

II.4. From *Kristallnacht* to War, November 1938-August 1939

While the economic and administrative pressure on 'Jews' in Germany was already intense by the autumn of 1938, it was about to be made indescribably worse by the events of the *ReichsKristallnacht*.¹ An orgy of violence and destruction swept over Germany. Officially 91 people were killed on the night of broken glass, but many hundreds more died of their wounds or in concentration camps in the following days and weeks. Approximately 30,000 male 'Jews' were arrested and taken to concentration camps. Whatever funds or assets most 'Jews' had still possessed in November 1938 had been looted or destroyed in the pogrom, and the 1 billion mark fine levied on the community to pay for the damage and various other impositions effectively bankrupted most of its collective activities. All 'Jewish' business activity was to cease by 1 January 1939 and all remaining 'Jewish' assets and works of art were to be sold for the benefit of the Reich.²

Emigration from the Reich from 1933 had tended to claim the best candidates, and the 'Jews' who remained after November 1938 were less attractive for potential countries of refuge, but they were still placed under enormous pressure to leave. At the same time the German authorities sought to segregate them from all aspects of German life. Restrictions of all kinds rained down on the 'Jews', their pauperisation proceeded apace and '*apartheid*' became a fact of daily life. They also became subject to segregated labour deployment as the Nazis chose to exploit those whose unemployment made them dependent on state welfare.³ In March 1939 the German state annexed Bohemia-Moravia, a further 118,000 'Jews' came under Nazi control and it was not long before Adolf Eichmann established a branch of the *Zentralstelle* in Prague. Similarly in Germany, a *Reichszentrale für jüdische Auswanderung* was established in Berlin to centralize 'all work for 'Jewish' emigration'.

In this context, it should be remembered that the flow of people escaping from Greater Germany were by no means the only refugees in Europe at the end of the 1930s. There were well-founded fears in Western Europe that much larger numbers of Jewish refugees might be created by the states of Eastern Europe. Any generosity to refugees from Germany might well stimulate the impatience and rapacity of the Polish and Hungarian government to solve 'their' Jewish question in the same way as Nazi Germany had attempted to do. In January the Romanian government followed the Polish and Hungarian example and enacted legislation that stripped Jews naturalised after 1918 of their citizenship (and barred Jews from a broad range of professions). As the Romanian judiciary declared these laws unconstitutional they were never implemented, but the intent was clear and this potential efflux from Eastern Europe was a constant threat.⁴ At the same time, there was also the reality of up to 400,000 Republican refugees from Spain as the civil war came to an end.

Forced emigration remained the goal of the Nazi leadership and it continued to use all the means at its disposal to remove impoverished 'Jews' from Reich territory, both legal and illegal.⁵ 'Jewish' concentration camps inmates were only to be released if, and only if, they emigrated.⁶ Emigration overseas was one option, but it remained costly. International Jewish charities provided some of the finance through Jewish organisations inside Germany. The Nazis also forced wealthy 'Jews' in Germany wanting to leave to co-finance the emigration of their less affluent co-religionists.⁷ Emigration overseas nonetheless remained difficult. Immigration into Latin America became increasingly restricted as the authorities gave in to local protectionist and antisemitic forces.⁸ There were only a few exceptions to the worldwide restrictive immigration policies. After *Kristallnacht*, Great Britain was the first state to introduce a more generous policy of temporary protection and even the United States opened its doors slightly wider to the victims of Nazi policy. As Bat-Ami Zucker explains in her chapter, President Roosevelt felt he had a moral obligation to aid the refugees, but for electoral reasons and the public mood of restrictionism he was unwilling to tamper with the fundamental principles of his country's immigration laws.

For those with nowhere else to go, the International Settlements at Shanghai provided a possible destination simply because it was a territory outside the international system of nation-states which, although under Japanese control, was self-governing and did not demand visas for entry. In spite of the lack of any real settlement opportunities there and the potential for abject poverty, many refugees chose, or were forced to take this as their only option. Some 1,500 had arrived by the end of 1938 and by September 1939, their numbers had grown to around 8,000.⁹

The pace of emigration was much too slow for the Nazis. The German authorities were fully aware that the J-stamp on the German passports had served to hinder their emigration programme. Hermann Göring's famous speech of 6 December 1938 to the *Gauleiter* in which he outlined the anti-Jewish policy following the *Reichskristallnacht* indicated how this difficulty might be overcome. 'Jews' who were able to finance their emigration, but whose J-stamped documents prevented them being considered as acceptable immigrants could exceptionally be issued with regular German passports.¹⁰

The Nazis were also aware of how few places in the world would accept penniless 'Jews' as immigrants. Palestine was the favourite place to dump 'Jews' and the SS collaborated with revisionist Zionists from June 1938 and with the Jewish Agency from January 1939 onwards to organise illegal immigration into the mandate, largely by sea. When the Royal Navy began intercepting these ships in early 1939 and preventing the immigrants from landing, the refugees were dropped off in small boats just outside territorial waters and rowed the last few miles to the Palestinian coast.¹¹ Latin American ports also became targets for Nazi agencies anxious to export as many Jews as possible using

schemes that involved transporting refugees *en masse*.¹² In January 1939 they allowed the steamship 'Königstein' to leave for Barbados although fully aware that the passengers did not possess enough landing money.¹³ The ship was not permitted to land and wandered the Caribbean for several days, while the JDC looked for a destination. Finally the passengers were allowed to land in Venezuela. During 1939, the Gestapo organised numerous other steamship voyages containing Jews with dubious or non-existent travel documents to land refugees wherever the authorities might permit.¹⁴ The St Louis was the most famous of these voyages, but it was by no means the only example.¹⁵

German Jewish organizations consistently warned the Nazi regime that this dumping strategy could be counterproductive, and from the beginning of January 1939, several outside organisations attempted to curb this brutal policy.¹⁶ The main British and American aid organisations – the Council for German Jewry and the JDC - threatened to remove their subsidies from all 'Jewish' emigration from Greater Germany if such damaging experiments continued.¹⁷ Dumping refugees also created substantial risks for the steamship companies. If on arrival the refugees' travel documents were deemed insufficient or invalid and they were refused permission to land, the shipping companies were obliged to return them to their point of departure. As a result, many reputable Western European carriers became reluctant to transport Jewish refugees overseas and most of the journeys were made in chartered Italian or Greek ships.¹⁸ The charter companies insured their risk by demanding that the refugees buy return tickets and also that they paid part of the fare in (hard) foreign currency.¹⁹ The British government became determined to halt uncontrolled illegal immigration to Palestine and applied diplomatic pressure on the European states from which illegal vessels had departed. The states under whose flags of convenience the illegal ships operated also found themselves targeted by the British and by May 1939 British surveillance and diplomatic intervention had made it impossible to use Mediterranean ports as a means of reaching Palestine illegally.²⁰ The German authorities quickly took the necessary steps to assure that emigration overseas could continue, primarily by employing German shipping companies to carry out the task.²¹ To expedite further illegal journeys to Palestine, the German authorities supported Zionist organized voyages that began in Vienna or Bratislava and used the Danube as a route to the Black Sea.²²

According to the Jewish organizations, about 50.000 people left Greater Germany between January the first 1939 and the outbreak of the Second World War in September. Palestine and Asia (overwhelmingly Shanghai) each took at least 10% of these emigrants, but most who left for an overseas destination - nearly a third of the total - headed for the Americas. For the first time since 1933, the United States took nearly as many as the South American states. However for the first time since 1933, the majority of refugees from Greater

Germany in 1939 remained in Europe. By 1939 legal emigration and resettlement overseas had been closed to the vast majority of 'Jews' still in the Greater German Reich.

For many, the countries bordering Germany represented the only possibility of escape.²³ While the German authorities turned a blind eye to illegal crossings into Eastern Europe, they carefully policed the frontiers with Western Europe after November 1938. Thus Jewish refugees wanting to flee to most countries of Western Europe had not only to outwit the border police of the country they were trying to enter, but also those of Germany. From early November 1938, the German authorities had issued orders to arrest all Jews found near the border without the necessary passport and a visa to enter either Belgium, France or Switzerland and transfer the adult male Jews among them to concentration camps. By January 1939 this highly repressive policy was widened to include the whole western border of Germany. The German border police stations at the German-Dutch border (*Grenzpolizeikommissariate*) were instructed to stop all German (and Austrian) Jews from entering Dutch territory. The slow communication of these instructions from Berlin indicates that the Dutch insistence upon cooperation to control the border had not been considered a priority. However, no such policy was even attempted at the Danish frontier, presumably because the Danish authorities saw no great problems at their frontier and had not pressed the German authorities to take any action.²⁴

Although the pressures on 'Jews' to leave the Reich remained extremely brutal, it is clear that in general the German authorities no longer wanted to force 'Jews' into neighbouring western countries. However local examples of 'dumping' continued to take place. Thus for example, the Gestapo sent a group of 'Jewish' children on a train across the Dutch border to Nijmegen and then just abandoned them, thus more or less daring the Dutch authorities to send them back. A SOPADE report noted in January 1939 that the 'Jews' of a town near the French frontier were herded into the square and then forced across the nearby border, only to return when the French authorities refused to admit them.²⁵

Dumping of 'Jews' was, however, largely shifted away from the countries west of Germany and there was a good deal of cross-border co-operation. This cooperation was largely the result of continuing diplomatic pressure on the German authorities and the wish to maintain normal travel arrangements between states. The instructions to the German border police were easier to implement at the Belgian, Swiss and French border as the authorities only had to arrest and transfer all male 'Jews' without the necessary passport and visa to a concentration camp. However, throughout 1939, German policies at the Dutch frontier remained more lenient. This was primarily because entry to the Netherlands did not formally depend on having a visa – and therefore only 'Jews' whose entry to the Netherlands could *only* be made illegally were to be incarcerated.²⁶ The local German border police was hesitant about sending 'Jews' with valid passports to a concentration camp and in March

1939 the Gestapostelle Düsseldorf decided that 'Jews' caught near the Dutch border who had a valid passport were not to be imprisoned, as there was no evidence that they intended to cross the border illegally. They were merely to be sent back to their place of origin, usually Vienna, and the authorities there were instructed only to (re-) issue passports if the individual had been given permission to enter another country.²⁷

Changes in Western European refugee aid

The violence of the *Kristallnacht* sent shock waves across Europe and provoked a sense of outrage in both the press and in public opinion. The urgency of providing aid became clear to many and the recognition that the pogrom had created new categories of victims meant that it became a matter that attracted interest beyond the left-wing organisations and the Jewish community. This broadening of interest can be seen in the creation of refugee aid committees for Christian 'Jews' and the non-sectarian appeals for refugee aid that followed the events of November 1938.

A number of new refugee committees were established across Europe to help Jewish converts to Christianity. There had been refugee aid groups that had given assistance to the small number of politically active Christian refugees since 1935, but it was only after *Kristallnacht* that the major Christian churches began to realize that they had converts among those persecuted as Jews in Germany who fell foul of racial laws because of their Jewish descent. Christian aid organisations started to cater for these 'non-aryan' Christians, as pressure on Jewish relief organisations increased. Until 1938 Jewish refugee organisations had helped all those categorized as Jews by the Nazis, without regard for their religion. Thus professing and non-professing 'Jews' were supported, as well as Christian converts. This inclusivity came to an end in 1939 when Jewish charitable resources were stretched beyond all limits and the organisations became increasingly selective. 'Jews' who could be helped by either Christian or left-wing organizations were directed elsewhere.²⁸ Nevertheless, the plight of these 'non-aryan' Christians undoubtedly broadened the general public support for the refugees from Nazi Germany.

This wider support was particularly evident in Britain and the Netherlands. In Britain, Stanley Baldwin, the former Conservative Prime Minister, launched a national appeal. He called upon the British as Christians to support the non-aryan refugees, be they Christians or Jews. His broadcast appeal was extremely successful and raised over £250,000 by the end of December. There was also a national appeal in the Netherlands, launched by a broadcast by Prime Minister Hendricus Colijn, and supported by many mayors that raised 473.000 guilders.²⁹ In other countries the general public was much less supportive and leading personalities were much less inclined to put their weight behind such a campaign. For

example in Belgium, the Prime Minister and the Belgian Red Cross refused to lead the campaign. In the same vein, the Belgian Roman Catholic church refused to canvass support from their parishioners for financial support for refugees, even if they were Christians.³⁰ Any widening social support for the refugees did not imply that the authorities were prepared to help finance refugee aid. Refugee aid remained a private, not a public affair. Only the Swiss and Danish authorities had given some token support to refugee aid and their subsidies were divided equally among the existing respectable refugee committees, but when the expenditure of the Jewish refugee aid committees exploded, the public subsidy was even more of a drop in the ocean.³¹

Refugee and immigration policy in Continental Europe

Initial reactions to the *Kristallnacht* in most liberal states were in tune with public opinion as restrictive policies were attenuated or promises were made that this would happen. In practice, however, governments remained cautious, realising that the apparently random fatalities gave any 'Jew' coming from Germany a *prima facie* claim to refugee status as being in mortal danger. Acknowledgement of this new facet of the persecution in Germany undermined the legitimacy of existing restrictive policies. However an open border policy could cause a mass immigration of destitute refugees, thus a selective immigration policy had to be pursued which safeguarded the possibility of expelling unwanted or uninvited 'Jews' from Germany.

Subcontracting and strengthening external control

All state authorities continued to believe that the flight of refugees from Nazi Germany had to be contained. The easiest way to do this was at the border and in their consulates abroad, without any public accountability for the decisions taken. Given the increased sympathy for those fleeing Nazi Germany from some sections of the public, the external controls became ever more important. The J-stamp on German passports became the pivot of the external control of the liberal states of Continental Europe as it provided an instant distinction between 'genuine' visitors from Germany and those whose true purpose was to stay.

In order to ensure that refugees did not reach their territory, Western European states relied on several new forms of remote control beyond just a visa requirement. As mentioned before, states carrying out persecution were given inducements to stop unauthorized emigration, and this became a key part of the remote control policy as immigration control became largely dependent on German cooperation.³² Other countries were also called upon to combat uninvited immigration from Nazi Germany. Every country considered itself a victim

of 'lax' neighbours whose borders were too porous. In spite of ever more restrictive immigration policies, large numbers of refugees were still arriving and some states were castigated because they let refugees enter who just passed through their territory *en route* elsewhere.³³ The liberal European states thus continued to pressure each other to impose ever-tighter immigration restrictions; a trend that built up a momentum of its own that went beyond domestic considerations. Non-governmental agencies were also enlisted to stop the inflow of refugees. In some countries, transport companies were forced by the threat of sanctions to scrutinise their passengers' passports and visas for their validity, and refugee aid committees were pressured into advising would-be refugees not to leave Germany independently.³⁴

Visa-issuing policies became increasingly restrictive. Consulates were in the front line and had to sift the wanted from the unwanted. Consular personnel were instructed to be particularly vigilant when dealing with both German and Eastern European Jewish applicants. Such people found it increasingly difficult to obtain a visa for a Western European country, even for a short stay, let alone for permanent settlement.³⁵ The fact that Luxemburg, the Netherlands and Denmark did not require visas for Germans had no meaning for German 'Jews' as from 1938 onwards while 'aryan' Germans could still travel to these countries without a visa, they had to meet a semi-official obligation to have such a document in their passports.

Immediately after the Munich crisis in September 1938, although there were no official policy changes, a number of states became pro-active in selecting 'deserving' refugees from those who had to leave the Sudetenland and promising visas. France initially undertook to provide 310, then 700, but in the end only about 100 visas were actually issued. Belgium granted 253 visas and Denmark 163.³⁶ The selection criteria used in these cases made the states' primary definition of who was a refugee deserving protection transparent.³⁷ In line with the hierarchy of persecution prevalent at that time, only political activists were granted visa. Being persecuted as 'Jew' did not, in itself, qualify anybody for protection within this scheme. Communist refugees were also excluded from the Belgian and Danish gestures towards the victims of Munich. However Belgium did agree to allow known German communists who had resided legally in Belgium before their departure to enlist in the International Brigades in Spain to return. Likewise Great Britain granted visa to communist political refugees, including former combatants of the International Brigades but Denmark and Switzerland refused to do this.³⁸ Although there was little discussion, this positive discrimination towards political refugees was not perceived as unjust by the authorities. The fact that there were ostensibly so many organisations dedicated to the 'Jewish' refugees gave credence to the non-Jewish refugee organisations' claims that 'it was time to do something for the non-Jewish refugee'.³⁹

The victims of racial persecution were not entirely neglected and some were actively afforded protection, but it was always kept in mind that they should not pose any problems for the receiving country, either qualitatively or quantitatively. As mentioned before, refugees with close personal ties to a country or those with economic assets were still eligible for a visa. Refugees who had definite emigration plans and all the necessary papers were sometimes given temporary residence. Such people had to guarantee that they would emigrate overseas within a few days or at most a few months.⁴⁰ Immediately after the *Kristallnacht* only Swiss policy remained strictly on the course set before November 1938, other countries showed greater generosity and in particular more transit-refugees were allowed to wait in safety for the final issue of an immigration visa and the departure of their ship or flight. The Dutch even put forward a plan whereby Western Europe would act as a holding point for 'Jews' re-emigrating overseas, with all the costs borne by Jewish charities. The Dutch government was prepared to allow the legal admission of up to 2,000 'Jewish' refugees, a figure increased to 7,000 by public pressure. Selection remained in government hands with the Jewish refugee aid committee being allowed to recommend only 1,800 permits.⁴¹ When the other European countries appeared lukewarm to the Dutch proposal it was quickly dropped.⁴² This greater generosity towards transit-refugees soon disappeared when it became apparent that it was extremely difficult to get watertight guarantees that such refugees would receive all the necessary papers and be prepared to move on. In Switzerland the entry of transit refugees was soon further restricted. In December 1938 all three Scandinavian states curtailed their facilities for transit refugees and the Netherlands followed suit at the turn of the year.⁴³ These changes were sometimes justified on the spurious grounds that the treatment of Jews had improved and that immigration controls could now be 'normalized'.⁴⁴

In total contradiction to this claim that the Jews were exposed to fewer dangers inside Germany, several countries decided during November 1938 to make unaccompanied Jewish children eligible for admission. The schemes to bring children to Western Europe epitomised the hopeless situation for 'Jews' in Greater Germany. Terrorised parents realized that their children's only hope of survival was in the hands of strangers. Jewish refugee organisation convinced various Western European governments to give their agreement to this rescue operation by referring to the precedent of the protection afforded to children during the Spanish Civil War. Ultimately, Switzerland and France took in a few hundred children each and Belgium and Denmark provided asylum to a thousand apiece while the Dutch record was more generous as the Netherlands accepted two thousand children.⁴⁵ The very limited initiatives by Continental European states for actively rescuing Jews from Greater Germany - initiatives which in any case did not last very long - are partly reflected in the figures indicating the Jewish refugees' official destination when they applied for a passports in

Vienna and Prague. As shown in table 3 only 10% of the passport applicants stated they they were leaving for a liberal state in Continental Europe.

Table 3: 'Jewish' refugees' official destination when applying for passports in Vienna and Prague (n=102.897 (with Bohemia and Moravia included n=111.666))⁴⁶

	Austria (2.5.1938- 31.7.1939)	Included Bohemia and Moravia (15.3- 27.7.1939)	Percentage in total delivered passports
Great Britain	22.680	28.449	25%
France	3041	3382	3%
Only Austria			
Switzerland	3021		3%
Belgium	1680		1,6%
Netherlands	1502		1,5%
Denmark	464		0,5%
Luxemburg	96		0,1%

Border controls that had already been strengthened during the course of 1938 became even more stringent. In November 1938 detention stations were set up on the French frontier to deal with illegal immigrants. At the French border among the uninvited immigrants only 'refugees' were to be admitted. An alternative for male refugees denied protection at the border was to volunteer for the French Foreign Legion, but due the high physical standards required to qualify as volunteer only a few hundred ('Jewish') refugees who put themselves forward were allowed entry into France.⁴⁷ In April 1939, controls were strengthened at the Italian-French border. Twelve *pelotons* of the *Garde Mobile* were deployed along the coastline. They were even active on the Mediterranean Sea and used fast boats, equipped with heavy lights to intercept vessels at night.⁴⁸ In the Netherlands, 1000 border guards were made available to defend the 888 km frontier. Those in charge claimed that it would actually need 18-20,000 men to patrol it properly, but the civil servants, ever anxious to try and restrict expenditure, leapt at the idea of a more flexible employment of border personnel. From January 1939, men could be removed from areas where illegal entry was uncommon and redeployed as 'flying detachments' that could be moved to more critical areas.⁴⁹

Inevitably, large numbers of refugees were turned away at the borders.⁵⁰ In countries with a visa requirement, whether for all Germans or only for German Jews, policy dictated that all those without the proper documentation should be refused entry. In Luxemburg, the Netherlands and Denmark, where there was no formal visa requirement, the J-stamped passport served as a filter. This became the main criteria by which would-be immigrants were screened. However, even people carrying regular German passports were not always granted admission. Dutch instructions to the border guards on 17 October 1938 stipulated that German Jews without a J-stamp on their passport had to be refused admission, as their

documents were not valid. In February 1939, high-ranking officers expressed regret that it was difficult to stop catholic spouses of 'Jewish' refugees at the border, as they legitimately had no red 'J' in their passports. As border guards could still not always distinguish easily between potential refugees and others, they had to stop or delay many other travellers.⁵¹ In Denmark it appears that the border guards continued to identify unwanted entrants in an impressionistic way and questioned those whose presumed semitic facial features or strange travel patterns made them suspect as people wanting to settle in Denmark.⁵²

In 1939 border controls in Western Europe were intensified to keep out unwanted refugees. In December 1938, French border guards had been specifically instructed to refuse entry to German Jewish children and in January 1939 the Belgian authorities followed suit. The Dutch, Danish and Swiss authorities were ready to do the same, but there were no formal instructions.⁵³ Transit refugees who had a steamship ticket and an entrance visa for a country overseas were usually allowed to enter the countries bordering Germany to embark at a Dutch, Belgian or French port, but supporting their ports and shipping lines did not imply that the authorities acknowledged the refugees' plight. From April 1939 onwards, France insisted that transit refugees were transported from the border to the ports under police surveillance.⁵⁴

Attitudes at the border oscillated between outright refusal of entry for all Germans with a J-passport and a more differentiated policy that examined the merits of individual cases. Luxembourg and Switzerland were the first countries to institute a blanket policy. From the middle of August 1938 onwards, the Swiss and Luxemburg authorities had adopted restrictive measures at the border and these were extended in Switzerland on 7 September and in Luxemburg shortly after the *Kristallnacht*, on 25 November 1938 so that both borders were closed altogether for 'Jewish' refugees.⁵⁵ Denmark took a very similar position, but the Netherlands initially retained a case-by-case approach that did not automatically exclude 'Jews'. Until the *Kristallnacht* the Netherlands had admitted German refugees with papers and means to assure their upkeep, and even those without papers had been admitted if they could prove they were in imminent mortal danger. In the aftermath of the *Kristallnacht*, even this criterion was amended. A circular from the Ministry of Justice made it clear that only those German refugees (with or without papers) who lived close to the Dutch border and could prove imminent mortal danger were henceforward to be admitted. Moreover, as with previous instructions, the terms of the directive were not to be made public lest they provoked a wave of new immigration from 'qualified' people. The only others with some chance of admission were those with family already in the Netherlands, people recommended by one of the relief agencies, and children. A month later, the Dutch government radically altered its border policy and decided that the sheer numbers being admitted could no longer be sustained. On 17 December 1938 the Minister of Justice gave

orders for the border to be closed except for those Jews whom the Dutch authorities had already given permission to enter.⁵⁶ This implied that henceforward only those with existing permits would be admitted and that all others would be refused at the border. This regulation effectively introduced a visa-like system for Jewish refugees from Germany and to some extent informally duplicated Swiss practice. Now even Jewish refugees with sufficient means of support were no longer admitted. Only those who could demonstrate mortal danger (and until March 1939, unaccompanied women and children) were to be exempted. In fact this meant that only political refugees were to be admitted. Soon thereafter the Dutch authorities re-examined the effectiveness of their expulsion policy in the border region. By January 1939 the Minister of Justice Goseling decided that the practice of merely returning the refugees arrested in the border region was to no avail. These expellees just came back and thus an formal extradition mechanism along the lines of the Dutch-German agreement of 1906 would be more efficient.⁵⁷

The tightening of remote and border control had the effect of increasing the number of refugees using smugglers.⁵⁸ The huge profits to be made in the clandestine transport of people as well as goods across frontiers meant that by 1939 smuggling had become increasingly modernised and almost professionalised. For example, bigger and faster motorboats replaced the traditional fishing boats of Ventimiglia and San Remo that had been used for smuggling 'Jews' from Italy into France in 1938. Action was taken against these human smugglers. Known smugglers were often prohibited from entering border regions and their travel documents were confiscated. Even repressive means were used: helping illegal aliens was criminalized in several countries and the judiciary used newly acquired powers to imprison smugglers or to confiscate their boats or cars.⁵⁹ The Belgian authorities relied mainly on the cooperation of the German authorities to stop the traffic. Known Belgian smugglers were, at the request of the Belgian authorities, refused entry to Germany, but more co-operation was sought. Drawing on the German-Belgian agreement of 22 October 1938, the Belgian authorities insisted that German authorities take steps to punish human smugglers.⁶⁰ The Germans complied and from March 1939 onwards, those caught with 'Jewish' would-be emigrants in the border regions of Western Germany were sent to concentration camps.⁶¹ These higher risks for smugglers drove prices up even more and thus made this criminal trade even more lucrative for those prepared to take the risks.

Whatever state responses were to the threat of illegal immigration, borders remained permeable and many people were still able to slip through. The refugees from Nazi Germany were highly motivated and ready to make almost any sacrifice in order to cross frontiers. Human traffickers, in their turn motivated by the high profits involved, often anticipated changes made by the authorities. For example in the spring of 1939 with heightened control of the sea route across the Italian-French border, illegal immigration from Italy shifted to the

mountain passes that were more difficult to monitor.⁶² Each month several thousand refugees still succeeded in crossing the German borders illegally to look for asylum in the liberal countries bordering Nazi Germany (see graph 2).

Internal control

During the course of 1938, the combination of remote and border controls had been supplemented with an increased level of internal control on refugees who had arrived in West Europe. The very restrictive immigration policies across Europe inadvertently brought about a shift in the nature of immigration. Refugees continued to arrive as the pressures on 'Jews' in Germany to leave remained unabated, but the immigration of refugees became framed in terms of illegality and criminality. Smugglers were the conduits for refugees to cross frontiers, but once in a country of refuge, other supports were available to help people hide from the authorities. In effect, the inflow of refugees had been partly driven underground and states now assumed that there were large numbers of refugees living illegally in the country and escaping any control. The authorities' imperfect knowledge of their alien population meant that they were unable to assess the dangers to which society was exposed. These unknown aliens and the supposed abuse of the hospitality given to the legalised refugees became another obsession. Internal controls were intensified in order to control all immigrants and in particular to track down all undocumented refugees.⁶³ It became even more difficult for refugees to enter the territory of West European countries uninvited although the exception was the continued granting of asylum to political refugees, including communists. France remained the country of asylum *par excellence* for these political refugees. This is illustrated by the dispersal of a sample of communist refugees within Europe as shown by table 4.

Table 4: Country of asylum of a sample of 333 German communists, 1938-1939.⁶⁴

	1938	1939		1938	1939
France	95	107	Denmark	18	19
Great Britain	14	28	Switzerland	13	12
USSR	39	31	Netherlands	11	17
Spain	47	20	Belgium	7	7

The predominance of France as country of asylum for German communists was mainly due to their flight from Spain after the civil war. The remnants of the International Brigades, some of whom had previously been refugees in other countries neighbouring Germany, found their only escape route across the Pyrenees with the hundreds of thousands of Spaniards fleeing in the same direction. Most were interned in camps but a few communist

activists were allowed to leave the French camps and settle elsewhere, for example in Belgium and Great Britain where they had been offered hospitality. At the same time, the USSR became less important as a country of asylum, mainly due to its isolated political position and the murder of German communists during the Stalinist purges.⁶⁵

'Jewish' refugees who had succeeded in entering the territory of the liberal states, either legally or illegally, remained the main targets of restrictive measures. In Belgium, the publicity given to the deportation of illegal entrants in early October 1938 had led to widespread public discussion but the debate was radically altered by the wave of solidarity shown to the victims of the *ReichsKristallnacht*. Reluctantly, but provoked by the hard-line attitudes of Minister of Justice Pholien, more and more politicians publicly advocated a more humanitarian immigration policy. On 22 November 1938, under enormous Parliamentary pressure, Pholien finally made public the fact that the forced repatriation of Jewish refugees had been suspended. German Jews were again given temporary protection in order to prepare their re-emigration, but as they were prohibited from any economic activity, they usually had to be supported by Jewish refugee welfare organisations.⁶⁶

Dutch policy changed as radically. From May 1938 onwards, those who entered the country illegally were supposed to be deported, but this stopped on 19 November.⁶⁷ During November and December 1938, 1,500 illegal entrants were granted temporary protection. Initially they had to report daily to the police, but were subsequently placed under close administrative supervision in camps at Veenhuizen and Hoek van Holland. Transfer to the camps was often delayed, as there were insufficient places for the numbers involved.⁶⁸ At the same time, prospects for re-emigration were shrinking as refugees found it increasingly difficult to gain admission overseas and on 17 December 1938 the Dutch Minister of Justice closed the border, which implied that refugees who had entered the country illegally would be escorted back to Germany. Indeed, Dutch practice and the terms of the Dutch-German agreement of 1906, dictated that illegal aliens were subject not just to expulsion, but also to repatriation. This began immediately after Christmas when 70 refugees were sent back in a bus from Amsterdam to Germany. This repatriation policy for ('Jewish') refugees meant that in Dutch eyes, charges of smuggling, tax evasion or *Rassenschande* (race defilement), threatened sterilization or even internment in a concentration camp might not be considered *prima facie* grounds for protection.⁶⁹

By the end of 1938, every Continental European country had its own pool of 'undesirable' refugees. There was no question of their being collectively dumped across another frontier for fear of creating diplomatic difficulties or tit-for-tat retaliation. Dumping refugees into neighbouring countries became increasingly difficult. Legal re-migration was possible, but proceeded at a slow pace. Figures for HICEM-sponsored travel from Western Europe gives a good indication of the nature of re-emigration (graph 4 and 5). In the first 7

months of 1939, 4,000 refugees re-emigrated under the auspices of HICEM, mainly to the US, but others left independently or used private agencies. Another possible avenue was to make use of the various Zionist organisations that were involved in schemes for illegal emigration to Palestine. Much to the disgust of the British, these were often tolerated by Western European states anxious to encourage refugees to leave. London even accused their continental neighbours of conniving with the Zionists in order to get rid of as many refugees as possible.⁷⁰ In practice, there seems to have been no active co-operation, but turning a blind eye to Zionist smuggling activities seems to have been common.

Three types of solution can be identified as having been tried by the states of Western Europe in 1939. Belgium was unique in continuing to provide temporary protection to all refugees entering its territory. The Danish, Luxemburg and Swiss responses were the exact opposite. 'Jewish' refugees were considered as illegal aliens and forced repatriation was used as a remedy. In between these two extremes, the Dutch and French response to refugees was more ambivalent, with some afforded temporary protection, either freely or interned in prisons and camps, while others were deported.

Belgian retention of a humanitarian immigration policy

After Minister of Justice Joseph Pholien had announced in Parliament that deportation of Jewish refugees had been suspended, about two thousand 'Jewish' refugees arrived illegally in Belgium every month (graph 2). Upon registration they were granted a temporary residence permit as refugees in transit. No German 'Jews' were recorded as being repatriated between November 1938 and August 1939. The scope of persecution qualifying for protection was also extended: denationalized Polish Jews were also considered refugees worthy of temporary protection.⁷¹ The head of the Belgian *Sûreté*, Robert de Foy, insisted that the Ministers in charge of immigration policy stop the flood and expel all the illegal entrants. The regular cabinet reshuffles and the fear that intervening in this delicate and polarized matter would make one a second Pholien, was a recipe for inertia. The expulsion of 'Jewish' refugees became a taboo for a long time to come and three successive Catholic Ministers of Justice between November 1938 and March 1939 refused to take any initiatives on the matter.

The eligibility procedure used by the advisory refugee commission continued to distinguish between the 'voluntary' flight of the Jews from the 'forced' flight of political opponents. Although by 1938 both groups were subject to the same kind of brutal treatment that endangered their freedom and their lives, the criteria remained unaltered. In view of this unjustified discrimination it was suggested in early 1939 that Belgium should withdraw from the international refugee regime, but as the convention of 1938 left substantial discretion to

the national authorities it was considered unnecessary to do so.⁷² The artificial distinction between the 'Jewish' and political refugees could be justified by the claim of the authorities that 'Jewish' refugees had no need for protection as they had no intention of settling in Belgium. Moreover, the refugee commission, a state institution that had the task of guaranteeing that Belgian alien policy met minimum humanitarian standards, did not oppose the political decision to exclude 'Jewish' refugees from the eligibility procedure and thus undermined its own prerogatives. The possibility for immigrants to apply for asylum, even if they had arrived illegally, was a principle fully entrenched in Belgian legislation since 1936, but 'Jewish' refugees were collectively excluded from the privileged category of immigrants whom the Belgian authorities could not, on principle, expel. In this way, the Belgian state retained the right to expel 'Jews' fleeing Nazi Germany. This 'statutory inferiority' conferred on the 'Jewish' refugees, an expression of the power of definition this independent asylum agency held, also served to undermine the validity of their reasons for leaving Nazi Germany. By denying "Jews' refugee status, the Belgian authorities had a big stick at their disposal to coerce German Jewish transit refugees into organising their re-emigration although no 'Jewish' refugees were actually expelled from Belgian territory. The fact that the refugee commission did not adjust its criteria to reflect the changing circumstances in Nazi Germany meant that couples in 'racially-mixed' marriages remained the only victims of Nazi racial policy eligible for protection. These *Rassenschande* applicants were the only 'Jewish' refugees whose asylum applications were still processed.

As more and more countries overseas closed their borders, 'transit' became largely a fiction. Belgian refugee aid committees made a great show of those 'Jews' who did depart overseas as it proved to public opinion that their refugees had not come to stay indefinitely. In the spring of 1939, when re-emigration had all but come to a halt, the main Jewish refugee organisation was so desperate to prove that 'Jewish' refugees who were temporarily protected in Belgium were still leaving that it tried to set up a cosmetic operation with Great Britain by pretending that German 'Jews' who had been selected in Germany for protection in Britain had actually been transit refugees in Belgium. Even the issue of camps for refugees made no headway. A refugee camp had been erected in Merksplas accommodating around 500 refugees. This first camp had been created to enable the refugee committees to save money and to enhance the chances of refugees finding a country of final settlement through the provision of occupational training. Segregating refugees in camps gave the refugees the clear message that they had not come to stay and most importantly it diminished their visibility. After October 1938 there were no further initiatives as the authorities considered that financing the restructuring of government property to create refugee camps went beyond the limits of a 'reasonable' refugee policy. The welfare of refugees had to remain the task of private charities.

The contradictions in these various policy strands meant that refugee policy became deadlocked. The Jewish relief committees had given the government assurances that no refugees would become public charges but the influx had continued unabated and the sheer weight of numbers had overwhelmed their financial resources. In April 1939, a new cabinet agreed to share the costs for the upkeep of Jewish refugees. In spite of intensifying xenophobia, there was a consensus among all the traditional political parties that repatriating Jewish refugees was impossible, even if this meant that their upkeep had to be partly subsidised by the Belgian treasury. The authorities were thus 'forced' into co-financing refugee relief and as this was more efficiently done in camps, the authorities quickly opened a second camp with 500 places and the Merksplas camp was enlarged to accommodate 700 people.⁷³

Deporting Refugees: Jews perceived as illegal immigrants

In Denmark and Switzerland the deportation of Jewish refugees continued unabated throughout 1939.⁷⁴ Between 1 March and 1 September 1939, 26 of the 70 Jewish refugees who had arrived illegally and 30 of around 700 who had entered Denmark legally were repatriated to Germany. These repatriations, which were sometimes contested by the refugee committees, were mostly due to misdemeanours committed by the individual or their failure to find a country willing to offer them permanent asylum. There was no attempt to disguise the nature of these expulsions, and by 1939 Minister of Justice Karl Steincke was justifying them by denying that those involved were refugees and by condemning the offences they had committed. The Danish-Jewish relief committee took a very pragmatic attitude to this restrictive policy. Henceforward the committee only protected those 'Jewish' refugees who could soon emigrate overseas and therefore only needed short-term support. As a rule, this protection usually insured the individual from deportation, but this was not always the case. Some people were being repatriated before they could contact the Jewish relief committee and sometimes even the committee's support could not prevent the Danish authorities from deporting refugees.⁷⁵

In Switzerland, 'Jews' continued to enter the country illegally although the border had been closed for 'Jewish' refugees from 9 September 1938. As Regula Ludi writes, local officials could sometimes circumvent the intentions of federal policy. The case of the police chief of St. Gallen, Paul Grüninger is the most well-known example. He took a number of steps to prevent people being sent back, including antedating documents, thereby allowing, according to Stefan Keller 3,601 'Jews' to enter Switzerland. The cantons Basel-Stadt and Schaffhausen, where social democrats had a substantial influence on policy are other cases in point. Much to the annoyance of the federal authorities, these cantonal authorities largely

stuck to the principle that once a 'Jewish' refugee had outwitted the federal and cantonal border guards and succeeded in entering the city of Basel or Schaffhausen they could be permitted to remain temporarily.⁷⁶ Nonetheless, the stringent Swiss border controls (assisted by the Germans) kept most 'Jewish' refugees away from Switzerland. By 1939 the few who did succeed in entering Swiss territory illegally were nearly all deported. The few cantonal authorities that advocated a more humane treatment of these refugees were placed under enormous pressure to toe the line by the federal authorities, but this was ultimately achieved by an increased centralisation of more and more issues related to asylum policy.⁷⁷

Deportation also remained an instrument of migration control in France and the Netherlands. In the latter country, the only information on how this was administered comes from the police in Amsterdam, who seem to have taken a strict line. Many 'Jewish' refugees were forcibly repatriated and from 27 March 1939 even single women and children were no longer exempted from this process.⁷⁸ The Amsterdam figures indicate that although unauthorized immigration did not stop altogether, the number of recorded arrivals was drastically reduced.⁷⁹ The Dutch-Jewish welfare organisations' statistics on new arrivals in 1939 demonstrate that not all of them were forcibly removed from the Netherlands, although in contrast to Belgium, the authorities did not explicitly tolerate them. The basic criterion for being tolerated was that the refugee had to be in (imminent) mortal danger. Extreme left political refugees who had entered illegally were exempted from deportation but those persecuted in Germany for crimes such as currency smuggling and *Rassenschande* were not granted asylum, as the Dutch did not interpret confinement in a concentration camp as constituting mortal danger. Dutch local authorities nevertheless continued to have considerable discretion in their actions. They were the ones to investigate the danger to which a deportee would be exposed. Only in cases of refugees fleeing charges of currency smuggling did deportation have to be the rule. The dangers to an illegal immigrant as a result of charges of *Rassenschande* and the dangers of a stay in a concentration camp were thus often investigated on a case-by-case basis.⁸⁰

It seems that in line with tradition, the French authorities seldom resorted to deportation but policy did become far more heterogeneous.⁸¹ The decree of May 1938 had given the prefects power to expel aliens who had entered illegally or overstayed the validity of their visas whereas previously this had required ministerial approval. According to a British Passport control officer in Paris, the treatment of refugees in France lacked uniformity as there seemed to be little or no co-ordination among the provincial *préfets* who were entrusted with this work and who seemed to put all sorts of different interpretations on the regulations, resulting sometimes in unwarranted severity and at other times in the granting of unintentionally generous facilities.⁸²

Deterring Refugees: French prisons and Dutch camps

The French authorities largely refrained from deporting refugees, but Vicki Caron points out the French authorities believed that prison would deter illegal immigration and even the *ReichsKristallnacht* did not alter this policy. Refugees arriving illegally were still treated on a par with criminals. According to estimates from the Jewish refugee committee, about 9,000 refugees had been sentenced to terms of imprisonment between May 1938 and July 1939, including about 3,000 Germans.⁸³ However, the implementation of this policy was not without its problems. Equating illegal immigrants with criminals had considerable disadvantages. Holding them in a high security facility was expensive and applying criminal procedures to refugees was ineffective. As Vicki Caron illustrates, invoking the law could be an impediment to a repressive policy as the courts showed considerable leniency in applying such laws.

Prisons remained the 'French home' for refugees, but elsewhere in continental Europe, refugee camps were increasingly created to house new arrivals. Jewish refugee committees in Switzerland and Belgium, in close co-operation with the authorities, had during the moments of intense crisis in migration management, established a few camps to accommodate refugees in a more cost-effective way. In general authorities were reluctant to follow this example as the refugee camps were presumed to send a message that refugees were welcome to stay. However when the xenophobic mood among the French political elite waned, several refugee camps were set up in the course of 1939 where vocational training was provided, financed by the Jewish refugee committees.⁸⁴

However, another kind of refugee camp was piloted in France and pursued with more vigour in the Netherlands. A French decree in May 1938 had deemed that prison was inappropriate for aliens who could not be deported, and such people had instead to be given an assigned residence under police supervision. As the ruling elite of that time had embarked on a conservative backlash against the Popular Front, the containment of subversive aliens was given a high priority. Also appeasement was still considered the best defence of French interests and the mere presence of the refugees, let alone their political activities, were considered an annoying impediment to French-German reconciliation.⁸⁵ The extensive use of close supervision of refugees rapidly got out of control as the Minister of Justice had to reprimand the *préfets* in November 1938 for their excessive zeal in using this means to supervise all kinds of refugees. As too many refugees were put under police supervision, local gendarmes were overwhelmed by increase in work.⁸⁶ An emergency decree of 12 November 1938 enabled the executive to arbitrarily detain foreigners who constituted a 'security risk' in camps. As the executive received full power to deal with foreigners as it saw fit, it allowed the rule of law to be bypassed.⁸⁷

When in January 1939, 400,000 Republican refugees fled into France, the French authorities had to improvise emergency aid. All Spanish refugees were interned in makeshift camps and pressured to return to Spain. These camps were a solution to a very exceptional situation, but the experiment seems to have been considered successful.⁸⁸ In February 1939 a much more calculated decision was taken to erect a camp in Rieucros (Lozère) for undesirable refugees who could not be deported with a capacity for 500 inmates. Immediately forty foreigners were interned there for an indeterminate period. German and Austrian refugees together with some Spaniards, Italians and Russians, most of whom had long criminal records, were thus rendered totally subject to the power of the administration. Although this camp remained an exception at that time, it would become *the* French tool for migration management from September 1939 onwards.⁸⁹

In the Netherlands, the internment of refugees was already in full swing by 1939. The practice of interning so-called dangerous foreigners had been initiated in 1935 using powers obtained by the Dutch authorities in 1918. It was continued in the following years and refugees were invariably interned if it was felt that they were a danger to public order. At the end of 1938, the scale of internment grew dramatically (see table 5). From December onwards, all male refugees arriving in the Netherlands illegally or legally, were accommodated in camps scattered across the Dutch countryside. When they arrived, legal immigrants had to agree to be housed in camps financed by the Jewish refugee aid committee. Special camps for illegally immigrated refugees were established under the aegis of the Ministry of Justice with a far stricter regime. Only men were interned, so families were separated. Inmates of these camps were not allowed to go out, or to receive visits.⁹⁰

Table 5: Number of refugee interned in Dutch camps for legally and illegally immigrated refugees⁹¹

	Inmates in camps for illegally immigrated refugees (inmates of Jewish religion)	Inmates in camps for legally immigrated refugees
By 31 December 1938	717	348
January 1939	(571)	
February	651 (638)	807
March	675 (658)	898
April	686 (665)	754
May	666 (640)	743
June	665 (645)	886

July	(672)	790
August 1939	(547)	731

These penal colonies attracted criticism even within government circles as it was argued that the 1918 law provided for full powers to confine dangerous aliens, but these refugees were harmless and were only distinguishable from refugees who had entered legally by their means of entry into the country. Their internment was considered an excessive interpretation of the powers given to the executive, but the Minister of Justice insisted that because there could be undesirable elements among the refugees that internment was necessary.⁹² The existing small camps were difficult to supervise and expensive, and it was decided, mainly on economic grounds, that a central camp - Westerbork - was a better option. Also the costs of the camps for illegal refugees were borne by the guarantee fund established by the refugee committees, in spite of the fact that the committees had no control over the arrival of inmates.⁹³

Great-Britain, a pro-active refugee policy

After the Munich agreements, the British authorities gradually developed a more proactive refugee policy. As Arie Sherman wrote, 'the moral ambiguities of the British position at Munich made the pressures on the Government to intervene more actively on behalf of these refugees well-nigh irresistible'.⁹⁴ At first, Britain had considered protective measures within the borders of the truncated Czechoslovak state but the negative attitude of the Czechoslovak authorities towards ethnic minorities pushed emigration to the fore as an alternative solution. In November 1938 the British government decided to grant asylum to 350 refugees and their families who were in imminent danger in Czechoslovakia. This number increased rapidly and by April 1939 between 2,000 and 3,000 persons benefited from this proactive refugee policy. This British readiness to accept refugees from Czechoslovakia did not deviate much from the minor humanitarian concessions made to the British immigration policy in the past. They received only a three-month temporary residence permit in expectation that they would re-emigrate elsewhere and all the costs involved were met by private relief organisations.

The first British quota of 350 was apportioned with two-thirds going to refugees who had just fled from the Sudetenland and one-third to refugees who had arrived in Czechoslovakia from Germany and Austria at an earlier date. The British refugee organisations in Czechoslovakia were asked to draw up a priority list of the most threatened individuals. Thus far, the British authorities had seen to it that asylum was not granted to communists, and although they wished to maintain this policy of exclusion, the refugee

organisations had considerable left-wing representation and insisted that their rankings were respected. As a result, London finally accepted that communists were also to be included in those granted protection and to veil this far-reaching concession it was decided that only (communist) 'extremists' would be excluded. This excluded category seems not to have been used later on. Since 1917, Britain had been anything but welcoming to communist refugees, even temporarily, but their admission on condition that they would not engage in political activity was now accepted as the logical consequence of a more proactive refugee policy.⁹⁵ Thus, Great Britain became a more important place of asylum for communist refugees than in the preceding years (see table 4). In the course of 1939, the British authorities were 'forced' to make their proactive refugee policy even more generous. As it turned out to be difficult to find a country willing to receive the temporarily protected refugees the average residence permits for transit refugees from Czechoslovakia were 'perforce' extended from 3 to 6 months in March 1939. From January 1939 onwards, the British subsidised refugee re-emigration. The money was taken from the £4 million which London had promised as financial support to Czechoslovakia. From this refugee fund, money could be taken only to arrange a permanent settlement elsewhere. The costs of temporary relief inside the United Kingdom continued to be met by charitable organisations.

Besides the above-mentioned organized immigration, there was also a spontaneous movement of Czech refugees posing as tourists. Possessing only a passport and some financial means, they could gain access to Great Britain. Yet, soon after September 1938, fears that refugees masquerading as tourists might try to settle meant that all Czechs were subjected to close scrutiny and interrogation at the ports of entry.⁹⁶ Immediately after the occupation of Bohemia-Moravia on 15 March 1939, the regulations were relaxed and refugees from Czechoslovakia who had fled immediately after the invasion of Prague and had succeeded in reaching British ports were usually granted admission if they possessed a valid passport. Thus, between September 1938 and April 1939, some 1,500 Czechs were given asylum in Great Britain of whom about a thousand were Jews, but others were turned away. The heavily publicised case of a group of 'Jewish' refugees from the protectorate who flew into Croydon airport from Warsaw on 31 March 1939 on a chartered plane and were immediately returned to Warsaw sent a clear message. This forcible return of Czech Jews had immediate repercussions on the continent. The Dutch authorities refused further passage to Czech 'Jews' travelling on trains from the protectorate to Dutch ports. These 'Jews' were ostensibly on their way to England, but in spite of direct intervention of the British Committee for Refugees from Czechoslovakia (BCRC) with the Dutch border officials, only a small number were allowed to cross into the Netherlands at Oldenzaal and most were left stranded in Bentheim on the German side of the border.⁹⁷

After the introduction of a visa requirement for people from the protectorate in April 1939, the process of pre-selection could be applied as an administrative routine to Czech refugees. When such refugees presented themselves at British ports of entry they could be refused admission if they did not have the necessary documents – just like their German or Austrian counterparts. The British authorities wanted to pre-select the refugees they admitted. From April 1939 onwards, British refugee policy explicitly extended its target group to ethnic Czechs and Czech ‘Jews’.⁹⁸ The BCRC set up reception and clearing stations in Poland to select refugees who had fled the protectorate. Warsaw had agreed to admit illegally immigrating refugees provided that they departed quickly. Once arrived in Great Britain, the BCRC – for the first time in the history of British refugee policy – could apply for public funds to finance the (temporary) relief of these refugees. British groups supporting non-Jewish refugees argued that it was only their work that was truly resistance to Nazi Germany’s policies. Help for Czech Jews to emigrate obviously played into the hands of the Nazis who wanted to purge the (Czech) protectorate of all its Jews. Berlin even proposed cooperation with the British authorities in this matter. The British rescue operation for those in danger in Czechoslovakia became exclusively focused on helping political refugees. The British acknowledgement of responsibility for the victims of the Munich agreement seemed to have had no advantages for Czech Jews, as they continued to be treated on a par with the Jews still residing in Germany or Austria and this in contrast to their politically active countrymen.

After *Kristallnacht*, ‘Jewish’ refugees in Germany and Austria also benefited from a more generous immigration policy. This liberalisation of entry for ‘Jewish’ refugees from greater Germany remained almost exclusively dependent on private Jewish finances. By this stage, Neville Chamberlain, the British Prime Minister, had effectively given up all hope of moderating this aspect of Nazi policy and had assumed that the continuing pauperisation and expulsion of the Jews was irreversible. There was no doubt in his mind that the solution to the refugee question could only be found in the United States. He took the view that Great Britain could not cope with the massive inflow of refugees, and any increase in the quotas for Palestine was politically unacceptable. He was also convinced that the United States could only be persuaded to open its doors if it realised that there was no European solution to the problem. These political and humanitarian considerations explain Chamberlain’s decision to grant temporary protection to considerably more refugees from Nazi Germany in Great Britain. Concessions were made to children and (female) workers prepared to become domestic servants.⁹⁹ In this manner about 10.000 children and 13.000, almost exclusively female, refugees had been admitted by September 1939. Both schemes officially offered

only temporary protection, but these refugees were admitted for longer periods and the authorities were prepared to consider applications for permanent residence.

Chamberlain's decision meant that Britain was prepared to be far more generous in granting *temporary* asylum for 'Jewish' refugees, but the principles established in 1933 remained intact: relief measures for transit refugees and the costs of their journey to a final country of asylum were not to be at the expense of the public purse, but met either by the refugees themselves, or by private charities. This somewhat undermined any flood of refugees to the United Kingdom. From the *Anschluss* onwards, Anglo-Jewish relief organisations had limited their role to that of mediator between individual sponsors and candidate-refugees in Germany and Austria. This process of selective immigration was speeded-up from November 1938 onwards as more civil servants were deployed to handle the visa applications. At the same time, the criteria for being granted temporary asylum were drastically reduced. Thus, it was no longer necessary to provide evidence of imminent re-emigration and sometimes the mere fact that the applicant was deemed physically and socially suitable for re-emigration was considered sufficient. Recommendations from a refugee aid organisation became accepted as a substitute for official individual inquiries. Thus receiving a British visa became largely a decision taken by the relief organisations and the individual sponsors, who, after all, took on the financial responsibility for the persons they selected.¹⁰⁰

The Jewish relief organisations concentrated their efforts almost exclusively on German (and Austrian) Jews while Czech Jews could not count on their support. The latter were not considered the responsibility of the British Jews, but of the British government because the British authorities had accepted responsibility for victims of the Munich agreement by providing the resources for their re-emigration, and from April 1939 onwards, also for their temporary relief in the United Kingdom. These refugees were referred to the BCRC. This organisation, officially non-sectarian, was mainly a creation of the left and its primary concern was with political activists. In agreement with the authorities, the BCRC thus privileged the political refugees, whereas Jews from Czechoslovakia were left in the cold. Nevertheless, the possibility of reaching Great Britain via Poland continued to act as a magnet for Jews in Czechoslovakia. British refugee aid committees were told to pass on the message that it was useless for 'Jews' from Czechoslovakia to escape to Poland, because they stood no chance of obtaining a visa for the United Kingdom. This selective solidarity with the victims of Munich was also conditioned by British loyalty to her Polish ally who had little enthusiasm for this inflow of 'Jews'.¹⁰¹ The British authorities claimed it was imperative to relieve the pressure on the Polish borders because the continuing 'Jewish' emigration from Czechoslovakia might even pose a threat to the Polish-Jewish population. As a result of the

selective British refugee policy, the Polish authorities decided to give a clear signal to the 'Jews' in Czechoslovakia by starting to turn 'Jewish' refugees away at the frontier and even to expel them.¹⁰²

By mid-May 1939, the BCRC had already brought 5,000 refugees to Great Britain, but there were very few Jews among them.¹⁰³ In the battle for visas for Czechs, those representing the interests of Jewish refugees pointed out that there were many political activists among the 'Jewish' refugees in Poland and that they were in as much danger as activists of other ethnic groups from Czechoslovakia. The defence of the 'Jewish' refugees resulted in a serious crisis within the British refugee network. It was not until Czech Jews were represented in the selection committee that 'Jewish' Czechs were rescued through this operation.¹⁰⁴ In line with the British refugee policy the selection of Czech Jews was mainly based on their prospects of permanent overseas residence. An additional criterion, introduced by the BCRC and which concurred with its conception of a refugee, was the social engagement of Jews. Only those Jews who had taken part in public life, be it through membership of a professional, women's or youth organisation, could be selected for immigration.¹⁰⁵

According to Louise London and Arie Sherman, refugees caught trying to evade British immigration control were severely dealt with. They base their judgment mainly on a few cases which had been heavily publicized, possibly as part of a deliberate public relations campaign. Indeed illegal refugees were prosecuted in the United Kingdom, but the judges usually imposed mild sentences, albeit with a recommendation that the accused should be deported after the sentences had been served.¹⁰⁶ However, this was invariably back to their country of first asylum or to their point of departure, primarily the Netherlands, France or Belgium and not to Nazi Germany. In most cases, such people had crossed the Channel illegally, as stowaways on ships from European continental ports. Some even made the journey in their own boats, as was the case of two refugees who, in the summer of 1939, left Belgium for England in a ten-foot dinghy.¹⁰⁷ Although, as mentioned before, the first country of asylum was not necessarily a safe haven, deportation from Britain directly to Germany seems to have been out of the question. As far as we know there were no cases of refugees deported directly to Germany, a point reinforced by the contemporary assessment by S. Adler-Rudel of the Council for German Jewry:

The judges usually criticized the immigrant for entering the country illegally and imposed mild sentences. In all cases, including those in which the Law forced the judge to recommend deportation, he pleaded for clemency and hoped the Home Office would not deport these persons, as no one can assume the responsibility of sending a person to Germany.¹⁰⁸

The St Louis: An Exceptional Case?

This overview of European refugee policy seems to contradict the most well-known episode in the rescue of German Jews from Nazi Germany in 1939: the saga of the St Louis. This story has been told many times in literature, in the press and in feature films, and underlines the myth of a generous European refugee policy. This 'trip of shame' is usually presented as a tribute to European solidarity with the refugees as opposed to American indifference.¹⁰⁹ On 13 May 1939, the St. Louis sailed out of the port of Hamburg with 931 passengers on board, nearly all of whom were 'Jews'. They had purchased visas for Cuba, and hoped to find refuge in Havana. An economic crisis together with a corruption scandal in the immigration department caused a change in Cuban immigration policy on 5 May, but although the ship's owners, HAPAG, had been informed of the changes, they did not stop the St Louis from leaving Hamburg. In the event, only a very few of the refugees were allowed to disembark in Havana and the remaining 907 passengers were refused entry as the Cuban authorities refused to honour the visas issued by their consuls in Germany. In spite of intensive negotiations by the major Jewish charities, no other American state was prepared to accept any of these refugees and the St Louis was ultimately forced to set sail back to Europe and was destined to return to Hamburg. In an attempt to prevent this, the JDC guaranteed to meet the costs of maintaining these people in any country ready to accept them, an undertaking discretely supported by the US State Department. Initially the British and French authorities, worried about setting a precedent, refused to co-operate as they considered calls to admit the St Louis passengers as giving in to German blackmail and a breach of the principle of pre-selecting refugees abroad.¹¹⁰ It was probably also in British and French minds to send yet another message to would-be refugees that there was no sense in arriving at the French or British border uninvited.

In desperation, albeit with little hope, the JDC contacted Max Gottschalk, the president of the Jewish refugee committee in Brussels to see if Belgium would be ready to accept some passengers. On 10 June, Gottschalk obtained an agreement to take in 250 refugees still on board of the St. Louis from the Belgian authorities.¹¹¹ This decision remained confidential and the JDC then used it to lobby Belgium's neighbours. Two days later, on 12 June, the Dutch and French government also agreed to take in 194 and 250 Jews respectively. Britain was the last to follow and agreed to admit the remainder. Certainly the British and French, and even the Dutch had been dragged somewhat unwillingly into this rescue operation, their hand forced by Belgian generosity. The British belated acceptance was also motivated by the desire to save the US government and in the hope that this would be rewarded by the Americans accepting more of the ever-increasing numbers of transit refugees waiting in the United Kingdom.

The actual selection of passengers destined for each of the four receiving countries took place on board ship in Antwerp harbour. The discussions between the governments over which refugees they should take resulted in some acrimony. The instructions for each official delegation were very similar. The Dutch were to take only people with a real chance of emigration, the stateless had to be refused categorically, and the quota should contain as few Poles as possible. Getting away with less than 194 refugees would be appreciated too. The French wanted the majority of 'their' refugees to have US visas already in hand, while they refused to accept any Poles at all. By the same token, no country wanted to be saddled with an undue proportion of those who would be difficult to get rid of. The most desirable were those whose departure overseas was imminent. Different proposals on how to make the allocations were in circulation. One proposal was an arbitrary method of numerical selection. Another was to select on the basis of having friends or relatives in any of the four countries. This proposal emanated from the refugee aid organisations that wanted to minimize their expenses and was accepted. The British immediately produced a list of sponsors in Britain for 180 refugees which turned out to be the ones with the best prospects and best credentials. This skimming off the cream of the list produced protests from the other three countries. As a compromise, Belgium and the Netherlands did not take their full quota and Britain had to accept the final residue of 'undesirables' and thus a larger number of people than originally intended. Thus Britain ended up with 287 refugees and France 224, of whom 162 already possessed US visas. The Belgian group totalled 215 people and the Dutch took 181. When this last group arrived in Rotterdam, they were all placed in a temporary camp surrounded by guard dogs and barbed wire. The other groups fared somewhat better: In Belgium only those with no family in the country were housed in camps managed by the refugee committees. In France they were directed to an assigned residence in provincial refugee centres and in Britain they were housed privately.¹¹²

The rescue of the St Louis refugees remained an exceptional operation. Immediately afterwards, the JDC issued a statement of policy declaring that it would not be in a position to offer similar guarantees again. The liberal European states also all made it clear that this was not to constitute a precedent for the future and no similar actions would be taken in any subsequent cases.¹¹³ And indeed, several other ships that had sailed in the expectation of dumping their 'Jewish' human cargoes were forced to return to Germany, thereby consigning their passengers to concentration camps. For these would-be refugees there was to be no international relief effort.¹¹⁴

Liberal Europe and the impossibility of an open-ended humanitarian commitment

In the summer of 1939 the pattern of immigration and asylum policies that had been established after the *Kristallnacht* changed. Belgium decided to follow Switzerland, Luxemburg and Denmark and to deport all ('Jewish') refugees entering the country illegally. The local refugee committees were convinced that the hardliners now had the upper hand in Belgium and there would be no duplication of Dutch and French ambivalence.¹¹⁵ At the same time, France and the Netherlands had pursued their own tortuous routes and both looked to soften their immigration policy. By the summer the French government was convinced that refugees could have some economic and military value, just like Frenchmen. The French authorities were more disposed to give a legal definition to the right of asylum and a decree dated 22 July 1939 to hold a census of all male refugees between 20 and 48 years of age was a clear step in this direction. This census had to list all foreigners protected in France and those refugees were to be summoned to perform some kind of French military service. The French authorities had not only to list those who had been qualified as 'refugees' and had received as such the right to stay in France, but also all those who because of the opinions they had expressed or the circumstances by which they had entered the country could be considered refugees. The stay of immigrants who were residing undocumented in France, but were categorized for this census as refugees would be legalized.¹¹⁶

Likewise in the Netherlands, the hard line policy was brought into question. Although camps were still considered essential for immigration management and even greater powers of surveillance and control were given to the local authorities, changes in the other direction were also occurring. The Ministry of Justice was discussing the possibility of taking over the financing of the refugee camps with the Jewish refugee aid committee.¹¹⁷ More importantly, the Amsterdam police reached an agreement with the refugee committees that encouraged illegal refugees to register with the police in exchange for an undertaking that they would not be pursued and become liable for deportation. This, it was thought, would give the police more information and a better insight into the refugee population.¹¹⁸ It seems that even at cabinet level, the effectiveness of the hard-line policy was being questioned. In a confidential memorandum in July 1939, the Minister of Justice Goseling acknowledged that 'in the present circumstances repatriations to Germany were inconvenient' and secret instructions were issued which made it possible to systematically renew the residence permits of refugees on a monthly basis.¹¹⁹

Changes in refugee policy during the summer of 1939 also occurred in the United Kingdom where, although refugees remained a privileged category, generosity was increasingly limited. Not only did the channels of sponsorship dry up for Jewish refugees from Germany, but the authorities also sought to slow down the flow of new arrivals. The relief organisations had to cope with an increasing number of people who arrived in Britain

and did not move on. In November 1938, the British government had estimated the number of refugees in the country at around eleven thousand. By July 1939, this number had multiplied fourfold, and some estimates suggest sixfold.¹²⁰ By that time, admissions to Palestine had been suspended as a punishment for Zionist-organised illegal immigration. This also had repercussions on refugees given temporary protection in the United Kingdom.¹²¹ As a result, the authorities exercised greater scrutiny over the emigration prospects of those applying for admission.¹²² The increasing financial burden on the Jewish refugee organisations in Great Britain as the result of the increasing inflow all but exhausted their resources. In August 1939 the Jewish refugee aid organisations realized that they could not take responsibility for more refugees and communicated this decision to the British authorities.¹²³ At the same time the BCRC, which had been conducting relief operations for refugees from Czechoslovakia in Poland also fell into financial problems.

The British refusal to co-finance the upkeep of refugees had been slowly eroded during 1939. The authorities had long been aware of the time bomb under its liberal admissions policy and in July 1939, seven months after they had decided to finance the re-emigration of Czech refugees, the British authorities agreed to do the same for Jewish refugees from Germany and Austria.¹²⁴ This decision went some way to alleviating the responsibility of private organisations for the temporary relief and re-emigration of refugees. The British authorities tried to muster international, and most importantly, American support for a private-public mix of refugee relief. In proposing this at the Intergovernmental Committee, the British representative Earl Winterton, referred to the British public support for refugees from Czechoslovakia, the maintenance of 3,000 refugees by the Belgian government and the Dutch undertaking to build the camp at Westerbork and suggested a departure 'from the principle agreed unanimously at Evian, that no participating Government would give direct financial assistance to refugees'. He proposed that private subscription to an international fund to assist in defraying the expenses of overseas emigration of refugees might be encouraged by Government participation, possibly on a basis proportionate to the amount of private subscription.¹²⁵ In spite of this, the British authorities refused to act unilaterally. When the news came that the BCRC was out of funds the relief operations for refugees from Czechoslovakia in Poland had to cease immediately.¹²⁶

When the war broke out in September 1939 a totally new political equilibrium was created in which liberal influences lost much of their clout and all the developments chronicled above were suspended. The outbreak of the Second World War meant that the resolve of the Belgian authorities to carry out a blind deportation policy was never really put to the test and the Anglo-Jewish community never discovered if their financial difficulties would have led to a halt to Jewish' refugee immigration. Even the very cautious Dutch

reforms and the more resolute French steps towards a more liberal refugee policy could be pursued no further.

Conclusion

All the European countries surveyed here had alien policies based on slightly differing precepts that derived from their respective domestic social, economic, and political circumstances. The predominance of Liberalism in the nineteenth century and its strictures on the relationship between the individual and the state had an impact on alien legislation in all countries considered. Resident aliens were considered *de facto* members of the nation and therefore protected against abuses of state power. All other immigrants were granted some protection (equality before the law, basic rights), based on the provisions within each state's constitution, but this could go even further for those immigrants who were defined as refugees.

During and immediately after the First World War, these policies were adapted, initially to exclude unwanted political elements and to meet diplomatic imperatives. In particular, the fear of 'alien' ideologies such as bolshevism being imported from abroad entailed a loss of the liberal protection based on the rights of man. Identifying these ideologies as alien reflected the strong push towards nation-building in the early twentieth century as part of the integrative revolution in response to the democratisation of politics. Political elites wanted a state-community that shared a national identity. Policy towards aliens was also caught up in this integrative policy; imposing on immigrants the duty to assimilate in order to preserve a cultural *status quo*. However, the precise nature of this assimilation was subject of controversy, and attempts to homogenize the population or protect an established cultural order produced an exclusionary trend which perceived certain ethnic or religious groups as inassimilable.

Changes in alien policy during this period were nonetheless still predominantly determined by economic interests. Increasing democratisation gave a voice to the previously politically disenfranchised and enabled them to oppose state policies that were detrimental to what they perceived as their interests. A protectionist immigration policy was one of the innovations concomitant with the transformation of the liberal state into a nation-state. However, countervailing forces remained. There were the interests of tourism, international travel and trade that placed a premium on the free movement of peoples, but most importantly the interests of employers who wanted free access to the international labour market, but at the same time wanted to recoup their investment in procuring manpower abroad. In practice, the turmoil in the years after 1918 was ultimately replaced with more relaxed policies before the economic recession of the early 1930s finally convinced each of the liberal western European state to reappraise its immigration policies and led to restrictions on the admission of immigrants and especially foreign labour.

The transformation of alien policy that began at the end of the nineteenth century had thus two objectives: economic protection, a result of the increasing power of labour within the political system, and concerns about national identity that has been dubbed 'nativism'. In this

process, the more ambitious use of alien policy by increasingly interventionist states meant that the liberal political culture that had traditionally acted to defend the individual against the state lost of its influence. Security measures taken as a result of the First World War dramatically changed the operation of pre-war immigration and residence policies, and these were seldom completely restored after 1919. From a position of near equality, aliens were increasingly excluded from the rights afforded to citizens of these countries.

This demise of Liberalism can clearly be seen in changes to policies on refugees. Before 1914 there had been a general acceptance in liberal states that those who had to flee their country for political reasons had to be protected, but after 1918 the right to asylum had all but ceased to exist. Refugees arriving at the borders of the liberal states of Europe were now habitually dealt with under the terms of the newly erected protectionist immigration policies. Russian and Armenian refugees were the first victims of this change in attitude, but thanks to the political sympathy aroused by these anti-bolshevist Russians their arrival was no lasting problem. Most importantly the need for additional labour in Western Europe at the moment of their arrival facilitated their reception.

Thus, it is important to realise that the arrival of refugees from Nazi Germany after January 1933 did not take place in a legislative vacuum, but against a background of existing structures, legal precedents and controls. Put another way, nearly all the factors that played some role in determining policy during and after 1933 were already in place long before the Nazis came to power. No national immigration policies were identical, but two basic models can be identified: the British model that emphasized external immigration control, comprising border controls and visa schemes, and the Continental model where control was much more a mixture of external and internal control. Within the Continental model we can distinguish two types: on the one hand the centralized one and on the other the decentralized type employed by countries such as Switzerland, Denmark and the Netherlands. In these latter countries, regional and local authorities had considerable influence on the practical application of aliens policy that created local variations within these countries. Another important difference within the Continental model was the manner in which undesirable immigrants from Central Europe were removed. For example, while France merely obliged such people to leave the country on their own initiative, the Belgian authorities physically took them to the border and the Dutch formally extradited them to the German authorities. These differences in national immigration policies would ultimately have important repercussions for the refugees from Nazi Germany.

On the eve of the refugee crisis of 1933 all countries had the legislative means to deal with people coming from Germany, but rapidly realised that practical solutions were difficult to enforce. The authorities balked at expelling 'Jewish' and political refugees who had entered the countries illegally or whose visas or residence permits had expired. For

humanitarian reasons deporting them to Germany was considered unacceptable, while passing them on to other states created diplomatic problems. National policies towards aliens continued to have many differences, but there was a general strengthening of internal controls in the countries of continental Europe that made it increasingly difficult for refugees to remain unnoticed or to stand in for their own upkeep. The arrival of 'Jewish' refugees played a crucial role in this process of restrictionism, but it has to be seen primarily as a continuation of the policies adopted to counter the effects of economic recession rather than directed specifically against those fleeing from Germany. Thus, while the numbers of people coming from Germany between 1933 and the summer of 1935 declined, the climate of increasing restrictionism nonetheless continued.

In effect, the main determinants of policy in this period remained the custom and practice of aliens policy combined with increasing economic nationalism, anti-bolshevism, and (fears of) antisemitism. This development has to be seen more as an expression of the increasing power of representatives of labour and the middle classes in government, than as a reaction against the influx of refugees from Nazi Germany *per se*. The latter received a great deal of attention in the media, out of all proportion to their actual numbers. Their portrayal as a continuous and increasing flow of immigrants gave important ammunition to restrictionists who saw Jews (and communists) as 'alien' to the established cultural boundaries of the nation and undesirable as prospective citizens and even a danger to national unity. Although the measures enacted affected a much broader constituency, the arrival of the refugees from Germany was an important, albeit symbolic, catalyst in the final push for restrictive alien legislation in the later 1930s.

In those years there was also a convergence across Western Europe in both policy and treatment towards those regarded as refugees. A striking example is the way that Belgian and French refugee policies – which had operated on completely different lines in the summer of 1933 – had become so similar by the beginning of 1934. Although no Western European country had a legal provision for these fugitives, there was hardly any thought given to a blanket exclusion. Switzerland did have an administrative provision for refugees, and she was quickly followed by the other liberal states of Western Europe. Traditions of nineteenth century liberalism were thus strong enough to force all liberal states to open their borders for refugees. The protection of refugees was a principle that liberal states upheld, it was an essential element of the national self-image and sections of public opinion could be mobilized for its defence. The creation of the 'refugee' as an administrative category within immigration policy was also the result of refugee resistance to being treated as normal immigrants. Refugees were increasingly dissociated from other forms of immigration and more benevolently treated. Only a geographically isolated Great Britain was to a large extent able to withstand this pressure for change. The British authorities accepted refugees, but they

remained in a position to control who was admitted and under what circumstances. This was a luxury denied to their continental counterparts who, as frontline states, had to come to terms with large numbers of uninvited refugees.

Crucial in immigration policy was who the authorities defined as refugees. By 1935, political and 'Jewish' refugees were treated differently in most countries. Political refugees were given certain privileges such as longer-term residence status and even permission to work, whereas 'Jews' were given some form of temporary protection at most. This can be explained in part by the fact that political fugitives corresponded more closely to the traditional image of a refugee; of people who, because of their political ideas and deeds, had suddenly to flee their country to save their life or freedom. Such political refugees had not planned their flight and their departure was often in defiance of the authorities in their homeland. By force of circumstance they arrived suddenly and empty-handed in a neighbouring country. Such (political) refugees also benefited from support given to them inside countries of refuge by left-wing political parties. This led to a type of informal refugee status being afforded in most liberal states in Continental Europe and a more formal refugee status in Switzerland. Western European states continued to give asylum to political refugees even when they ignored restrictions placed on their working or engaging in political activities, but increasingly relied on prisons and internment camps as a deterrent. In comparative terms the Netherlands was definitely the least generous towards political refugees, its leniency towards them often only amounted to a choice of frontier over which to be expelled.

Conversely in both Belgium and France, the entry of socialists into government in the mid 1930s gave the impetus for some improved facilities for refugees. In France, concessions were limited to an amnesty for all refugees from Nazi Germany present in France in 1936, but the French Popular Front government refused to formalize refugee policy for new arrivals. Belgium on the other hand joined Switzerland by drawing a clear dividing line between refugees and immigrants in immigration policy. Refugees became legally entitled to claim asylum. Elsewhere there was an unwillingness to grant a specific legal status to those fleeing persecution and policy remained informal and discretionary.

Little changed before 1938 and only political activists whose lives or freedom were endangered were eligible for asylum. This was the case in Belgium and Switzerland, with a formal refugee policy, and in Denmark and France which retained an informal refugee regime. These policies had few, if any, effects on those fleeing Germany's racial anti-Semitism. The 'Jewish' refugees' reasons for flight were not considered sufficient in themselves to accord them a privileged status as 'refugees'. Although 'Jews' fleeing Nazi Germany are nowadays often portrayed as refugees *par excellence*, before 1938 'Jews' were less visibly the victims of state persecution than political activists, and this helps to explain the less 'generous' response.

In 1933 it was possible for 'Jews' to arrive from Germany and be treated as regular immigrants, provided they could show sufficient means to establish themselves. However, increasing German restrictions on the export of goods and currency made this more difficult, and the increased imposition of work and business permit legislation meant that only very few 'Jewish' refugees were able to enter Western European states on this basis. For the vast majority, the only option was to arrive in a chosen country of refuge, and then look for support from the indigenous Jewish communities or their refugee committees. These committees effectively decided who were temporarily protected by granting financial aid. In this manner the authorities were able to fulfil their humanitarian 'obligations', without incurring any financial costs or adding any foreign workers to their labour market. The fact that the Jewish organizations provided a possible solution by arranging facilities for their re-emigration made further concessions unnecessary.

The political costs of a humanitarian policy towards ('Jewish') refugees should not be underestimated. Although the authorities made no binding commitments and left a great deal of discretion to its administrators, 'Jewish' immigration from Nazi Germany was largely uncontrolled. Aliens who had arrived illegally or overstayed their permits were not subject to expulsion if the Jewish refugee aid committees supported them. These committees therefore carried a heavy burden, as they were effectively sub-contracted by the state to make decisions and then supported those chosen on a temporary basis while at the same time expediting their re-emigration without incurring any costs for the host country. For potential refugees, the existence of even temporary protection could be a pull factor. Although the design of this informal refugee policy enabled the authorities to reaffirm immigration control at any time, it could also convey an impression of loss of control over the country's frontiers and this was often used against governments by political groups seeking to exploit anti-immigrant sentiment within the population.

The differential treatment of 'Jewish' and political refugees was undermined by the radicalization of Nazi antisemitic policy in the aftermath of the Anschluss. At this point, all countries had to confront the reality of large numbers of 'Jews' arriving at the border or inside the country with genuine evidence that their lives might be in danger if they returned to Germany. Yet in spite of the overwhelming weight of evidence, refugee policy remained largely unaltered and by the summer of 1938, 'Jewish' refugees were even encountering outright hostility; from consular authorities, at the border and even inside the countries of refuge themselves. Most liberal states of Continental Europe started to deport refugees from within the country which was the most conspicuous departure from previous policies. That refugees who had succeeded in entering the territory of a liberal state and were recommended by the local refugee committee for protection were removed by force amounted to a challenge of the moral codes of behaviour of these liberal states. France did

not follow this trend, even though the French authorities only partly legalised the residence of refugees. France seldom physically deported people, but the reception was no more welcoming than elsewhere, as in France internment was used as a deterrent.

The reasons for this rupture in refugee policy were common to all countries. Most importantly 'Jewish' flight after the *Anschluss* (with the obvious connivance of German authorities) was raging out of control. The arrival of ever more refugees, stripped of their possessions convinced the authorities that they should halt further 'Jewish' immigration, notwithstanding the guarantee of the Jewish committees. This restrictive attitude within Continental Europe has to be seen within its international context as it became increasingly difficult for those 'Jewish' refugees who had been granted provisional asylum in the liberal states in Continental Europe to find any country willing to take them as immigrants. While numerous states paid lip service to the idea of international negotiation to provide a solution to the problem of refugees from Germany and elsewhere, the lack of positive action from the Evian Conference in the summer of 1938 demonstrated a complete lack of collective political will. Thus the whole issue remained primarily a domestic one, tempered only by its effects on relations with Germany on the one hand, and relations with neighbouring states on the other. Each European government had to consider the other states' policy and each of them was afraid to become the magnet, implying that the policy of the most restrictive state set the tone. The fear of being out of step or too generous triggered pre-emptive actions and produced an upward spiral of restriction.

The illiberal policy of denying 'Jewish' refugees any protection was initially legitimized by the German policy of dumping. The liberal values which had guided refugee policy until then were exchanged for decisiveness in face of this violation of international law. However this resolve was only the trigger for a full-blown attack on the temporary protection of 'Jewish' refugees. The Dutch authorities even blatantly called (non-political) refugees 'unwanted', but it seems that the Netherlands was quickly surpassed by the other Continental European countries who eliminated most humanitarian considerations in daily migration management practice.

The increasing difficulty of denying that 'Jews' fleeing Germany were refugees meant that the authorities of the liberal countries bordering Nazi Germany preferred to stem the flow by border and remote controls; external controls that were largely invisible to the public and could be organised through administrative *dictat* and without scrutiny. Border control was strengthened, but it remained dependent on diplomatic considerations. Shortly after the *Anschluss*, several countries executed a straightforward bureaucratic border policy whereby insufficiently documented aliens, i.e. 'Jewish' refugees without visa, were collectively refused admission to the country. Other frontline states were not eager, for the sake of a more effective external control to jeopardize their relations with Germany and developed a more

personalized system of border control to keep 'Jewish' refugees out. Both groups of countries had problems in making such a policy work and differentiating between the unwanted refugees and the mass of travellers. The introduction of the J-stamp on the German passports solved that problem and homogenized, to a large extent, the manner in which 'Jewish' refugees were routinely refused admission, not only at the borders of the liberal states of Western Europe, but also at the desks in their consulates.

Greater efficiency at the border was not the sole purpose of newly developed migration control strategies in the course of 1938. Notwithstanding strengthened and more efficient control, the border remained permeable. To counter this defect, states increasingly focussed on developing preventive measures outside their national frontiers. This strategy of remote control by liberal states aimed to control the movement of refugees before they arrived at their borders. The introduction of the J-stamp is a striking example of how liberal countries -in this case Switzerland (and Sweden)- were manoeuvring to partly subcontract their selective immigration policy to Germany. In trying to re-affirm controls over immigration, liberal countries did not eschew even greater complicity with the Nazis. The most conspicuous example is that by insisting on German cooperation at the border, Swiss and Belgian authorities gave the impetus to the radical shift in German emigration policy in the autumn of 1938 that saw the complete cessation of their dumping policy on their Western borders.

This brutal immigration policy, including the deportation of refugees was enacted through instructions issued to government agencies, local border officials and civil servants, rather than through new legislation that would have to be discussed, justified and formally promulgated. In this way, the executive authorities preserved their complete control of migration management; a control they did not want to relinquish as they strove to keep their actions away from any public scrutiny. However, when challenged, they were quite prepared to legitimise their stance by denying that the 'Jews' fleeing Germany were refugees. The seemingly persuasive argument was that these 'Jews' left Germany with the agreement of the German authorities, while (political) refugees had to flee surreptitiously. The liberal states of Western Europe, including the Netherlands promoted the protection of the political adversaries of the Nazi regime, including the communists, to a fundamental principle in liberal migration management. This mantra gave persecuted political activists an entitlement to asylum and was the counterweight to the attack on temporary protection for Jewish refugees. By 1938 the rigid hierarchy of Nazi persecution employed by Western European refugee policy in 1933 was used to deny 'Jews' fleeing Germany any protection.

The violence of the *Reichskristallnacht* made it obvious that the Nazi state was at least complicit in the persecution of Jews. Switzerland, Luxemburg and Denmark, (although the latter was hardly exposed to migratory pressures) persisted in routine exclusionary practices at the border, but also in the countries themselves. Most people in need of

protection remained excluded. In contrast, Belgium and the Netherlands softened the application of regulations which had dehumanized their immigration policies. In November 1938 the Netherlands reaffirmed its solidarity with the 'Jewish' victims of Nazi persecution, but only a month later the Dutch authorities considered that the sheer numbers admitted could no longer be sustained. Although the Dutch had followed the French example by confining refugees in camps, this was not considered a sufficient deterrent. Deportation of 'Jewish' refugees became again official Dutch policy, although this policy was full of ambiguity. During 1939 the Netherlands equivocated between a policy of forcible deportation and legalization. Belgium, which in November 1938 resumed the policy of protecting 'Jewish' refugees by subcontracting large elements of internal immigration control to the aid committees, did not stop this until the outbreak of the Second World War. This consistency was the result of an assertive humanitarian lobby, expressing itself most virulently at the moment of the *ReichsKristallnacht* and galvanized by a Minister in charge of immigration policy who had provocatively defended his inhumane '*realpolitik*'. This coincidence of factors meant that internal migration control moved out of the closed forums of Belgian policy making and into the public arena. This outspoken politicisation of immigration policy meant that the influx of refugees could not be downgraded to a technical matter of migration control and the political elite had to take a watchful public into account.

Notwithstanding the existence of an institutionalized refugee policy, even in Belgium the relative merits of the politically and racially persecuted were still evaluated differently: while political refugees were granted a right of abode, 'Jewish' refugees were denied refugee status. 'Jews' from Germany remained 'only' temporarily protected as part of an informal refugee policy. Administrative discretion was preserved and the concessions to ('Jewish') refugees could be withdrawn. Concomitant with this dual refugee policy, the Belgian authorities also pressurised the German authorities to regulate cross-border traffic in line with existing agreements. These diplomatic initiatives underline the Janus-faced attitude of the Belgian authorities towards those fleeing Nazi Germany. Publicly all refugees were granted asylum, but 'Jewish' refugees received a lesser asylum and at the same time the Belgian authorities secretly tried to convince the Germans to keep their 'Jewish' persecutees 'at home'. The latter strategy of pressurizing the German authorities to stop unauthorized immigration into their territory could also be seen in Switzerland, but was totally absent in Denmark and the Netherlands, countries which refrained from anything that could annoy its powerful neighbour.

The continental European liberal states had to deal with refugees who simply appeared inside its frontiers, but in contrast, Britain could develop a refugee policy without a similar pressing need to respond to the asylum claims of uninvited guests. After *ReichsKristallnacht* the British authorities made a conscious decision to offer asylum to

people in danger in Germany and their intervention in offering a solution to a considerable number of victims was a clear departure from past policies. It remained an informal refugee policy financed by charitable sources, but private sponsors obtained considerably more leeway. Britain, as not being a country of first asylum and moreover protected by the North Sea, retained the ability to impose a pre-selection of the refugees she admitted. Still it seems that those few who managed to arrive in the country illegally were treated in a humane manner as there is no evidence of any direct repatriation to Nazi Germany. Outside Europe no country developed a similar pro active refugee policy, on the contrary national protectionism held sway and refugees from Nazi Germany were usually the least welcome immigrants. Re-emigration from the first countries of asylum stalled, posing a problem for Britain and even more so for the frontline states which were left with an increasing number of uninvited and destitute refugees from Germany.

Explaining different refugee and immigration policies

In making direct comparisons between these western European states, it is apparent that their national policies towards aliens in general and refugees in particular differed in 1933 and remained at variance throughout the 1930s. The evolution of policy in the liberal states of Western Europe was dependent on a myriad of factors. The historical legacy is clearly the most obvious element, involving as it does increasing state intervention in matters of immigration. The administrative structures of the state also had a direct influence on the development and execution of immigration policy and on the stances taken on the question of refugees in all countries. There were several other factors which had a direct, and perhaps a crucial influence on the development and execution of immigration policy and on the stances taken on the question of refugees in all countries. The first was the role of the civil service in general and key individuals in particular. To some extent the arrival of refugees from Germany after 1933 prompted fears in bureaucratic circles about the perceived lack of control over immigration. This can be seen against the background of growing concern during the inter-war period about the general efficiency of government and its various agencies. All of this led to a continuing pressure for rules and regulations to be tightened in order to provide the civil servants with the necessary tools to carry out their tasks efficiently. Alongside this, it is essential to consider the role of key individuals in all countries whose specific position gave them a pivotal role in determining how individual states responded to the refugees and to immigration generally. It could be argued that men such as Robert de Foy, Heinrich Rothmund and Eigil Thune Jacobsen were all part of a new technocratic breed, basing their thinking on the precepts suggested above. However fears about the (Jewish and communist) refugees can clearly be seen in their writings of de Foy and Rothmund, suggesting that they also espoused deeply

conservative opinions that were brought to bear on their work. Irrespective of this, their central role in the administration of border control, policing and the execution of admissions policy gave them enormous power in being able to instruct their subordinates on the one hand and to influence cabinet ministers through the provision of information and advice on the other. The role of key individuals and the administration thus has to be evaluated by positioning them within the power structures of both state and society. The Belgian case documents the importance of retaining a broad picture of decision-making on this issue. Here, refugee policy became an issue of public importance in the autumn of 1938 and from then onwards, the responsible government Ministers were afraid of a negative political backlash if more selective refugee policies were introduced. Thus Robert de Foy in Belgium had to bow to political opposition, while his Swiss counterpart, Heinrich Rothmund, did not. Likewise in Luxemburg and Denmark, immigration policy remained largely isolated from public scrutiny and refugee policy largely evaporated in a process of tightened immigration policy.

It is important to underline the different ways in which policy was carried out. At one level, it is clear that legislation against aliens was not always fully implemented, or that there was a tacit understanding that some of its provisions would not be employed. Thus, there might be implicit toleration of people who, under a strict interpretation of the law, should have been expelled. At another level, it is also clear that the structures and systems in all countries provided a degree of autonomy, both for civil servants and the judiciary, and also for local officials. Centralization appears to have been greatest in Belgium and Luxembourg. In Denmark and the Netherlands, policy implementation was far more decentralized and allowed greater scope for the autonomy of regional or local officials, while during the 1930s, Switzerland shifted further towards the Belgian model with questions of residence being added to border control and admissions policies that were already the responsibility of the federal government. These administrative structures undoubtedly served to influence policy-making in a number of ways. For example, civil servants' autonomy to act independently of political influences or public opinion may have served either to strengthen the enforcement of regulations, or equally to have provided some amelioration of these same regulations. These freedoms, which undoubtedly varied from one country to another and also over time, may help to explain why it is so difficult to ascertain exactly how alien and immigration policies were implemented, at the border or by the police and bureaucrats inside the country.

Last, but not least we should also mention the refugees themselves. The refugees were not merely passive victims, but also agents of their own destiny and their collective actions also influenced the aliens policy of the liberal states. The responses were highly interactive, as the closing of one border deflected refugees towards other borders. Empirical indications point that out. For example it is at the time when Switzerland closed its borders to Austrian Jews that emigration to the Benelux soared. This interactivity among asylum applicants of

various countries is still a largely neglected subject. Further research needs to refine the correlation between the direction of flight, German emigration policy and West European immigration policies. To have a clear picture of this, it is essential to see how individual decisions coupled with the agency of the various indigenous and international refugee aid groups framed the ways in which Western European states tackled this most intractable of problem of the 1930s.

The open-ended situation at the outbreak of the Second World War is testimony of the quandary in which the policy makers in Western Europe found themselves. They were fully aware of Nazi persecution taking place within Germany and therefore carry some responsibility for the failures in maintaining their supposedly liberal values. However this responsibility is a shared one. When the situation in Germany became more and more acute, policy makers in countries outside Europe also tightened their immigration policy and refused to relieve the frontline states of their burden. Although increasing restrictions was always an attractive option, especially when the Nazis systematically stripped the refugees of all their possessions, the very different choices made in the various (frontline) states demonstrates that the outcome was by no means preordained. Respect for human rights remained a value that could be mobilized in political struggles, within the political elite and within society at large.

The sovereign right of the state to refuse an individual entry to its territory, even if he or she was identified as a refugee, was seldom ever contested. Once refugees crossed the frontier they were no longer merely emigrants, but became asylum applicants to whom national norms could be applied. This normative dimension in immigration policy was only partly the result of internationally agreed norms. The international refugee regime was accepted only by some of the liberal states, and in any case imposed few obligations on the immigration policies. Likewise national refugee regimes failed to enforce a humanitarian policy towards the mass of refugees. Even the agencies in Belgium and Switzerland in charge of immigration policy argued that the protection afforded to the (political) refugees was not applicable to the mass of 'Jewish' refugees. Yet even when Western European states resorted to the deportation of 'Jewish' refugees, they still had to legitimise this to liberal public opinion and the various aid and charitable organisations involved. Knowledge of such deportations often sparked off protests and their strength served to some extent to determine subsequent refugee policy. The liberal values, of which granting asylum to refugees was an intrinsic part, were only mobilized against a state when it used its coercive powers inside its own borders, but there was little or no protest against inhumane measures carried out in the form of external controls. The relevant authorities realized this all too well and therefore maintained their preference for external control exercised well away from domestic public scrutiny.

The liberal frontline states seem to have been most successful in keeping out refugees only with the most draconian of policies against aliens. Thus only when forced repatriation was used to return those who had managed to enter illegally via the green frontiers was the migration pressure relieved. Even then, the real effectiveness of these policies remains open to question, but it did relieve the authorities of any responsibility for differentiating the refugees from the rest among these uninvited guests. By including refugees in the category of undocumented aliens who could be automatically deported, immigration procedures became more efficient, but this inevitably made it more difficult for the Western European states to keep up the appearance of being liberal regimes in every sense of the word.

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 S.Friedländer, *Nazi Germany and the Jews. I: The years of persecution, 1933-1939*. London 1998, pp 272ff.

³ W.Gruner, *Jewish Forced Labor Under the Nazis. Economic Needs and Racial Aims, 1938-1944*, Cambridge 2006, pp.5-6.

⁴ V.Caron, *Uneasy Asylum: France and the Jewish Refugee Crisis, 1933-1942*, Stanford 1999, p.173;

E.Mendelsohn, *The Jews of East Central Europe Between the World Wars*. Bloomington 1983, pp. 202-211.

⁵ S.Heim, "'Deutschland muss ihnen ein Land ohne Zukunft sein'. Die Zwangsmigration der Juden 1933-1938", in *Beiträge zur Nationalsozialistischen Gesundheits- und Sozialpolitik*, II, 1993, pp. 48-81; 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. 21-62.

⁶ Only 'Jewish' communists and leading intellectuals were exempted from this policy. Krause to Interior Affairs, 21.1.1939. BBR, 276. Report II 112.4, 16.2.1939. BBR, 486.

⁷ While until 1938 only about 20% of the 'Jews' who left Germany were financially assisted by Jewish organisations in Germany, this increased to 33% for the first 8 months of 1939. Reichsvereinigung der Juden in Deutschland, *Organisation und Auswanderung der Juden aus dem Altreich, 1933 bis 1941*, pp.231-233. BBR, 8150 (microfilm 31).

⁸ See Patrick von zur Mühlen in this volume.

⁹ See Steve Hochstadt in this volume.

¹⁰ S.Heim and A.Götz, 'Staatliche Ordnung und "Organische Lösung". Die Rede Hermann Görings "über die Judenfrage" vom 6. Dezember 1938', in *Jahrbuch für Antisemitismusforschung*, 2, 1993, p. 384.

¹¹ J.Rohwer, 'Jüdische Flüchtlingsschiffe im Schwarzen Meer - 1934 bis 1944', in *Das Unrechtsregime: Internationale Forschung über den Nationalsozialismus*, eds U.Büttner, W.Johe and A.Voss, Hamburg 1986, pp. 197-214. See Aviva Halamish in this volume.

¹² B.Mc Donald Stewart, *United States Government Policy and Refugees from Nazism, 1933-1940*. New York 1982, p.447.

¹³ Bericht der Israel. Kultusgemeinde Wien über ihre Tätigkeit in den ersten drei Monaten des Jahres 1939, p. 2 in Central Archives for the History of the Jewish People, Jerusalem, A/W 165,3.

¹⁴ L.Senkman, 'Argentina's Immigration Policy during the Holocaust (1938-1945)', in *Yad Vashem Studies*, 21, 1991, p. 165; JDC, 666; AN F7 16080; D.Salzmann, *Mexico Frente a la inmigración de refugiados judíos 1934-1940*, Córdoba 2000, p.123f.; see also Patrick von zur Mühlen in this volume.

¹⁵ D.Afoumado, *L'exil impossible. L'errance des Juifs du paquebot St Louis*, Paris 2005 ; L.Senkman, 'Argentinien unter der Holocaust. Die Einwanderungspolitik und die Frage der Flüchtlinge 1933-1945', in *Europäische Juden in Lateinamerika*, eds A.Schrader and K.H.Rengstorff, St.Ingbert, 1989, p.65.

¹⁶ A.Margaliot, 'Emigration-Planung und Wirklichkeit', in *Der Juden in Nationalsozialistischen Deutschland*, ed. A.Paucker, Tübingen 1986, p. 313.

¹⁷ Note of the HIAS-ICA Emigration Association (HICEM) on SS.Koenigstein and Caribia's transports. JDC, 666. Bericht der Israel. Kultusgemeinde Wien über ihre Tätigkeit in den ersten drei Monaten des Jahres 1939, p.2f. in Central Archives for the History of the Jewish People, Jerusalem, A/W 165,3.

¹⁸ LRünitz, *Afhensyn til konsekvenserne, Danmark og flygtningespørgsmalet 1933-1939*, Odense 2005, p. 429.

¹⁹ O.Kulka and E.Jäckel, *Die Juden in den geheimen NS-Stimmungsberichten 1933-1945*, Dusseldorf 2004, p. 397; D.Afoumado, *L'exil impossible. L'errance des Juifs du paquebot St Louis*. Paris 2005, pp. 28f. See Steve Hochstadt in this volume.

²⁰ Y.Bauer, *Jews for Sale? Nazi-Jewish Negotiations, 1933-1945*, New Haven 1995, pp. 44ff.; A.Sherman, *Island Refuge: Britain and Refugees from the Third Reich, 1933-1939*, Berkeley 1973, p. 239; K.Voigt, *Zuflucht auf Widerruf. Exil in Italien 1933-1945*, Stuttgart 1989, p.293ff. See Aviva Halamish in this volume.

²¹ As from 31 May 1939 onwards the German authorities cut shipping companies off from foreign currency for cruises, these companies became much more willing to transport Jews. Report II 112, 16.5.1939. BBR, 486. Reichsvereinigung der Juden in Deutschland, *Organisation und Auswanderung 1933 bis 1941*, p. 212. BBR, 8150.

²² Seen that is was a lucrative business also private entrepreneurs provided these services. D.Ofer, *Escaping the Holocaust: Illegal Immigration to the Land of Israel 1939-1944*, Oxford 1990; Rohwer, 'Jüdische Flüchtlingsschiffe', 203ff.

²³ Report II 112.4, 16.2.1939. BBR, 486.

²⁴ Rünitz, *Af hensyn*, pp. 285f. We do not have any information on the German policy at the Luxemburg border.

²⁵ Friedländer, *Nazi Germany and the Jews*, Vol.1, p. 302; Moore, *Refugees*, p.96.

²⁶ "für die nach Lage der Dinge nur eine illegale Auswanderung in Frage käme" Erlass des Gestapa an die der Westgrenze des Reiches gelegenen Staatspolizeistellen, 23.12.1938 quoted in H.Berschel, *Bürokratie und Terror. Das Judenreferat der Gestapo Düsseldorf, 1935-1945*, Essen 2001, p.283.

²⁷ Berschel, *Bürokratie und Terror*, pp. 283-284.

²⁸ F.Caestecker, *Ongewenste gasten, joodse vluchtelingen en migranten in de dertiger jaren*, Brussel 1993, p.205f., 231f.; H.Kocher, "Rationierte Menschlichkeit". *Schweizerischer Protestantismus im Spannungsfeld von Flüchtlingsnot und öffentlicher Flüchtlingspolitik der Schweiz 1933-1948*, Zürich 1996; C.Kotzin, *Christian responses in Britain to Jewish Refugees from Europe: 1933-1939*, Southampton 2000 (unpublished manuscript), pp.192ff. In the Netherlands the Jewish committee had already passed its welfare clients to the newly founded Christian organizations in 1935-1936. D.Michman, 'the Committee for Jewish Refugees in Holland, 1933-1940', *Yad Vashem Studies*, 14, 1981, p.216.

²⁹ In the Netherlands mayor was not an elected office, but a public servant. C.Berghuis, *Joodse vluchtelingen in Nederland, 1938-1940*, Kampen 1990, p. 35f.; J.Michman Jozeph, B.Hartog and D.Michman, *Pinkas, geschiedenis van de joodse gemeenschap in Nederland*, Amsterdam 1999, pp.149f.

³⁰ Caestecker, *Ongewenste gasten*, p.231, 234.

³¹ S.Mächler, *Hilfe und Ohnmacht. Der Schweizerische Israelitische Gemeindebund und die nationalsozialistische Verfolgung, 1933-1945*, Zürich 2005, p.168.

³² R.Thalmann, 'L'immigration allemande et l'opinion publique en France de 1936 à 1939'. *Deutschland und Frankreich 1936-1939. Beihefte der Francia*, 10, 1981, p. 64; R.Delacor, 'Die Reaktionen Frankreichs auf den Novemberpogrom 1938', *Zeitschrift für Geschichtswissenschaft*, 46, no.11, 1998, p. 1005. In August 1939 the French embassy in Rome protested about the illegal emigration of German Jews from Italy. P. Veziano, *Ombre di confine. L'emigrazione clandestina degli ebrei stranieri delle reviera dei Fiori verso la costa azzurra (1938-1940)*, Pinerolo 2001, p.98.

³³ Belgium, in the summer of 1938 and the Netherlands, in early 1939 asked Luxemburg to impose a visa obligation on Germans and Austrians and to stop the smuggling of refugees from Luxemburg. LSA, Ministère de la Justice, J 73/48.

³⁴ For example in Belgium the authorities imposed sanctions on airline carriers which had enabled refugees to enter the country. Caestecker, *Ongewenste gasten*, p.182; Pholien to Spaak, 14.10.1938. AAD, 785. See also Vicki Caron in this volume.

³⁵ For France and Switzerland see Vicki Caron and Regula Ludi in this volume, for France see also J.Deschodt and F.Huguenin, *La république xénophobe, 1917-1939*, Paris 2001, pp.384-424.

³⁶ W.Röder, 'The political Exiles: their Policies and their contribution to Post-War Reconstruction', in *International Biographical Dictionary of Central European Emigrés 1933-1945*, eds H.Strauss and W.Röder, München 1983, Vol. II, pp. XXVII-XXXVI; P.Heumos, *Die Emigration aus der Tschechoslowakei nach Westeuropa und dem Nahen Osten 1938-1945*, München 1989, p.169ff.

³⁷ Rünitz, *Af hensyn*, p. 430; Heumos, *Die Emigration aus der Tschechoslowakei*, p. 169; H.Petersen, 'Die Dänische Flüchtlingspolitik 1933-1941', in *Deutschsprachiges Exil in Dänemark nach 1933. Zu methoden und Einzelergebnissen*, eds R.Dinesen, B.Nielsen, H.Petersen, F.Schmoë, Kopenhagen 1986, p. 81; Conference on German situation and Emigration, 14 and 15.12.1938 held at the offices of the JDC in Paris, 15.12.1938, p.9. JDC, 363. See also Vicki Caron in this volume.

³⁸ ABMFA, 11.170; Rünitz, *Af hensyn*, p. 88; H.Wichers, *Im kampf gegen Hitler. Deutsche Sozialisten im Schweizer Exil 1933-1940*, Zürich 1994, p. 64.

³⁹ Conference on German situation and Emigration, 14 and 15.12.1938 held at the offices of the JDC in Paris,

15.12.1938, p.9. JDC, 363; L.London, *Whitehall and the Jews, 1933-1948: British Immigration Policy and the Holocaust*, Cambridge 2000, p. 61; F.Caestecker, 'Onverbiddelijk, 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, p. 110.

⁴⁰ ESRA, report on the situation in Luxemburg 22.8.1939. UCL archives, Papers Van Zeeland 906; Rünitz, *Afhensyn*, pp. 376-390.

⁴¹ Moore, *Refugees*, pp.87f.; Walter, *Deutsche Exilliteratur*, p. 144; Michman 'The Committee', p.214.

⁴² R.Weingarten, *Die Hilfeleistung der westlichen Welt bei der Endlösung der deutschen Judenfrage. Das Intergouvernemental Committee on Political Refugees (ICG)*, Bern 1981, p.223; Berghuis, *Joodse vluchtelingen*, p.23ff.

⁴³ Reichsvereinigung der Juden in Deutschland, *Organisation und Auswanderung 1933 bis 1941*, pp. 147-149. BBR, 8150.

⁴⁴ Berghuis, *Joodse vluchtelingen*, p.45.

⁴⁵ See Claudia Curio in this volume. The French record is unclear, through the regular Jewish channels only a few hundred were listed, but the French authorities promised more than thousand visas. Sweden took in also a few hundred children. Reichsvereinigung der Juden in Deutschland, *Organisation und Auswanderung 1933 bis 1941*. BBR, 8150. Bericht der Israel.Kultusgemeinde Wien, 1-25.3.1939. Central Archives for the History of the Jewish people, A/W 165,3. On the reception of Spanish children, a rescue operation from which the Netherlands remained aloof see F.Caestecker and S.Eloy, 'Spaanse minderjarige oorlogsvluchtelingen in België' in *Los Niños, Tien vluchtelingenkinderen uit de Spaanse Burgeroorlog vertellen*, ed. H.Pauwels, Antwerpen 2007, pp.199-220; F.Caestecker., *La acogida en Bélgica de niños refugiados de guerra españoles a partir de 1937 in Foro Hispanico (in press)*. In Denmark due to public pressure and as there was an unlimited demand for an inexpensive and highly motivated workforce in Danish agriculture the Zionists succeeded to raise their quota of 200 Hechalutz to 600 youngsters in 1939 as well as an agreement to the temporary stay of a few hundred Aliyah-children. J. Hastrup, 'Auf den Weg von Deutschland nach Palästina. Jüdische Kinder und Jugendliche in Dänemark (1930-1945)', in *Deutschsprachiges Exil in Dänemark nach 1933. Zu Methoden und Einzelergebnissen*, eds Dinesen R., Petersen H., Schmoë F. and B.Nielsen, Kopenhagen, 1986, pp. 57-66; Rünitz, *Afhensyn*, p.431.

⁴⁶ The emigration data for Bohemia and Moravia for 1939 are listed in the attachment to the letter of the Police d'Israel to Zentralamt für die Regelung der Judenfrage in Böhmen und Mähren, 19.6.1944. Archives of the Centre de Documentation Juive Contemporaine (Paris), DXXI-1192 (with thanks to Diane Afoumado). The data for Austria for 2.5.1938 to 31.7.1939 in Israel. Kultusgemeinde Wien, *Emigration-Retraining-Social Care*. UCL archives, Papers Van Zeeland, 906. Gertrude Stein, *Exile and Destruction*, Westport 1995, pp.153-156 mentions that, according to a document of the Vienna Jewish community of 10.11.1941 during 1938-1939 4270 Austrian Jews had left for Belgium, 1650 for France and 1151 for the Netherlands. The discrepancy with the figures in Reichsvereinigung der Juden in Deutschland, *Organisation und Auswanderung der Juden aus dem Altreich, 1933 bis 1941*, pp.231-233. BBR, 8150 (microfilm 31) can probably be attributed to illegal immigration.

⁴⁷ Due to the threat of war the French Legion started new recruitment, among the 3645 recruited in 1938 there were 11% Germans and 2% Austrians. By September 1939 500 Czechs and 2500 Spaniards had been recruited and an unknown number of German and Austrians. E.Michels, *Deutsche in der Fremdenlegion, 1870-1965. Mythen und Realitäten*. Paderborn 2000, p.110; Note sur l'état de l'émigration d'Allemagne et d'Autriche, 8.1939. YIVO, HICEM (Paris), HIAS, Series II, France, I, 139; AN F7/16072; J.Simpson, *The refugee problem, report of a survey*. London, New York, Toronto 1939, p. 377.

⁴⁸ Veziano, *Ombre di confine*, pp. 55ff.

⁴⁹ Berghuis, *Joodse vluchtelingen*, pp. 55f.

⁵⁰ While in 1938 7797 foreigners had not been admitted at the Belgian border, in 1939 there were 5842 aliens refused at the border. The refugee crisis was the most important cause of this rise. Caestecker, *Alien policy*, p.231ff.

⁵¹ C.Van Eijl, *Al te goed is buurmans gek. Het Nederlandse vreemdelingenbeleid 1940-1940*. Amsterdam 2005, p. 198f.

⁵² In the first nine months of 1939 border guards refused entry to Danish territory to 95 refugees of whom 64 German citizens. Rünitz, *Afhensyn*, pp. 428ff.

⁵³ See Claudia Curio and Vicki Caron in this volume.

⁵⁴ AN, F716080; Van Tijn in Conference on German situation and Emigration, 14 and 15.12.1938 held at the offices of the JDC in Paris, 15.12.1938, p.14. JDC, 363; Caestecker, *Ongewenste gasten*, p. 229; Delacor, 'Die Reaktionen Frankreichs', p. 1001.

⁵⁵ Mr.Israel (Ezra Luxemburg) in Conference on German situation and Emigration, 14 and 15.12.1938 held at the offices of the JDC in Paris, 15.12.1938. JDC, 363; Mc Donald Stewart, *United States Government Policy*, p. 31.

⁵⁶ Moore, *Refugees*, p.84ff.

⁵⁷ Berghuis, *Joodse vluchtelingen*, p.58.

⁵⁸ Rünitz, *Afhensyn*, p. 408.

⁵⁹ Procureur Général d'État to Robert de Foy, 25.1.1939. AAD, 293 ; H.Arntz, *Judenverfolgung und Fluchthilfe in deutsch-belgisches Grenzgebiet*. Euskirchen 1990, p. 269ff., 542; Veziano, *Ombre di confine*, p. 55ff. ; Berghuis, *Joodse vluchtelingen*, p. 197. For France, see Vicki Caron in this volume.

⁶⁰ Complaint Belgian embassy Berlin, 6.12.1938 and 1.1939. Archive Ministry of Foreign Affairs, Bonn, R 48907.

⁶¹ Zimmermann, Geheime Staatspolizei Berlin to sections of the Staatspolizei in the west of Germany, 15.3.1939. Bundesarchiv Berlin, R58, 2736; Arntz, *Judenverfolgung*, p. 566; 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, pp.90f.; Berschel, *Bürokratie und Terror*, p. 285.

⁶² Veziano, *Ombre di confine*, pp. 55ff.

⁶³ Berghuis, *Joodse vluchtelingen*, p.66ff.; B.Vormeier and H.Schramm, *Vivre à Gurs. Un Camp de Concentration français 1940-1941*, Paris 1977, p 241.; Caestecker, *Alien policy*, pp.231ff.

⁶⁴ This table is based on the biographies of 333 persons most of whom had been KPD functionaries and resident in one of our countries after 1933. H.Weber and A.Herbst, *Deutsche Kommunisten. Biographisches Handbuch, 1918 bis 1945*, Berlin 2004.

⁶⁵ Austrian refugees had found asylum in the USSR from 1935 onwards. From 1938 onwards they were treated on a par with German communists, with concomitantly deadly results. Leading Czech communists also found asylum in the USSR in 1939. B.McLoughlin, H.Schafranek, W.Szevera, *Aufbruch-Hoffnung-Endstation. Oesterreicherinnen und Oesterreicher in der Sowjetunion 1925-1945*, Wien 1997.

⁶⁶ Caestecker, 'Onverbiddelijk', pp. 116f.

⁶⁷ Berghuis, *Joodse vluchtelingen*, p.24.

⁶⁸ City archive Amsterdam, city police, arch. 5225, 30.

⁶⁹ Also Rotterdam started then to deport refugees. Berghuis, *Joodse vluchtelingen*, pp.87, 160 and 113; Moore, *Refugees*, pp.87f ; Mrs.Van Tijn in Minutes of conference of various committees held on Thursday, March 23, 1939 in Paris. JDC, 405; G.Meershoek, *Dienaren van het gezag. De Amsterdamse politie tijdens de bezetting*. Amsterdam 1999, pp.97-99; Alien office, report of meeting 4.5.1939. Gemeentearchief Amsterdam, gemeentepolitie, arch.5225, 1938/2. See also the files of expelled refugees in HSTA Düsseldorf, RW 58, 3960, 3210.

⁷⁰ "France, Italy and Switzerland and to a lesser degree Belgium actively connived at the illegal traffic by issuing sauf-conduits to groups of refugees whose stated destinations –China, Haiti, or other- were patently bogus" CID Jerusalem, a report on the organisation of illegal immigration to Palestine, 17.5.1939 quoted in London, *Whitehal*; Simpson, *The refugee problem*, p. 236; G.Anderl 'Emigration und Vertreibung', in *Vertreibung und Neubeginn. Israelische Bürger Oesterreichischer Herkunft*, eds E.Weinzierl and O.Kulka, Wien 1992, pp.256ff.

⁷¹ Illegally immigrated Jews who were still Polish citizens were repatriated. Antwerp Committee for Jewish refugees, Report on the Belgian situation, UCL Archives, Papers van Zeeland, 906.

⁷² On the international refugee regime and the Convention of February 1938 see Susanne Heim in this volume.

⁷³ Caestecker, *Ongewenste gasten*, pp.207ff.; Caestecker, 'Onverbiddelijk', pp.116ff.

⁷⁴ With little hard evidence, the few indications we have indicate that Luxemburg deported Jewish refugees throughout 1939.

⁷⁵ Rünitz, *Afhensyn*, pp. 390ff.

⁷⁶ Basle did deport some refugees when the crisis was at its height from mid August to early December 1938. Ludwig, *Die Flüchtlingspolitik der Schweiz*, pp. 151-156; J.Wacker, *Humaner als in Bern! Schweizer und Basler Asylpraxis gegenüber den jüdischen Flüchtlingen von 1933 bis 1943 im Vergleich*. Basel 1992, pp. 100-141; S.Keller, *Grüningers Fall. Geschichte von Flucht und Hilfe*, Zürich 1993, F.Battel, *"Wo es hell ist, dort ist die Schweiz" Flüchtlinge und Fluchthilfe an der Schaffhauser Grenze zur Zeit des Nationalsozialismus*, Zürich 2000, p.162.

⁷⁷ The refugee policy in Liechtenstein was very similar to the Swiss one, also because the Swiss guarded the Liechtenstein-German border. U.Jud, *Liechtenstein und die Flüchtlinge zur Zeit des Nationalsozialismus*, Vaduz 2005.

⁷⁸ Berghuis, *Joodse vluchtelingen*, pp.66ff.; Moore, *Refugees*, pp.87f.

⁷⁹ Between March 1 and 20, 1939 the Jewish refugee aid committee registered 35 people who came to Amsterdam illegally and 112 who entered legally and 138 in transit. Mrs.Van Tijn in Minutes of conference of various committees held on Thursday, March 23, 1939 in Paris. JDC, 405.

⁸⁰ Moore, *Refugees*, p. 82; Berghuis, *Joodse vluchtelingen*, p.107, 113. On the, by times generous attitude of local authorities, in contrast to central policy guidelines: M.Leenders, 'Joodse vluchtelingen aan de grens', in *Gelderland, 1900-2000*, ed. D.Verhoeven, Zwolle 2006, pp.41-45.

- ⁸¹ Minutes of Conference of various committees held on 23.3.1939 at the offices of the Joint, Paris. JDC, 405.
- ⁸² P.Heumos, *Die Emigration aus der Tschechoslowakei nach Westeuropa un dem Nahen Osten 1938-1945*. München 1989, p.166f.; see Vicki Caron in this volume.
- ⁸³ Minutes of Conference of various committees held on 23.3.1939 at the offices of the Joint, Paris. JDC, 405. Migration Conference JDC/HICEM 22-23.8.1939. JDC, 367; R. Pell, 'Letter to Pierrepont Moffat (US Foreign Affairs)', 8.3.1939, in *Beiträge zur Nationalsozialistischen Gesundheits-und Sozialpolitik*, 15, 1999, p. 139.
- ⁸⁴ Herbert Katzki to members of the Committee on Refugee Aid in Europe, 2.6.1939. JDC, 111. Migration Conference JDC/HICEM 22-23.8.1939. JDC, 367. See also Vicki Caron in this volume.
- ⁸⁵ R.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, Munchen, 1981, 507ff.
- ⁸⁶ Vormeier et Schramm, *Vivre à Gurs*, pp.235ff.; Noiriél, *La Tyrannie*, p.116; Deschodt and Huguenin, *La république xénophobe*, p.164.
- ⁸⁷ N.Fischer, 'Les expulsés inexpulsables. Recomposition du contrôle des étrangers dans la France des années 1930', *Cultures et conflits*, 53, 2004.
- ⁸⁸ L. Stein, *Beyond Death and Exile : the Spanish Republicans in France, 1939-1955*, Cambridge 1979.
- ⁸⁹ R.Schor, *L'opinion française et les étrangers en France, 1919-1939*, Paris 1985, p. 667 ; D.Peschanski, *La France des camps. L'internement, 1938-1946*, Paris 2002, p.21ff.; AN, F7 14.711.
- ⁹⁰ Van Tijn in Minutes of conference of various committees held on Thursday, March 23, 1939 in Paris. JDC, 405. Berghuis, *Joodse vluchtelingen*, pp.45, 178, 195; H.Walter, *Deutsche Exilliteratur 1933-1950. Band 2: Europäisches Appeasement und überseeische Asylpraxis*, Stuttgart 1984, pp.145ff.; A.L.Jonker, *Joodse vluchtelingen in Hellevoetsluis, 1938-1940*, Hellevoetsluis 1995; H.June, *Interneringskamp voor Duitse tegenstanders van Hitler, 1938-1940*, Dortmund (n.d.); Pell, 'Letter to Pierrepont Moffat', p. 141. As Claudia Curio mentions in her chapter that even unaccompanied children were confined in camps in the Netherlands.
- ⁹¹ Nederlands Instituut voor Oorlogsdocumentatie, 181 k, comité voor Joodse Belangen Map 1a and 1b; D.Cohen, *Zwervend en Dolend*, Haarlem 1955.
- ⁹² Berghuis, *Joodse vluchtelingen*, pp.60f.
- ⁹³ Berghuis, *Joodse vluchtelingen*, p.62. Attempts were made to reduce the numbers of people confined in camps by 'legalising' them after a period of six months – subject to their good behaviour. Moore, *Refugees*, p.97.
- ⁹⁴ Sherman, *Island Refuge*, p. 262.
- ⁹⁵ Y.Kapp and Margaret Mynatt, *British Policy and the Refugees 1933-1941*, London 1997, p. 61; Heumos, *Die Emigration aus der Tschechoslowakei*, pp. 35f, 45; London, *Whitehall*, p. 159
- ⁹⁶ Heumos, *Die Emigration aus der Tschechoslowakei*, pp.53f.
- ⁹⁷ The Croydon repatriation was probably based on the strict application of the principle of the first country of asylum. The flight came from Poland, thus from a country which could have offered asylum to 'Jews'. Kapp and Mynatt, *British Policy*, p. 20f.; H.Schmitt, *Quakers and Nazis. Inner Light in Outer Darkness*, Columbia and London 1997, p. 141; London, *Whitehall*, p. 160 and pp.65ff; Moore, *Refugees*, pp.104f.; Sherman, *Island Refuge*, p. 75.
- ⁹⁸ London, *Whitehall*, p. 154.
- ⁹⁹ See Claudia Curio in this volume; A.Stevens, *The Dispossessed: German Refugees in Britain*, London 1975, pp.149-150; Kushner 'alien occupation'. Aviva Halamish in this volume also points out the British favouritism of German Jews in its Palestine immigration policy, but as the British took for political reasons an overall restrictive stand, this privilege brought little relief.
- ¹⁰⁰ London, *Whitehall*, p. 133; London, 'British Immigration Control', p. 507.
- ¹⁰¹ London, *Whitehall*, p. 158.
- ¹⁰² Heumos, *Die Emigration aus der Tschechoslowakei*, p. 73.
- ¹⁰³ London, *Whitehall*, p. 161.
- ¹⁰⁴ Heumos, *Die Emigration aus der Tschechoslowakei*, pp. 79-85.
- ¹⁰⁵ London, *Whitehall*, p. 164.
- ¹⁰⁶ The London Magistrate Herbert Metcalfe considered in August 1938 "that it was becoming an outrage the way in which stateless Jews were pouring in from every port of the country. As far as he was concerned, he intended to enforce the law to the fullest extent" and he sentenced three illegally immigrated 'Jewish' refugees to six-month heavy labour and deportation. The British press strongly criticized the exceptional severity of his sentence. Walter, *Deutsche Exilliteratur*, p. 123; Sherman, *Island Refuge*, p. 125.
- ¹⁰⁷ Antwerp Committee for Jewish refugees, report on the Belgian situation, 8.1939. UCL archives, Van Zeeland, 902bis; L.London, 'Jewish Refugees, Anglo-Jewry and British Government Policy, 1930-1940', in *The Making of Anglo-Jewry*, ed. D.Cesarani, Oxford 1990, p.177; London 'British Immigration', p. 511; London *Whitehall*, p. 80; Sherman, *Island Refuge*, pp. 125-127.
- ¹⁰⁸ S. Adler-Rudel to Borchardt, 21.2.1939. JDC, 658.
- ¹⁰⁹ Afoumado, *L'exil impossible*; M.Bejarano, 'La historia del buque St.Louis: la perspectiva cubana', in *Entre la*

aceptacion y el rechazo. America Latina y los refugiados judios del nazismo, ed. A.Milgram, Jerusalem 2003, pp. 212-247.

¹¹⁰ Home office, 12.6.1939, AN, AJ43, 36; Sherman, *Island Refuge*, p.252ff.

¹¹¹ In the morning of June 10th the Belgian Minister of Justice Paul-Emile Janson and the Prime Minister Hubert Pierlot agreed to take 200 passengers of which 150 had an affidavit for the US and 50 had enough guarantees to leave within one year. In the afternoon the number of passengers was increased to 250, but all of them would have to have an affidavit for the US. AAD, 37C6; JDC, 386.

¹¹² AN, AJ43, 36; Caron, *Uneasy Asylum*; Caestecker, *Ongewenste gasten*, p.245ff.; Berghuis, *Joodse vluchtelingen*, p.120ff; Moore, *Refugees*, p.105; London, *Whitehall*, pp.137ff.

¹¹³ JCD, 386 and 378. Emerson, Memorandum of conversation with Mr.Wohlthat, 20.7.1939. UCL archives, Van Zeeland, 899a.

¹¹⁴ Tagesmeldung II 112, 15.6.1939. BBR, 992; JDC 666; L.Senkman, 'Argentinien under der Holocaust. Die Einwanderungspolitik und die Frage der Flüchtlinge 1933-1945', in *Europäische Juden in Lateinamerika*, eds A.Schrader and K.Rengstorf, St.Ingbert, 1989, p.65..

¹¹⁵ Tolkovsky, representative of a Jewish committee in Belgium in Migration Conference JDC/HICEM in Paris, 22-23.8.1939. JDC, 367; Caestecker, *Ongewenste gasten*, pp. 180-255; Caestecker, *Alien Policy*, pp. 232-235; Caestecker, 'Onverbiddelijk', p.134f.

¹¹⁶ Circular letter Ministry of Interiors, 5.8.1937; Journal officiel , 22.7.1939. AN, F7, 14.711.

¹¹⁷ Moore, *Refugees*, p.97.

¹¹⁸ Meershoek, *Dienaren*, pp.98f; Alien office, report of meeting 4.5.1939. Gemeentearchief Amsterdam, gemeentepolitie, arch.5225, 1938/2.

¹¹⁹ Minister of Justice to Procurator-Generals, 5.8.1939. Archival document generously put at our disposal by Corrie Van Eijl.

¹²⁰ Heumos, *Die Emigration aus der Tschechoslowakei*, p. 78; London, *Whitehall*, pp.103 and 132.

¹²¹ London, *Whitehall*, p.140; London, 'Jewish Refugees', p. 183. See Aviva Halamish in this volume.

¹²² Pell, 'Letter to Pierrepont Moffat', p.142.

¹²³ Sherman, *Island Refuge*, p. 255; B.Wasserstein, *Britain and the Jews of Europe, 1939-1945*, Oxford 1979, pp. 81f.; London, *Whitehall*, p. 141; Heumos, *Die Emigration aus der Tschechoslowakei*, p. 78; A.Gottlieb, *Men of Vision: Anglo-Jewry's Aid to Victims of the Nazi Regime, 1933-1945*, London 1998.

¹²⁴ Sherman, *Island Refuge*, pp.156 and 242ff.; London, *Whitehall*, p.132.

¹²⁵ Archives UCL, Van Zeeland, 902bis; Weingarten, *Die Hilfeleistung*, p.158f.

¹²⁶ London, *Whitehall*, pp.159-168.