

How the Refugees Crisis from Nazi Germany got (partly) solved through International Concertation

Frank Caestecker

ABSTRACT

Dieser Überblick zum historischen Forschungsstand beschreibt die Dynamiken der Flüchtlingspolitik während der Krise, die die Verfolgungen und Vertreibungen in Nazi-Deutschland auslöste. Die Historiographie zu diesem Gegenstand ist noch immer stark von nationalen Perspektiven geprägt, wobei jedes Land seine eigenen Narrative und Analysen produziert. Eine vergleichende Studie durch Experten nationaler Fälle hat die Ähnlichkeiten und Unterschiede in den Politiken verschiedener Staaten herausgearbeitet und gleichzeitig gezeigt, dass diese sich in starkem Maße an den Entscheidungen ihrer Nachbarn ausgerichtet haben. Der Artikel liefert eine Synthese dieser Untersuchung, integriert neue Forschungsergebnisse und bewertet die Verdienste des internationalen Flüchtlingsregimes dieser Zeit neu, das bislang nur ungenügende Aufmerksamkeit in der historischen Forschung gefunden hat.

In this article we provide an overview of the historical insights in the dynamics of refugee policy at the time of the refugee crisis due to persecution in Nazi Germany. Historiography on this topic is still largely based on a national perspective, with each country producing its own narratives and analyses. A comparative study has been undertaken by a group of national experts in this field which has highlighted the comparisons and contrasts in the responses of the various states and has also shown that individual states' policies had been strongly influenced by the decisions of their neighbours.¹ In this article we provide a synthesis of these findings, integrate new research findings and re-evaluate

1 F. Caestecker and B. Moore (eds.), *Refugees from Nazi Germany and the Liberal European States*, New York 2010.

the merits of the international refugee regime of that time which has received until now only dismal attention in historical research.

1. Fleeing Nazi Germany at the worst possible time, 1933–1934

Those fleeing Germany immediately after the Nazis took power found themselves abroad- some with regular papers, others with no papers- in a time when immigration was being banned in all countries bordering Germany. While in the nineteenth century international immigration within Europe had been largely unregulated, during the First World War most European states had a controlled economy in which the state had created institutions to regulate immigration. The post-war democratization of the polity had given the labor movement in some countries a say in the regulation of international labor migration. The state's capacity to control international migration, in agreement with organized interest groups, was tested during the economic crisis of the 1930s. Given the economic hardship for labor, the trade unions insisted that the authorities stop all immigration: jobs endangered by the economic crisis should not be further jeopardized by newcomers. The authorities agreed to stop immigration also in order to save on social expenses. The authorities were even eager to export unemployment by pressuring employers to dismiss foreign workers first, which the authorities then would deport as public charges. States indeed expelled foreign immigrants from their territory in order to alleviate the lot of national citizens. The timing of the mass arrival of refugees in 1933 was thus not conducive to an easy solution of the refugees' plight. The economic crisis lasted through the 1930s, notwithstanding a temporary relief in the mid 1930s. The Russian refugees, in contrast to those fleeing Nazi Germany, had at least the advantage of important labor shortages when they arrived in Western Europe at the end of the 1920s, which smoothened their acceptance.

The departure from Nazi Germany of 10,000 political opponents of the Nazi regime and 25,000 Jews immediately after the electoral victory of the Nazi party and the chaotic violence perpetrated at that time was a refugee movement.² Indeed, political opponents of the Nazi regime, be they part of the Jewish community, were compelled to become refugees as they had to flee a very brutal persecution. Dachau and other camps were created as prisons for the political opposition, and it was immediately filled with inmates. Numerous other activists, in particular communists, were murdered by Nazi squads, murders condoned by the new regime. The severe persecution of all opposition to the new regime meant that these people did not have a real choice but to flee. Their flight could be labelled an acute refugee movement, to use the label minted by Kunz in distinction to 'anticipatory' refugee movements. The latter did not have to leave at the spur of the moment, but had some time to plan their departure. Still 'anticipatory' refugee movements are also qualified as an involuntary departure or flight in response to 'push'

2 Ibid., p. 218.

factors, while (voluntary) migrants as Kunz outlined are responding to 'pull' factors. The flight of non politically active Jews from Germany in 1933 was much less a response to an acute threat. Some fled as they had been targeted by the chaotic violence in the wake of Nazi victory, others did not thrust the new rulers, and still others hoped to increase their opportunities by leaving Germany. In the first years of Nazi rule few overt official attacks on Jews were being made, largely because the Nazi regime regarded economic recovery as paramount. At the local level acts of violence took place and Jewish businesses were boycotted, but Jews were still largely protected against arbitrary measures and an internal migration enabled Jews to avoid local harassment. However, between 1933 and 1937 the situation of Jews slowly deteriorated. The first preparatory steps were taken for the removal of all Jews from German society. Of the half million Jews in Germany, most were German nationals, but a few ten thousand were stateless or became stateless as the Nazi regime denaturalized first generation immigration and their children who had acquired German citizenship in the 1920s. These stateless immigrants were holders of a German *Fremdenpass*, which implied they were under the protection of the German authorities. The new regime wanted to retreat from this commitment to these individuals by not extending the validity of these German *Fremdenpasses*.³ From 1935 onwards, Jews, even those with German citizenship who had fled abroad, were upon return downgraded to unwanted guests who were to be arrested and only liberated if they left again. Crucial in the preparatory steps was that the Nuremberg Law of 1935 gave a legal definition of the racial divide in Germany and qualified who were the 'Jews'. The Nuremberg Law considered "Jew" and "Aryan" as mutually exclusionary categories. Those who did not accept this strict separation between these so-called 'races' by crossing that line in their private life were liable to persecution. Intimate relations between "Aryans" and "Jews" were prosecuted on the basis of the crime of *Rassenschande* (race defilement). These court cases were one of the instruments in a campaign to stigmatize and isolate the 'Jewish' Germans in German society, a preparation for the violent persecution that would be unleashed by 1938 and end in the *Endlösung*.

2. Unsolicited immigrants from Germany in 1933 considered a different kind of immigrant

During the Depression newcomers were considered unwanted competition for scarce resources. Thousands of East and South European migrants had left their homes in the 1920s to find a place of abode in Western Europe, which they hoped would improve their material lot. They were the first to be fired when the Depression hit these economies hard, and many of these unemployed foreigners who did not yet have residency rights were expelled from the territory of these states. The pressure on the borders mounted as

3 H. Berschel, *Bürokratie und Terror. Das Judenreferat der Gestapo Düsseldorf, 1935–1945*. Essen 2001, pp. 260–274.

some of these migrants did not return to the periphery of the European economy and hoped to regain access to the territory of the still more prosperous Western societies. Besides these migrants in orbit there were also new would-be immigrants as the flows from the periphery of the European economy continued. These East and South European migrants hoped for a modicum of protection in Western Europe against the harsh conditions of the Depression. Adding to this flow of unsolicited migrants were political activists and Jews fleeing Nazi Germany. At the border posts all would-be immigrants without the appropriate documents and/or too few means were not admitted. Although it had been decided to halt all immigration, thousands of emigrants from Nazi Germany managed, mostly in a regular manner, to enter Western European countries. The Nazi regime had not yet started the attrition of the economic position of the Jewish middle class, and Jewish refugees could easily pose as tourists. Others entered in an irregular manner, in particular the political activists who mostly had to leave on the spur of the moment. All these immigrants from Nazi Germany could quickly attract attention to the specificity of their migration decision. Refugee aid organizations mushroomed, which catered to the needs of these emigrants and put pressure on the authorities to grant their protégées protection. The solidarity within civil society with like-minded activists or fellow believers among these uninvited immigrants insured that attention was directed to the reasons why they had left Germany.

Whether the refugee aid organizations had easy access to policy makers or not, all liberal countries in Western Europe adhered to the principle of *non-refoulement* avant la lettre. Policymakers considered returning them to the persecuting state reprehensible. Norms constrained the actions of the executive authorities. Excluding repatriation did not imply that policy makers were ready to grant the emigrants from Germany. The Belgian authorities urged refugees to move on to France, which soured diplomatic relations. In pursuing this intransigent policy, the Belgian government showed clearly that it was not prepared to share the burden when it came to refugees. However, this policy soon reached a stalemate as these refugees adamantly refused to return to Nazi Germany or move on to France. Additionally, the Netherlands took steps to close their borders for refugees for whom Belgium had been the first country of asylum. Concerned about the potential for diplomatic repercussions, by the end of 1933 Belgium conceded to accommodate emigrants from Nazi Germany for whom Belgium was the first country of asylum.

The most vocal and effective advocates of the refugees were the socialist refugee aid organizations defending their comrades in exile. They could muster enough political power to exempt their refugees from the protectionist immigration policy. The authorities agreed that these activists could not return home and therefore deserved a privileged treatment. The straightjacket in which all immigrants were forced was thus quickly ripped open and the authorities yielded to the political allies of these immigrants from Germany. A side door was opened for refugees. Communist refugees rarely tried to use this opportunity as the German Communist Party took the view that their stay in Western Europe was only a temporary pause in the struggle against Nazism. Refugees should return as soon as possible because the communist victory in Germany was imminent.

Given the harsh repression of communists in Nazi Germany, returning to the country turned out to be a suicidal strategy. Most German communists, after being sent back ended up in concentration camps.

As mentioned before, prior to 1938 the persecution of Jewish and political refugees were two worlds apart. The policy in the Western European countries towards the mass arrival in 1933 took to a certain extent this difference into account. While political activists were granted a leave to remain, the authorities protected German Jews only temporarily. Jews from Germany recommended by a refugee committee because of anti-semitic persecution were only tolerated for a limited time to allow them to find a final destination, mostly overseas. This more conditional protection was legitimized by the less harsh persecution Jews were confronted with in Germany in 1933. It was also in sync with a Jewish tradition to assist transmigrants. Already at the end of the 19th century at the time of the great transatlantic migration, the Jewish communities in Western Europe had set up charitable organizations to assist Jewish emigrants from Russia and Galicia stranded in the European ports on their way to America. In tandem with Jewish organizations that built up expertise in organizing intercontinental migration, this assistance was very effective in making these transmigrants move on. These structures were still present in the charitable networks of the Jewish communities and were reactivated when the emigrants from Germany arrived. These organizations were quickly confronted with the difficult task of finding a country overseas willing to take in the stateless. These refugees were the undocumented par excellence, and it turned out that these paper walls were extremely difficult to overcome. For German Jews the departure from the first country of asylum was less of a difficulty.

The refugee aid organizations held the key to refugee protection. Their support granted political activists a leave to remain and temporary protection for Jewish refugees pending their travel to a final country of abode overseas. The authorities had not yielded to the tenet of their policy. Persecuted political activists were protected, but they were strictly prohibited from engaging in any economic activity. The protectionist policy, largely under pressure from the trade unions was premised on the belief that the economic hardship of the local population should in no way be perceived as being aggravated by this refugee influx. The unions agreed that any newcomer, even a prosecuted trade unionist, should be kept out of the national labor market. Tolerating an exemption for refugees would be a breach in the newly constructed dam. Independent economic pursuits of those newcomers were also contested by small businesses and shop owners. These groups compensated their weak professional organization by the shrillness of their protests.

That refugees were kept out of the national economy implied that the refugee relief committees were very selective in recommending to the authorities immigrants who needed protection. By recommending an immigrant, the committee underwrote the financial risks of admitting him/her. If the immigrant had no (more) independent means to live on the aid committee had to shoulder the financial responsibilities for 'their' refugee. The Jewish aid organizations therefore had only demanded a temporary stay for their protégées as further migration was a cost saving device. The Jewish communities were

also anxious that enabling the Jewish refugees to settle would give fuel to political entrepreneurs exploiting anti-semitic and xenophobic sentiments. Protection for German refugees in Western Europe was a private-public mix. Eligibility policy was largely outsourced to the private sector, and these aid organizations undertook the management of the refugee influx and underwrote its costs.

Norms of conduct of policy makers, strengthened by political allies of refugees in the country, bilateral pressure, and the determination of refugees not to return explains the development of a refugee policy in 1933. The authorities hoped that tolerating politically sensitive cases who adamantly refused to return would increase the efficiency of their management of migration. Public policy aimed at crediting the authorities for protecting their citizens against competition by immigrants for those resources such as jobs, welfare and customers that had become scarce due to the Depression. This public policy also did not entail any costs for the Treasury, as the refugee aid organization bore the brunt of the (financial) costs. Advocates of a hard line policy pointed out, however, that notwithstanding a halt in immigration, emigrants from Germany continued to force themselves upon the neighboring countries while the authorities acquiesced. This perception of a loss of migration control was aggravated by a deep seated feeling that foreigners, although refugees, were stealing jobs and competing with local entrepreneurs in a dishonest manner. The political costs of this experiment would strongly increase when the Nazi regime would decide by 1938 to force those considered its internal enemies out.⁴

3. Bringing the issue of refugee management to an International level, 1936–1937

The chaotic start of the management of the German refugee crisis in which each state developed its own policy made the need for some international coordination obvious, but more important for policy makers in their endeavor to internationalize the refugee issue was the interest of the frontline states to improve the emigration possibilities for their (Jewish) refugees. The frontline states wanted the burden of refugee protection to be shared by the community of states. Also, the very annoying administrative cases of refugees in orbit, which no state considered as their refugees, needed a solution. The British MP Lord Cecil strongly supported the international coordination of refugee policy as absolutely necessary to the proper functioning of refugee policy: “It was a great mistake to treat the problem of the refugees as though it was a mere matter of charity. It is a question of humanity, but it is also a political question because unless solved, the refugees everywhere constitute foci of irritation. A major purpose of government is to remove such irritation ...and to maintain peace”.⁵

4 Caestecker and Moore, *Refugees from Nazi Germany*, pp. 193-243.

5 Lord Cecil to the British Foreign Foreign quoted in: R. Breitman et al. (ed.), *Advocate for the Damned: the Diaries and Papers of James G. McDonald, 1932–1935*, Bloomington 2007, p. 617.

To bring the refugee issue to an international level, a forum in which states could meet was needed. The most likely institution was the Nansen Office, an international organisation within the Leagues of Nations' whose mandate was not refugees as such, but specific groups of refugees. The League of Nations, already crippled by the American refusal to support it in the early 1920s, saw its authority weakened in the 1930s. An official extension of the Nansen's office mandate to cover also the German refugees would have needed a decision of the League of Nations, which the Germans surely would have vetoed and which would have undermined the League's overture to the USSR. The Dutch government took the initiative to suggest the foundation of a High Commissioner for the refugees from Germany which in order to appease the Germans was not answerable to the League itself, received no public monies, and was subsidized mostly by private funds.

The High Commissioner for the refugees from Germany worked hard to broker an international agreement in 1936 that guaranteed the refugees from Germany some basic rights. The agreement was modelled on the Convention for the Russian refugees in 1933. It was, however, a watered-down version due to the intransigence of representatives of European states who wanted to yield the least possible national sovereignty while still insisting on having an international response to the refugee crisis.

The international cooperation that the Arrangement of 1936 aimed at was based on the commitment of the first country of asylum to protect refugees. The international Agreement fully preserved state sovereignty by a national determined, individual eligibility procedure for refugee status, rather than the clear-cut collective definition of a (Russian) refugee in 1933. The state's right to expel refugees was preserved, but this was considered warranted only for reasons of national security or public order. The Agreement further stated that 'refugees shall not be sent back across the frontier of the Reich unless they have been warned and have refused to make the necessary arrangements to proceed to another country or to take advantage of the arrangements made for them with that object'. This principle of *non-refoulement* as an incursion on the states' right to deport refugees to the persecuting state was the crux of this international refuge regime. Sweden and Czechoslovakia, although their delegates were present at the conference, refused to adhere to this Arrangement. The decision makers in both countries considered it unacceptable that they were bound to a treaty that restricted their national sovereignty. In Czechoslovakia, which from 1936 onwards retreated from liberalism, the authorities insisted they did not want to be stuck down to a definition of refugee that would limit their possibilities to get rid of these aliens if they turned out to be troublesome.⁶

Less than two years later, at an international refugee conference that took place in Geneva from 7 to 10 February 1938, the agreement got more binding force in the juridical form of a Convention. The Convention repeated the above mentioned principle of

6 K. Čapková and M. Frankl, *Unsichere Zuflucht: die Tschechoslowakei und ihre Flüchtlinge aus NS-Deutschland und Österreich 1933–1938*, Cologne 2012, pp. 79–83; H. Lindberg, *Svensk flyktingpolitik under internationellt tryck 1936–1941*, Stockholm 1973, p. 27 and 78–81.

non-refoulement but made the exception to this principle even more exceptional by only tolerating repatriation if the refugee had refused, *without just cause*, to make the necessary arrangements to proceed to another country. By further qualifying when *refoulement* of refugees was possible, the Convention implicitly referred to the norm of appropriate state behaviour not to repatriate refugees. This declaration of intent restrained at least symbolically the sovereignty of the undersigning states, as states could only in exceptional cases have recourse to deportation of refugees.

Also in contrast to the 1936 Arrangement, the Convention of 1938 included a chapter on labour conditions that had been copied from the 1933 convention concerning the Russian refugees. The restrictions for the protection of the labour market were not to be applied in all their severity on refugees from Germany and even waived after three years of stay in the country of asylum. This chapter had been crucial in the Convention of 1933 for Russian refugees, as at that time states were constructing barriers that hindered the economic integration of foreigners within their population. The Convention of 1933 had safeguarded the opportunities for Russian refugees to integrate economically in their country of asylum. In the Arrangement of 1936 that chapter was however left out as at that time national protectionism still held full sway and newcomers, including newly arrived refugees from Nazi Germany were still to be excluded economically. The economic upswing since 1935 explains the change of course, together with a slowdown in the flight from Germany. The new state of affairs opened up the minds of policy makers for the stabilization of those who had fled Nazi Germany in 1933. Refugees who had not yet moved on could stay and they, similar to the Russian refugees, needed to be provided with economic opportunities to be able to integrate in the host country.

That the international agreements for the refugees from Nazi Germany imposed weaker obligations on the states than the convention of 1933 for the Russian refugees was due to the very different challenge the new refugee flow posed. First the Soviets had denaturalized all refugees and repatriation was no longer a viable option. Secondly the USSR had closed its border and no new influx was to be feared. By 1933 the Soviet refugee crisis had long since ended and the international efforts were aimed at stabilizing this population. The Convention of 1933 provided incentives to fully integrate Russian refugees who had long been present on the territory of the undersigning states. The situation of the refugees from Nazi Germany on the other hand was still very volatile. The states did not want to sign a blank cheque and therefore they limited their commitments to only those refugees from Germany who were already 'lawfully residing' in their country. The German refugee crisis was an ongoing crisis. The states made sure that they maintained a free hand in dealing with future refugee flows. Still, only seven states, mostly frontline states (Belgium, U.K., France, Denmark, Norway, Spain and the Netherlands) signed the agreement of 1936 and the convention of 1938. Switzerland adhered to the agreement of 1936, but by 1938 Switzerland no longer wanted to be a first country of asylum. It saw itself only as a transit country within an international redistribution of refugees

and therefore refused to be a party in the international Convention of 1938.⁷ All countries that signed the Convention of 1938 expressed reservations about individual articles. The Netherlands even refused to sign the paragraph restricting the expulsion of refugees to Germany.⁸

Both international agreements reaffirmed the view of the refugee from Germany as an immigrant who due to the involuntary nature of his/her immigration might deserve preferential treatment, but had no right to claim it. The contracting parties agreed to limit their administrative discretion in dealing with refugees for whom they were the first country of asylum. Susanne Heim assesses these agreements as “declarations of intent with no obligation. It could be used as a general guideline for dealing with the refugees, but left sufficient scope of interpretation or even evasion.”⁹ Still these arrangements turned out to be adequate instruments to address the refugee problem as it posed itself that very year. This internationalization, rather Europeanization of refugee policy insured that a benevolent attitude towards refugees did not run the risk of acting as a magnet on refugees elsewhere, as all European states party to the international refugee regime were committed to stabilizing their refugee population. Although this arrangement had no teeth, its soft power expressed an international entente for closing off what later turned out to be the first wave of flight from Nazi Germany. The second wave of refugees, starting in the spring of 1938, was even more a panic flight and would cause a radical change of heart among policymakers. Susanne Heim in her critical assessment refers to this later period when indeed evading the international refugee regime was the catch-word. The fortune of the convention of 1938 is telling: although it was signed by seven states, only Belgium and the U.K. actually ratified it before the outbreak of war in September 1939. The international refugee regime turned out to be too weak to function as a platform for international cooperation when in 1938 the refugee influx was suddenly perceived as threatening frontally national sovereignty.

4. The implementation of the 1933 design of refugee policy, 1934–1937

All liberal countries in Europe from 1933 onwards granted political activists a leave to remain, while Jewish refugees were temporarily protected pending their travel to a final country of abode overseas. These refugees had to be recommended by an aid organization, which undertook to guarantee the maintenance of their refugees. After the mass arrival in 1933, the flight of political refugees was only a trickle of what it had been in 1933. Jewish emigration, on the other hand continued in the following years, but also at a much lower rate. According to Jewish organizations in Germany, by the end of 1937

7 Unabhängige Expertenkommission Schweiz-Zweiter Weltkrieg, *Die Schweiz und die Flüchtlinge zur Zeit des Nationalsozialismus*, Bern 1999, pp. 52-56.

8 C. Skran, *Refugees in inter-war Europe: the emergence of a regime*, Oxford 1995.

9 Heim, 'International refugee policy', p. 34.

150,000 Jews had left and 350,000 Jews still remained in Germany. Most of these Jewish refugees in Western Europe had moved on overseas. The most common refuge was Palestine. Argentina, Brazil, and Uruguay in South America also became important destinations. The Latin American states assessed these applications on their economic potential. In Germany, many Jews had been successful entrepreneurs and traders, and therefore, particularly if they had been able to take some capital with them, they were considered interesting immigrants. It was of no relevance to the decisions of the Latin American states to welcome the German Jews who had been forced to leave Germany.

In Europe the authorities remained the final arbiters of who was to be considered a refugee covered by the pledge of a refugee aid committee. However, in the day to day administrative routine it was a system of effectively subcontracting the selection process to the private sector. As the authorities had no independent means to control the eligibility decisions, this implied that if a refugee for any reason was not recommended by a refugee aid organisation he or she had very little opportunity to qualify for protection.

That state sovereignty was upheld was obvious in the treatment of communist refugees. Before 1935 communist refugees had been only a marginal issue in migration management. Most countries had denied asylum to refugees from Germany recommended by the communist aid organization, while those few countries (Switzerland, Denmark, France) who did offer communist refugees protection still expelled them when they remained politically active. When German communists were denied asylum their aid organization denounced the hypocrisy of liberal democracies. However, for communists asylum was hinged to defeatism. The struggle for the communist victory in Germany was according to the communist movement very close. Therefore, asylum was only intended to offer a short pause to enable the German communist activists to recover strength and subsequently to resume the combat in Germany. For German communists for whom it was too dangerous to return to Germany –those who had been condemned to a prison sentence for more than half a year- the communist refugee aid organization recommended them to the authorities for protection. If protection was granted this was on the condition that they refrained from political activities. Foreigners supporting the communist cause were considered a threat to public order and to be expelled. However financial support by the communist aid committee was dependent on full time political work, these refugees were thus in a catch-22. The communist movement hardly contested the expulsion of communist refugees as these expellees were sent to the Saar, a region administrated by the French authorities under the control of the League of Nations. The concentration of hardened communist refugees in the Saar was part of the strategy of the German Communist Party to mobilize the local population against returning the Saar to German sovereignty during the plebiscite of January 13, 1935. Notwithstanding the communist mobilization, the Saar inhabitants decided nearly unanimously during the plebiscite in favor of a return to Germany. The several hundred hardened communists in the Saar had a hard time finding a new place of asylum. Asylum became a more important objective of the communist struggle in Western European countries when in 1935 the communist movement changed course with the Popular Front policy. The suicidal

strategy of the German Communist Party was aborted: the communists acknowledged that the Nazi regime was there to last. The relentless baffling of human rights by the Nazi regime meant that communists also needed asylum. The Popular Front policy meant that the liberal democracies had to be trusted. Merely denouncing these regimes was not enough; the communist parties had to find political allies so that communist refugees would be protected effectively. Communist parties unleashed a political struggle for asylum for their comrades in danger. By bringing the issue in Parliament and on the streets the protection of German communists improved considerably. The issue lost some of its salience when the demand of liberal democracies for refugees to restrain politically was to a certain extent met by the communist movement. The decision to sacrifice the political activism of German communist refugees in Western Europe had its internal logic: German refugees should integrate (economically) in the countries of asylum which enabled the French and Danish communist movements to liberate funds allocated to the German refugees to subsidize their Popular Front initiatives in these countries. The Spanish civil war provide the communist movement the opportunity to kill two birds with one stone: cutting financial support for German refugees and providing soldiers for the International Brigades. When German communists wanted to fight Hitler they had to leave for Spain. In total about 3,000 Germans, mostly communists, enlisted to defend the Spanish republic.¹⁰

The only country that kept firm for long in denying communist refugees protection was the Netherlands. The Dutch ruling coalitions succeeded in keeping out the moderate left from government until 1939, and all these years their alien policy was obsessed with keeping out the Reds. Even for the Dutch authorities, repatriating communists to Germany was a bridge too far; therefore, these subversive refugees were forced over the Belgian border. Shoving off refugees created diplomatic frictions. Under Belgian protests evoking the principle of first country of asylum, part of the international agreement of 1936 the Dutch authorities agreed to protect those German communists for whom the Netherlands was the first country of asylum. In 1937 a bilateral agreement was concluded between the two countries which enabled Belgium to send back to the Netherlands all (communist) refugees for whom the Netherlands had been the first country of asylum. It turned out, however that for hardened communists at least the only Dutch place of asylum was the prison.

This bilateral agreement was an example of the period of grace in the European management of refugees from Nazi Germany made possible by the international refugee regime.

Authorities all over Europe were willing to adapt their immigration policy and thus yield some national sovereignty in order to integrate the remaining refugees from Nazi Germany into the social fabric. The mass arrivals of 1933 was a one time eruption, and the

10 A. Hillberg Berg, *Die Internationalen Brigaden im Spanischen Bürgerkrieg 1936–1939*, Essen 2005; P. van zur Mühlen, *Spanien war ihre Hoffnung. Die deutsche Linke im Spanischen Bürgerkrieg 1936 bis 1939*, Bonn 1983; M. Uhl, *Mythos Spanien. Das Erbe der internationalen Brigaden in der DDR*, Bonn 2004.

refugee policy developed in that year, heavily subsidized by the private sector had been an adequate response. By 1936 the consensus among the liberal states in Europe was formalized that each country had to stabilize the refugees, even communists and Jews for whom they were the first country of asylum. In particular, stateless Jewish refugees who had great difficulties in finding a final country of abode were singled out for a benevolent policy. This decision highlights the pragmatic nature of police making in migration management. Herman Bekaert, the second in command of the Belgian alien police, explained to the civil servants in his administration the decision to grant stateless Jews the permission to stay with the following words: “It seems to be preferable to authorize their stay ... rather than to “tire out” a foreigner by a procedure which is the playing field for the intervenants¹¹ and which finally tires the alien police out”.¹²

Those refugees had also to be offered opportunities to start a new life. As mentioned before, the beneficiaries of the 1933 refugee policy were strictly prohibited from engaging in any economic activity, but by 1937, thanks to the economic revival, this economic exclusion was no longer strictly adhered to. Refugee relief organizations had been arguing that they could not be permanently financially liable for their protégés. Refugees’ economic exclusion also entailed a loss of human capital. Even the institutions in charge of public order advocated opening up opportunities for the economic integration of (political) refugees as this would restrain their unwanted political activism.

The arrangement of 1936 had important repercussions for those refugees already on the territory of those states party to this effort at international coordination, but it was not an open-ended commitment; future arrivals were not covered under this agreement. The arrangement only referred to persons ‘lawfully residing’ in the country of asylum, but in 1936 several countries provided as a transitional measure an amnesty for refugees who were living illegally in the country. For France, this amnesty would entail by the summer of 1938 the legalization of the stay of 5,333 refugees and their families who had mostly emigrated, in an illegal manner to France in 1933 and 1934.¹³ By the end of 1937, most political and Jewish refugees who had arrived since 1933 in West-European countries and had not moved overseas were authorized to remain in the first country of asylum and to build a new life.

11 Intervenants in the parlance of the alien police referred to refugee aid organizations, but most importantly to politicians and other public figures who intervened to support a for them deserving individual case

12 Il me paraît préférable d’autoriser le séjour si l’on se sent incapable de la refuser plutôt que de “fatiguer” l’étranger par une procédure qui fait le jeu des intervenants et qui en définitive “fatigue” la Sûreté Publique” Herman Bekaert to Bodart, 1.1939. Belgian State Archives, alien police, individual files, A79910 (Eliasberg).

13 Rapport sur l’activité du comité consultative, 6.1938. Archives Nationales Paris, F7 16073; L. Dewhurst. *The Boundaries of the Republic. Migrants Rights and the Limits of Universalism in France, 1918–1940*, Stanford 2007, pp. 173-184.

5. Radicalized Nazi anti-semitic policy prompts refugee policy to evaporate, 3-10.1938

In 1938 the number of refugees exploded as geopolitical changes brought more Jews under Nazi rule, and at the same time anti-semitic policies were radicalized. The first expansion of Hitler's Germany was the incorporation of Austria into Germany in March 1938, by which process the number of Jews under Nazi rule increased by 200,000. The incorporation of Sudetenland in October 1938 led to the flight of another 30,000 people. Czechoslovakia became victim of Nazi aggression in March 1939 what created even more refugees.

The Nazi annexation of Austria had provoked a flight of political activists, but the vast majority of refugees from Austria were 'Jews' as the *Anschluss* prompted an almost immediate and unprecedented wave of violence against the 'Jews'. Terror, together with a high degree of administrative collusion to make Jews leave, caused nearly 50,000 'Jews' to leave Austria by the fall of 1938.¹⁴ German police and border authorities even worked together to dump 'Jews' across the frontiers of neighboring countries. A brutal public brutality against the Jews in Germany proper started with the orgy of violence of Crystal Night (9–10 November 1938), followed by the incarceration of some 30,000 Jewish men in concentration camps. The plundering of refugees was part of this radicalization of Nazi policy. The Jewish inmates of the concentration camps were only liberated in order to leave the country stripped of their belongings. Similar to the flight of political opponents of the Nazi regime in 1933, the flight of Jews became an acute refugee movement in response to a life threatening persecution.

The authorities of all European countries increased their border controls and imposed visa requirements as a way of stopping the intrusion of desperate Jewish refugees. In some countries, transport companies had, by the threat of sanctions to scrutinise their passengers' passports and visas for their validity to enter the country.¹⁵

The arrival of uninvited and destitute Jews in countries bordering Nazi Germany caused the authorities in these countries to question the (temporary) protection they had granted to Jewish newcomers from Germany since 1933. Every country was fending for itself. No international consultation took place. The authorities felt themselves being encircled by countries that had stepped up their border control much more effectively so that the refugee flow seemed to be directed only to their territory.¹⁶ The flight from Nazi Germany in 1933, although at a comparable scale, had had much less of an organized character and had flouted immigration regulations less blatantly. The German dumping

14 J. Moser, Österreich, in: W. Benz, Dimension des Völkermords: Die zahl der Jüdischen Opfer des Nationalsozialismus, München 1991, p. 68. See also Zentralstelle für jüdische Auswanderung to SD-Hauptamt, 21.10.1938. Bundesarchiv Berlin, R 58 (Reichssicherheitshauptamt), 486.

15 Caestecker, Ongewenste gasten, p. 182; Pholien to Spaak, 14.10.1938. Brussels, Belgian Ministry of Justice, Aliens' Department, 785 (transferred to State Archives Brussels).

16 F. Caestecker and D. Scuto, The Benelux and the flight of refugees from Nazi Germany, the Luxemburg specificity in: *Hémecht* 69 (2017), 1, pp. 389-410.

policy placed great strains on a humanitarian policy. The authorities had the perception of being overwhelmed with destitute refugees, dumped in batches by the German authorities. Denying refugees protection was even couched in anti-Nazi rhetoric as not submitting to a German dictate.¹⁷ Burden sharing was not on the agenda; on the contrary, countries started pressuring neighboring countries to be stricter. Every country considered itself a victim of ‘lax’ neighbours whose borders were too porous. Some states were castigated because they let refugees enter who just passed through their territory *en route* elsewhere.¹⁸ The European states pressured each other to impose ever-tighter immigration restrictions-- a trend that built up a momentum of its own that went beyond domestic considerations.

In the course of 1938, German Jews who had circumvented border control or overstayed their visa were increasingly treated as illegal immigrants, not refugees, by most “liberal” governments in Europe. They were, as any other undesirable alien, increasingly put in prison. In May 1938 in France an internal crackdown of unprecedented severity started and many refugees ended up in prisons. In other countries the Jewish refugees were even repatriated to Germany. The resolve to stop the dumping had become the trigger for a full-blown attack on the protection of ‘Jewish’ refugees. The Netherlands started hesitantly in the spring of 1938, but Luxemburg, and Switzerland went radically for it in the late summer, and the Scandinavian countries and Belgium jumped on the bandwagon in the fall of 1938.

This repressive policy was legitimized by a public discourse that presented Jewish refugees as troublemakers, undesirable competitors, and intruders. In May 1938 a Dutch circular letter stated explicitly that “refugees, foreigners who had to leave their country ‘under the pressure of circumstance’, were to be considered as unwanted guests.”¹⁹ The Jewish communities in these liberal countries bordering Nazi Germany, fully aware of the danger Jews were exposed to in Germany, were lobbying to uphold protection. Local Jewish communities, with the help of American Jewry, did their utmost to provide material assistance to these refugees. However, the authorities lamented the loss of control over their borders and questioned the solvency of these committees overburdened with demands for assistance. The aid committees were in many countries sidelined in the decision making process. The Jewish aid committees who remained solely responsible for assistance had no more say in who was protected by the state. They had to limit their assistance to cases the authorities approved of.²⁰

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

18 For example 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. Luxemburg State Archives, Ministère de la Justice, J 73/48.

19 B. Moore, *Refugees from nazi Germany in the Netherlands, 1933–1940*, Dordrecht 1986, pp. 77ff.

20 S. Mächler, *Hilfe und Ohnmacht. Der Schweizerische Israelitische Gemeindebund und die nationalsozialistische Verfolgung, 1933–1945*, Zürich 2005; F. Caestecker, *Jewish Refugee Aid Organizations in Belgium and the Netherlands and the Flight from Nazi Germany, 1938–1940*, in S. Heim/B. Meyer/F. Nicosia (eds.), “Wer bleibt, opfert

Policy makers countered domestic opposition to the deportation and imprisonment of Jewish refugees by underlining that refugees- but only genuine refugees- were still protected. Protection policy was largely limited to political refugees, whereas Jews fleeing Germany were considered another sort.²¹ Even the Netherlands granted communists asylum. That persecuted political activists were given a full entitlement to asylum was the counterweight to the attack on temporary protection for Jewish refugees. Notwithstanding the fact that from 1938 onward the brutality of the persecution of Jews equaled that of political opponents, their persecution was minimalized. Even social-democratic circles took up the defense of their political refugees, at the detriment of the Jewish refugees.²² The authorities even stated that they had caused the persecution upon themselves by among other things, illegally smuggling currency. That they were persecuted was even denied altogether by pointing out that these 'Jews' left Germany with the agreement of the German authorities, while (political) refugees had to flee surreptitiously.²³

6. The first countries of asylum in disarray: hard line policy prevails, 10.1938–9.1939

The majority of refugees fleeing Nazi Germany had to enter a neighboring country in an illegal manner. The border guards in countries such as Switzerland, the Netherlands, Denmark, and Sweden, which had a free travel regime with Germany, had great difficulty in distinguishing between bona fide German travelers and German Jews seeking entry with the intention to stay. The latter they had to exclude. The Swiss and Swedish authorities insisted that the Nazi authorities provide them with a technical means to identify (and exclude) German Jews. Although the Nazis realized this would make getting rid of the Jews more difficult, they conceded, since it was the only way "Aryan" Germans would remain free from the requirement to obtain a visa to enter Sweden or Switzerland. In the fall of 1938, new passports for German Jews were introduced that included a red letter "J," 3 cm high on the left-hand side of the first page, indicating their "non-Aryan" status. By issuing official instructions to discriminate on the basis of the

seine Jahre, vielleicht sein Leben". *Deutsche Juden 1938–1941*, Göttingen, 2010, pp. 45-65; P. Rudberg, *The Swedish Jews and the victims of Nazi terror, 1933–1945*. Uppsala 2015.

21 L.Rünitz, *Af hensyn til konsekvenserne, Danmark og flygtningespørgsmalet 1933–1939*, Odense 2005, pp. 246-274, 410-415 and 426.

22 Willem Vanderveken, the secretary of the Belgian Matteotti committee, publicly stated that "Belgium has reasons to defend itself against a systematic immigration directed against the vital interests of the country. Not a few Austrians, whose departure was wanted by Hitler, have lent themselves to an expatriation deal and this with the complaisance if not the complicity of the bosses of the Reich... Such an illegal immigration brings discredit on the edifice of protection which we have painstakingly constructed to the advantage of the real political refugees" in the Belgian Socialist paper *Le Peuple*, 29.8.1938; Circular letter of the Secretary of the SAI, 10.1938. *International Institute for Social History, Labour and Socialist International*, 842; B. Lupp, *Von der Klassensolidarität zur humanitären Hilfe. Die Flüchtlingspolitik der politischen Linken 1930–1950*, Zürich 2006, pp. 150-153.

23 C. Berghuis, *Joodse vluchtelingen in Nederland 1938–1940*, Kampen 1990, p.113, 160; Caestecker, *Ongewenste gasten*, p. 190.

kind of German passport shown at the border, the Swiss and Swedish authorities introduced a clear-cut racial bias into their immigration policy. Domestic opposition to these arrangements was absent as this kind of control was largely invisible to the public and anyhow border and remote control were considered part of the privileges of the executive branch of government.²⁴

In spite of ever more restrictive border policies, refugees were still arriving in all frontline states. Borders remained permeable and people were still able to slip through. Refugees from Nazi Germany were highly motivated and ready to make almost any sacrifice in order to be safe. They were increasingly forced to rely on human smugglers in order to enter Germany's neighboring countries. Human traffickers motivated by the high profits involved, were well informed and assisted the refugees effectively.

Resettlement overseas became much more difficult. In July 1938, in the midst of the new refugee crisis, an international conference was convened in Evian, France by President Roosevelt to discuss solutions to this refugee crisis. This American initiative to internationalize the refugee issue could have stimulated the European countries to return to the liberal refugee policies of 1933, but the conference brought no solace to the refugees. The US was not willing to publicly state her willingness to resettle more refugees. Roosevelt refrained from such a move as he did not want to alienate the electorate captured by nativist and anti-semitic sentiment.²⁵ Brazil and San Domenico made token gestures in Evian, but only to please the US, and very few refugees were finally resettled in these countries.²⁶ Overall in Latin America the authorities gave in to local protectionist and nationalistic forces, which were in particular opposed to the immigration of Jews and leftists. Mexico was the only country in Latin America to provide asylum to (political) refugees from Germany. Three thousand political refugees from Nazi Germany who had been engaged in defending the Spanish republic were resettled in Mexico. Notwithstanding their tropical climate, poverty, and political instability countries such as Colombia, Ecuador, Bolivia, and Paraguay became countries of asylum. These states allowed refugees to settle, not because they wanted to offer protection but because the authorities considered these immigrants useful, sometimes solely because of the bribes they gave immigration officials.²⁷ Jews even went the whole way to China: The extraterritorial enclave Shanghai in China was the only place on the earth you could enter without having

24 D. Bourgeois, *La porte se ferme: la Suisse et le problème de l'immigration juive en 1938*, in: *Relations Internationales*, 54 (1988), pp. 181-204; P. Levine, *From indifference to activism: Swedish diplomacy and the Holocaust (1938-1944)*, Uppsala 1996.

25 R. Breitman and J. Lichtman, *FDR and the Jews*, Harvard 2013.

26 J. Lesser, *Welcoming the undesirables: Brazil and the Jewish question*, Berkeley 1995, pp. 60-166; M. Carneiro, *Weltbürger. Brasilien und die Flüchtlinge des Nationalsozialismus, 1933-1948*, Berlin 2014; M. Kaplan, *Dominican Haven: The Jewish Refugee Settlement in Sosúa, 1940-1945*. New York 2008, pp. 1-103; H. Dillmann and S. Heim, *Fluchtpunkt Karibik. Jüdische Emigranten in der Dominikanischen Republik*. Berlin 2009, pp. 52-55.

27 See C. Krohn et al.(eds.), *Handbuch der deutschsprachigen Emigration 1933-1945*, Darmstadt 1998.

to confront border guards and for that reason alone it attracted about 15,000 refugees from Germany.²⁸

Many more would have gone to Shanghai if they had had the means to pay for the passage. Those with less means tried to cross the green border by circumventing the border patrols of Germany's neighboring countries. However, even if people smugglers helped them to enter the territory of a neighboring country, they still could be repatriated. The brutality of the persecution of Jews became obvious to all with the heavily publicized atrocities of *Cristal Night*. The Netherlands reinstated the protection for Jewish refugees immediately after November 10, 1938.

When by the end of December 1938 the Dutch authorities had accepted 7,000 refugees, they considered that they reached the saturation point and decided to reintroduce the exclusionary policy for German Jews. The border became again a place of heartbreaking scenes. Even visa holders, single women and unaccompanied children were turned away. Refugees were shoved back and forth across the border. The Dutch rejoined again the hard line policy and expelled even those who had succeeded to enter its territory.

The hardline policy attacked the Jewish refugees head on. It was legitimized by a brutal anti-refugee rhetoric that was part of a larger xenophobic, if not anti-semitic discourse attacking immigration and diversity. The dangers of economic competition and the need to curtail unemployment, which had been central in bolstering a protectionist alien policy in the first half of the 1930s, remained part of this restrictionist discourse. By 1938 the economy went into another downturn and political entrepreneurs singled out the newly arriving Jewish refugees as competitors for scarce resources. Criticism went beyond the material interests as there was also the oft-expressed fear that the inflow of Jewish refugees would create a 'Jewish problem' as these new arrivals aroused anti-semitic feeling among the population.²⁹

The only country bordering Nazi Germany where the political authorities returned to the policy adopted in 1933 was Belgium. At the border Belgian policy was as brutal as all other countries, but Belgium granted temporary protection to those Jewish refugees who had intruded on its territory. Jewish refugees knew that it was worth paying a smuggler to get them into Belgium. Once they had passed the Belgian-German border zone, they were safe. This turnaround 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. The policy makers had to take a watchful public into account.

28 S. Hochstadt, *Shanghai: a Last Resort for Desperate Jews*, in: Caestecker and Moore (eds.), *Refugees from Nazi Germany*, pp. 109-121.

29 Caestecker and Moore, *Refugees from Nazi Germany*, pp. 244-294; C. Zalc, *Melting Shops, Une histoire des commerçants étrangers en France*, Paris 2010, pp. 196-232.

The Belgian policymakers, who had embarked on a policy of deporting Jewish refugees had reluctantly restored the refugee policy of 1933. At the same time they intensified border control and even pressured the German authorities to keep their 'Jewish' persecutees 'at home'. These diplomatic initiatives underline the Janus-faced attitude of the Belgian authorities towards those fleeing Nazi Germany. Publicly, all refugees who succeeded in entering Belgian territory were granted asylum, but at the same time the Belgian (but also (less surprisingly) the Swiss) authorities tried to convince the Germans to stop unauthorized immigration into their territory. From November 1938 onwards German border guards arrested Jews in the German border zone who did not have the required authorization to enter the countries at German's western borders. From March 1939 onwards even 'Aryan' Germans who were caught red handed assisting Jews crossing the West-German border were, upon implicit demand of the Belgian diplomatic representatives, also incarcerated in concentration camps.³⁰

The emigration over the western borders was slightly slowed down, while at the same time the Nazi's strongly promoted the emigration of Jews to Eastern Europe and overseas.³¹ Notwithstanding the German collaboration in preventing Jews from fleeing to Belgium, refugees knew that in order to be in safety they had to head to Belgium. While in 1939 very few Jewish refugees still fled to Luxemburg, Scandinavia, Switzerland or the Netherlands, Belgium took in nearly 20,000 refugees, a figure close to the French record. Both countries had difficulties to control their border with Germany, but more importantly they refrained from deporting refugees. France was less welcoming as the authorities still treated all those who illegally immigrated as illegal residents. The judges balked in particular at having to sentence refugees to long prison term, although they were much less threatening to public order than their habitual clientele. According to estimates from the Jewish refugee committee, about 9,000 refugees were sentenced to prison terms between May 1938 and July 1939.³² After serving their sentence the refugees in France were not deported back home. This measure of deterrence was expensive and not very effective: for refugees even the French prisons were preferable to German concentration camps. The political costs could be high as the French authorities were perceived as having lost all control over their borders. Also in Belgium that was the case and law enforcement officials insisted strongly that Belgium had to withdraw from the Refugee Convention of 1938 in order to reaffirm control over its border. The head of the alien police Robert de Foy pointed out that Belgium was the only frontline state that had ratified the Convention and that the large influx disorganized the national economy.

30 Berschel, *Bürokratie und Terror*, pp. 280-285.

31 J. Toury, *From Forced Emigration to Expulsion-the Jewish Exodus over the non-Slavic Borders of the Reich as a Prelude to the Final Solution*, in: *Yad Vashem studies*, 17 (1987), pp. 51-92.

32 Minutes of Conference of various committees held on 23.3.1939 at the offices of the Joint, Paris. American Jewish Joint Distribution Committee archives (further JDC), 405. Migration Conference JDC/HICEM 22-23.8.1939. JDC, 367; V.Caron, *Uneasy Asylum: France and the Jewish Refugee Crisis, 1933-1942*, Stanford 1999, pp. 176-210.

Robert de Foy exclaimed desperately “a nation which wants to live has to defend itself.”³³ However by then liberal elements who had supported the turnaround were at the helm of the state and the Minister of Justice retorted that the Refugee Convention of Geneva of 1938 did not restrain state sovereignty. For political and humanitarian reasons political and Jewish refugees who had succeeded to enter Belgian territory, even illegally were tolerated, but the authorities used the national discretion to determine individually eligibility for refugee status in the Refugee Convention of 1938 to deny Jewish refugees collective access to the official procedure for refugee status. In line with the policy design of 1933 these made Jewish refugees to be only in transit in Belgium and with no need for permanent Belgian protection as they were, in theory on their way overseas. While (political) refugees who were considered eligible for refugee status acquired some legal protection against administrative discretion, the Jewish refugees were refused this favor. When national interests would be at stake the Belgian authorities could always decide to deport these transit migrants as the executive authorities were not bound for those refugees to international (and domestic) law.³⁴ The Belgian executive authorities retained in this manner quasi full command over their immigration policy towards Jewish refugees. They had decided to respect the human rights of all those on its territory, notwithstanding the very limited international support for doing so. However they were not willing to be bound to legal norms which could threaten their political survival. International instruments need international oversight to be effective. When World War II broke out in September 1939, 300,000 of the half million Jews in Germany in 1933 had left; of those who remained, half were above 50 years old. Soon the radicalization of the anti-semitic policy would arrive at its final solution.

Conclusion

In this decade the sovereign right of the state to refuse an individual entry to its territory, even if he or she claimed to be a refugee, was not contested. Once refugees crossed the frontier they were no longer merely emigrants, but became asylum applicants to whom national norms could be applied. In 1933, 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. The very restrictive immigration policy of these years of economic crisis was amended. The policy of 1933 created the ‘refugee’ as an administrative category within immigration policy. This refugee designation was not internationally coordinated, but the

33 Correspondence between Mahieu and de Foy of the alien police and the Minister of Justice, 5.1939. Brussels, Belgian Ministry of Justice, Aliens’ Department, 37C1 (transferred to State Archives Brussels).

34 F. Caestecker, *Prémices de l’institutionnalisation de la politique des réfugiés dans l’après-guerre, expérimentations en matière de protection des réfugiés dans l’Europe des années 1930* in: A. Angoustures, D. Kevonian and C. Mouradian (eds.) *L’invention de l’OFPRA*. Rennes 2017.

liberal European states agreed to a common norm of *non-refoulement*. The obstinate refusal of refugees to return “home” and their support by political allies in the country of asylum caused that these refugees could not be treated as any other unwanted immigrants. While the main gate remained closed, a side-door for refugees was opened. This side-door was relatively easy to open as private aid organizations agreed to subsidize the protection of these refugees. These agencies stepped in to assure that “their” refugees would not aggravate the economic difficulties of the local population. Refugees were protected but still denied access to the country’s economy. The agreement of the authorities to protect refugees reflected not only the humanitarian concerns of the authorities, but also their desire to prevent refugees from endangering diplomatic relations or the domestic order. Refugee policy made the protectionist immigration policy more effective by making an exception to the most recalcitrant cases. It also legitimized a brutal exclusionary policy towards all other unwanted immigrants.

The Arrangement of 1936 and the Convention of 1938 could be considered as the international coordination of the refugee policy of 1933. It, however, went beyond mere coordination as it partly institutionalized and even liberalized refugee policy of the European states that adhered to this international refugee regime. This international agreement created common standards for handling asylum seekers. Bilateral pressure not to shove off refugees became much more effective as these international agreements showed a common willingness not to treat refugees as any immigrant. It enabled the states to put the irritation that these uninvited guests had caused behind and close off the refugee crisis that had erupted in 1933 in an efficient and humane manner. By 1937 the refugees who had fled Germany in the first years of Nazi rule could start rebuilding their lives in exile.

In 1938 all countries had to confront the reality of large numbers of destitute Jews arriving at the border or inside the country, sometimes dumped in batches by the German authorities. Notwithstanding genuine evidence that their lives might be in danger if they returned to Germany, ‘Jewish’ refugees encountered outright hostility; from consular authorities, at the border, even inside the countries of refuge themselves. That liberal states started to deport refugees from within the country 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 states. The reasons for this rupture was that Jewish flight after the *Anschluss* was perceived as raging out of control. The arrival of ever more refugees, dumped and stripped of their possessions by the German authorities, convinced the authorities of the countries bordering Germany that they should halt further Jewish immigration, notwithstanding the guarantee of the Jewish committees. The lack of positive action from the Evian Conference in the summer of 1938 demonstrated a complete lack of international political will in addressing the refugees’ plight. The frontline states felt they had to fend for themselves as the rest of the world was not willing to share the burden.

International coordination between 1936 and early 1938 had been the lever to finally put an end to the plight of the first wave of refugees, but by the summer of 1938 this was already a thing of the past. Each European government looked suspiciously to the other states, 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 just recently erected international edifice of refugee protection crumbled. In contrast to 1933, when a consensus had reigned that the first country of asylum was responsible, such arguments did no longer cut ice. Refugee protection evaporated in a process of tightened immigration policy. Asylum turned out not to be dictated by the merit of the refugees' claims, but determined by the terms established by the state. By 1938, the small group of political refugees, albeit by times very troublesome were proclaimed in all European countries as the only genuine refugees to be protected. The domestically decided solution to the plight of the Jewish refugees was an extremely brutal migration management. Even within the borders of most western European states the refugees were treated in an inhumane manner. Only Belgium and to a lesser extent also France retained protection for the Jewish refugees on their territory. The efficiency of their migration management was very weak, as their unique position made them into a magnet. However it was very effective as it assured minimum humanitarian standards in internal immigration policy and protected a considerable number of people until the war started. Efficiency could have been improved if these policy goals would have been internationally agreed upon.