided to deport to the Netherlands any refugee for whom the Netherlands was the first country of asylum. Caestecker, *Ongewenste gasten*, p.241.

⁶⁸ London, *Whitehall*, p. 61; Caestecker, 'Onverbiddelijk', pp. 109ff.; Moore, *Refugees*, pp.107-8; Van Eijl, *Al te goed*, p.188. Even the Danish authorities evoked this argument in September 1938, notwithstanding the small Jewish community of 6000 persons and the small number of refugees. Rünitz, *Afhensyn*, pp. 272-274; H.Petersen and E.Lorenz, 'Fremdenpolitik und Asylpraxis der skandinavischen Staaten', in *"Ein sehr trübes Kapital"? Hitlerflüchtlinge im nordeuropäischen Exil 1933-1950*, eds E.Lorenz, K.Misgeld, H.Müssener and H.Petersen, Hamburg 1998, p. 28. For France and Switzerland see the articles of Vicki Caron and Regula Ludi in this volume.

⁶⁹ Rünitz, *Afhensyn*, p. 410; Petersen and Lorenz, 'Fremdenpolitik und Asylpraxis', p. 28.

⁷⁰ Strangely enough the Dutch authorities did not deny that these foreigners were refugees and stated explicitly that refugees had become undesirable elements. C.Berghuis, *Geheel ontdaan van onbaatzuchtigheid. Het Nederlandse toelatingsbeleid voor vluchtelingen en displaced persons van 1945 tot 1956*, Amsterdam 1999, pp. 223-224.

⁷¹ Procurator-General Amsterdam to Jewish refugee committee, 6.1938, City archives Amsterdam, city police, arch. 5225, volume 16.

⁷² Van Eijl, *Al te goed*, p. 191.

⁷³ Van Eijl, *Al te goed*, p. 189f.

⁷⁴ Conference with Pannenburg of Ministry of Justice in relation to the instructions of May 1938. City archive of Amsterdam, archive of the police, arch. 5225/ 4 and 5.

⁷⁵ All 44 'Jews' were extradited to the German border police on 17th of September 1938. On 2th of November 1938 the German border guards informed their superiors that the Dutch authorities had had no more recourse to similar operations. HSTAD, 21.133; Van Eijl, *Al te goed*, p. 194; K.Grossmann, *Emigration.Geschichte der Hitler-Flüchtlinge 1933-1945*, Frankfurt 1969, p.20.

⁷⁶ See also M.Dewhurst Lewis, *The Boundaries of the Republic. Migrant Rights and the Limits of Universalism in France, 1818-1940*, Stanford 2007, pp.220-228.

⁷⁷ LSA, Ministère de la Justice, J73/47 and 48; Le Peuple, 14 and 19.1.1939; Bauer, *My Brother's Keeper*, p. 243.

⁷⁸ Caestecker, 'Onverbiddeijk', p.113.

⁷⁹ Caestecker, 'Onverbiddeijk', p.108ff.; Caestecker, *Ongewenste gasten*, p.188ff..

⁸⁰ Caron, *Uneasy Asylum*, p. 181; Regina M. Delacor, 'Die Reaktionen Frankreichs auf den Novemberpogrom 1938', in *Zeitschrift für Geschichtswissenschaft*, XLVI, 11, 1998, pp. 998-1006; Rozenkrans, 'Entrechtung', p. 402; Minister of Foreign Affairs, P.H.Spaak to Belgian embassy in Berlin 12.5.1938. AAD, 785; Gloden, 'Die Asylpolitik Luxemburgs', p. 100.

⁸¹ The Luxemburg authorities felt that they disposed of an assurance that they could always repatriated (ex-)German nationals. The Gotha Treaty of 1851 to which Luxemburg was a party entitled the Luxemburg authorities to return all German and ex-German nationals who had become stateless. The Luxemburg authorities considered this treaty the solution to eventual problems those leaving Germany would pose and repeated time and again the obligation of Germany to respect the terms of the treaty. LSA, Ministère de la Justice, J73/47 and 48. For the Gotha treaty see Andreas K. Fahrmeier, *Citizens and Aliens: Foreigners and the Law in Britain and the German States, 1789-1870*, New York 2000, pp. 37-39.

⁸² Caestecker, *Ongewenste gasten*, p. 208. The repatriation of (even undocumented) German Jews could proceed with few administrative difficulties as the German authorities could grant easily a laissez-passer for these German citizens, For the stateless, including the denaturalized German citizens and the holders of a *Fremdenpas* the repatriation was more difficult to organize, as German consuls could only grant a laissez-passer when Berlin had agreed. Rünitz, *Afhensyn*, pp. 414f.

⁸³ Bourgeois, 'La porte se ferme', p. 201.

⁸⁴ Instructions Best and Lischka, Geheime Staatspolizei Berlin to Grensinspection west in Koblenz, 3.11.1938. BBR, 276 see also Arntz, *Judenverfolgung*, p. 533 and *Note über die Einwanderung deutscher Staatsangehörige nach Belgien*. Archive German Ministry of Foreign Affairs Bonn, R 48907; H.Berschel, *Bürokratie und Terror. Das Judenreferat der Gestapo Düsseldorf, 1935-1945*, Essen 2001, pp. 280-285; Keller, *Grünings Fall*, p.104ff.; Wachter, *Humaner als in Bern*, p.107.

⁸⁵ Staatspolizeistelle Aachen, 23.11.1938 and information sheet Ministry of Foreign Affairs, 10.12.1938. Archive Ministry of Foreign Affairs, Bonn, R 48907.; Kirschgens, *Wege durch das Niemandsland*, pp. 99ff.

⁸⁶ Toury, 'Ein Auftakt zur 'Endlösung'.

⁸⁷ Gruner, 'Von der Kollektivausweisung'.