

The legal construction of policy towards aliens prior to 1933

Liberalism was the dominant ideology of the nineteenth century. It decreed that from the middle of the century to the beginning of the First World War, the movement of people across national frontiers in Western Europe was relatively unfettered. Moreover, the liberal political culture also dictated that the coercive powers of the state had to be restricted to prevent the violation of individual liberties. Laws existed that executive action against any individual person, even one of foreign nationality, could always be challenged in a court of law. Judicial power was thus employed to check the executive in those countries where the protection of aliens was written into the law. In the same way, the basic constitutional principles of liberal regimes such as equality before the law and basic rights could also be used to defend aliens.

Nineteenth century liberalism and aliens policy

In Continental Europe, aliens policy was a specific branch of state policy, whereas in Britain there was no perceived need for exceptional legislation. In Britain it was considered unnecessary to acquire powers to deny either admission or extensions of residence to aliens and normal controls were considered sufficient for dealing with troublesome individuals. In Continental Europe each Liberal state assigned rights to foreigners on the basis of the length of their stay on its soil and/or their ties with the nation. This protection was sometimes written into aliens legislation, or merely formed part of administrative custom and practice. In Belgium, once an alien had been in the country for four months after registering his or her presence to the authorities, he or she was granted fully-fledged residency status. In effect, this provided almost the same rights as those afforded to Belgian citizens. In Denmark, the law stipulated that an alien could not be expelled for any reason after a stay of 2 years.¹ This liberal political culture and its antipathy to a strong state was also reflected in the division of power between agencies dealing with aliens policy within the various states of Continental Europe. In the Netherlands, Denmark and Switzerland, aliens policy was a matter for the local authorities, and central government had only very limited powers.² In Belgium, France and Luxemburg it was heavily centralized with a specific department within the Ministry of Justice or the Ministry of Interior that decided on policy. In the interests of efficiency, France supplemented its centralized decision-making process by granting the *préfets* of frontier *départements* - *préfets* nominated by those same central authorities - considerable powers over immigration policy.³ Yet even in these centralised systems,

local authorities continued to have considerable influence, as central government remained largely dependent on them for the implementation of its decisions.⁴

Whether aliens policy was managed in a decentralized or centralized manner it had limited functions. Aliens policy was primarily formulated to exclude those considered a danger to public order or liable to become a public charge. Subversive political activists or those who were convicted of a crime were thus liable for deportation. In order to persuade undesirable aliens to leave these countries permanently, legislation was enacted which punished non-compliance with an expulsion order. In France, the law of 1849 provided for prison terms of between one and six months for *rupture de ban d'expulsion*, and was very similar to the Belgian law of 1835 and the Dutch law of 1849.⁵ Numerically however, the most important group expelled were destitute immigrants or aliens who had no 'honest' means of earning a living. Although the liberal political regimes offered protection to aliens against an all-intrusive state, in practice these lower 'dangerous' classes were to a large extent exempt from the protection the law provided as in fact these provisions were only meant for 'respectable' aliens.

Liberalism had also an effect on the manner in which foreigners were expelled by states in Continental Europe. The police generally escorted expellees to the border, but liberal regimes often granted expellees a choice of which border they were taken to. This was explicitly mentioned in the Dutch aliens law of 1849. The Belgian aliens law of 1839 had stipulated that this had to be offered to resident aliens, but from 1850 onwards border choice was systematically offered to all expellees. Belgium did this in order to respect its extradition procedures that stipulated that an alien could only be extradited if the crime he had committed was also considered a crime under Belgian law. Deporting unwanted aliens, even if the expelling state ignored the fact that the person was fleeing persecution in his or her country, was seen as the equivalent of extradition. This provision was the result of a liberal ideology that acknowledged the existence of non-liberal regimes in Europe that criminalized many acts that were perfectly legal elsewhere. Providing expellees with a choice of border was also a pragmatic decision in order to circumvent the cumbersome task of deciding to which state a person belonged. Assigning citizenship was not yet a matter of routine as the direct relationship between state and citizen had little importance for the majority of people and formal identity papers were the exception rather than the rule.⁶ This meant that throughout most of the nineteenth century refugees, when expelled from their first country of asylum, could try their luck in a country other than their country of origin.

By the end of the century, expulsion policies in Continental Europe had changed dramatically. In 1884, the German authorities unilaterally decided to send back most of the aliens expelled into the German Reich by neighbouring countries. Only German nationals and those of other countries who could prove that they had to travel through the German Empire to return to their country of origin and who had money for their fare, were not returned. This effort to rationalise the removal of undesirable aliens on a national basis was sealed with diplomatic agreements which stipulated that every country had to accept its own nationals who had emigrated or give free passage to those who had to pass through their territory. The agreements made it impossible for the expelling state to force third-country nationals onto the territory of neighbouring states without the consent of that state. Expulsions were no longer merely a unilateral affair. Providing undesirable aliens with documents and the means to travel in order to meet the formal requirements of the neighbouring state became an essential element in being able to get rid of them. Expellees could only 'voluntarily' be made to cross the border of a neighbouring country of which they were not a citizen. They could still be returned to the expelling state, but because their entry was voluntary, the expelling state could no longer be accused of breaching the bilateral agreement.⁷

Because of its long frontier and strong economic links with Germany, the Netherlands had to take full account of the new policies pursued by the *Kaiserreich*. This led to a radical change in expulsion policy after the German-Dutch treaty (*vestigingsverdrag*) of 1906. This regulated expulsions from the Netherlands into Germany (and *vice versa*). From then onwards the Dutch authorities only expelled German citizens into the German Empire after showing documentary proof of their nationality to the German border officials. This Dutch-German agreement stipulated that the Dutch authorities would formally hand over the expellees and their documents to the German authorities at agreed times and places. However, faced with the costs of supporting these Germans waiting to be returned, Dutch local authorities put pressure on 'undesirable' Germans to return 'voluntarily'. This forced the Dutch central government to keep issuing reminders that the formal mechanism for expulsions had to be followed and that circumventing this procedure was not permitted.⁸ This contrasted with Belgium and France, where undesirable aliens were also no longer offered a choice of border by which to leave the country, but were not handed over to the German authorities either. In Belgium, they were invariably conducted to the border, in France only those considered dangerous were still transported from within France to the border. All other undesirable aliens were simply summoned to the *préfecture* to be legally notified of their expulsion and given a week

to leave the country. If they did not do so, they could be taken to the courts for non-compliance (*rupture de ban*). This change was motivated by a number of factors; the high costs of transporting expellees to the borders, together with the necessity of depriving them of their liberty during the journey (and sometimes without any legal grounds for so doing), and the limited efficacy of the earlier policy as a great many of these expellees returned to France anyway.⁹

This important change in expulsion policy, where expellees were returned to their country of origin and given no choice of border crossing meant that refugee policy soon became a distinct area within immigration policy. Liberal regimes such as Belgium and France, and to a lesser extent, the Netherlands, immediately and explicitly forbade the expulsion of the (politically) persecuted. All aliens who were to be expelled had to be questioned about whether they had been pursued for political reasons. If they made this claim, their allegations had to be investigated and genuine refugees were then excluded from deportation.¹⁰ Not all those fleeing politically motivated persecution were considered as 'refugees'.¹¹ For the liberal states, 'refugees' were the political opponents of authoritarian regimes, and thus mostly of liberal persuasion. These individuals trickled into the countries of Western Europe, which then protected them against their autocratic persecutors. 'Refugee' was thus a category within immigration policy for aliens whose situation was highly exceptional. The few who qualified found the borders of liberal states open to them, or were at least protected against *refoulement*. This exceptional provision was either written into the statute books of liberal countries or became part of administrative custom and practice.

By the end of the nineteenth century, anti-alien sentiment had become a part of a process of structural transformation that took place as democratic nation-states and concepts of national identity were established throughout Western Europe. As the numbers and varieties of resident aliens increased, they became more visible, in part because of stricter police surveillance of aliens. This surveillance became commonplace in several Western European countries as foreigners were increasingly seen as carriers of dangerous ideologies such as communism and anarchism. In France in 1888, Luxemburg in 1892 and in the Netherlands in 1899, it became mandatory for all aliens to identify themselves in the municipality where they were resident. This more comprehensive administrative regulation of aliens also introduced a strengthening of controls over immigration; considered necessary to protect both the middle and working classes from economic competition.¹²

This combination of cultural and economic worries leading to a stricter aliens policy could be seen all over Europe. In Britain, the considerable public opposition to the arrival of unprecedented numbers of Russian Jews in the two last decades of the

nineteenth century caused a drastic change in the laws on aliens. The Aliens Act of 1905 strengthened the hand of the authorities against foreign criminals already residing in Britain. Their expulsion was made possible, but only with a recommendation from the judiciary. The Secretary of State could order foreign criminals convicted of crimes meriting sentences of imprisonment to leave the country, provided that the judge passing sentence had recommended an expulsion order. More importantly, the Act empowered immigration officers to sift out unsuitable immigrants on entry. Undesirable aliens, i.e. those who could not show that they were capable of 'decently' supporting themselves and their dependants, could be refused permission to land. Reception areas for aliens awaiting inspection were established at ports, but they were sometimes detained on board ships. Britain, which was unique by not having any immigration controls before 1905, still remained unique after the Aliens Act as it relied almost exclusively on external controls to restrict immigration.¹³ The British measures that controlled entry before arrival nonetheless made an exception for 'refugees'. The new law stipulated that leave to land was not to be refused to an immigrant who could prove that he was seeking admission to avoid political or religious persecution. This policy based on giving substantial discretionary powers to the administration proved generous in practice. Most undesirable immigrants who claimed to be refugees and came from regions where human rights abuses were well known were given the benefit of the doubt. Transmigrants were another exception. Shipping lines were keen not to impede the flow of transit passengers and a system of bonding was instituted in 1905 that exempted transmigrants from inspection.¹⁴

Aliens policy during the 1920s

Immediately after the First World War, wartime regulations were rescinded throughout Europe, but external immigration controls were strengthened. Border controls became the main instrument in controlling immigration, and visa requirements were introduced as a means of remote control. These were seen more as a diplomatic tool than a means of regulating the movement of people. For example, in most belligerent countries, subjects of former enemy countries had to have a visa before entry, while citizens from former allies were granted free access without any consideration of their economic utility. Thus German citizens could only enter Belgium, Britain and France with a visa, while most other nationalities could arrive in these countries without any preliminary formalities.

The Netherlands, Denmark and Switzerland – neutral countries during the First World War - took an even more restrictive line on alien immigration than their neighbours in this postwar era. All imposed a general visa requirement and the central authorities took over the task of controlling immigration and the settlement of aliens. In the Netherlands, the Central Passport Office and in Switzerland the Central Office of the Aliens Police were established to fulfil this task.¹⁵ Swiss, Danish and Dutch political elites had been traumatized by revolutionary events elsewhere in Europe and also saw their authority being undermined at home. Food shortages in the immediate aftermath of the war also played a role in the decision of all three countries to stem the arrival of subversive aliens. There was little need for foreign labour at the time. Population growth and the large number of returnee nationals from other countries, especially Germany, were more than sufficient to meet the needs of the economy. In Switzerland, the experience of war with its linguistic divisions and class antagonism had underlined the fragility of their national identity. Immigration became the issue around which the construction of the Swiss national identity crystallized. To ward off the fear of so-called *Überfremdung*, the specific Swiss notion of a social, economic and cultural threat to the national character of the country, federal control over aliens became an openly acceptable and even desirable step for the government to take. The number of immigrants had to be curtailed. Above all, federal immigration policy had to prevent the 'infiltration' of communists and Jews, elements deemed foreign to the presumed Swiss national character.¹⁶ In Denmark and the Netherlands restricting immigration was also mainly to prevent 'contamination' by subversive ideologies. This anxiety led the Dutch executive authorities to obtain powers in June 1918 to intern dangerous aliens, those who threatened public order and security (*openbare orde en veiligheid*). This extension of administrative power over aliens was directed mainly at deserters from foreign armies and communists whom the Dutch authorities could not get rid of because of the war or because they had no papers.¹⁷ In Denmark the protection of aliens, typical of the liberal era, was also curtailed. Foreigners residing in Denmark for at least two years were no longer protected against deportation and were henceforward liable to internment.¹⁸ In Switzerland the interests of tourism, together with employers' wishes for particular forms of seasonal foreign labour and federalists' interests ensured that central control over aliens was relaxed by 1919. Immigration remained under the aegis of the Central Office of the Aliens Police, but control over the settlement and expulsion of aliens already in the country was returned to the cantons, with the central authorities retaining a veto over decisions of the cantonal authorities. Likewise the Dutch centralization of aliens policy lost its momentum and local

authorities regained their influence.¹⁹ Thereafter, immigration control in the Netherlands, Switzerland and Denmark remained decentralized. This gave a degree of latitude to the border and municipal authorities charged with carrying out this policy, albeit within limits set by legislation and supplementary decrees. In practice, this meant that there were variations between one area and another, with different interpretations of directives being made by local mayors, police chiefs and in the Netherlands, by the regional *procureur-generalen*.

In Britain, the executive was granted sweeping powers to restrict immigration and also to deport any alien resident in the country.²⁰ Policing operations at ports aimed to limit settlement to those aliens 'whose presence offered some benefit to the country or people with strong personal or compassionate grounds'.²¹ In order to ensure that the alien would be of benefit to the country, the immigration officer could, on granting leave to land, mark the alien's passport with certain restrictions – such as a time limit or stipulations on the types of employment he or she could engage in. Although the enforcement of these restrictions required some system of internal control, this was much less developed in Britain than in Continental Europe. Nevertheless, the powers available to the executive authorities to deport an alien residing in the country were extensive and overrode the intervention of the judiciary.²²

In the 1920s it was economic factors rather than fears of political subversion that dominated changes in immigration policy. By the mid-1920s, the visa requirement to enter Switzerland, Denmark, Luxemburg and the Netherlands had been overridden by reciprocal treaties with most major European states, but it remained in force for Germans until 1926-1927. Governments remained worried about undesirable political elements entering the country, but the wrecked postwar Germany economy was a more important concern as the authorities wanted to protect the domestic labour market from the huge numbers of Germans looking to earn hard currency during the inflation period. By 1926, when the German economy had undergone a considerable recovery and there was more to be gained by these neighbouring countries from a freer movement of labour and enterprise, this policy was rescinded with appropriate bilateral treaties.²³ Henceforward, the only requirement for German immigrants in these countries was to register with the local police on arrival and obtain a renewable residence permit. Vagrancy or unacceptable political behaviour were the only likely grounds for non-renewal, except for Denmark where a work permit was necessary.²⁴ By 1928, Britain had also abolished its visa requirement for German citizens and it remained compulsory only for travel to Belgium and France. This was mainly a function of continued distrust and the fact that trade with Germany was of less importance to their respective economies.²⁵

The abolition of the visa obligation for Germans meant that most neighbouring countries reduced their reliance on external controls, but in contrast, Britain continued to use them and made only limited recourse to internal controls although it had extensive powers to do so. British control of foreign labour was also largely based on external control. All aliens looking for employment, whether or not they needed visas, had to apply in advance for a permit from the Ministry of Labour. The Ministry's primary concern was the protection of the indigenous workforce, but once in Britain most foreigners were considered to be on an equal footing with nationals and only small numbers of foreign immigrants had conditions attached to their employment or length of stay.²⁶

Most Continental European countries supplemented their external controls with internal controls. This was particularly true of Luxemburg, Denmark and France during the 1920s. Although the visa requirement for Germans wanting to enter Luxemburg and Denmark had been abolished, this did not signal the free movement of labour. In contrast to Switzerland and the Netherlands, organised labour acquired an immediate influence in political affairs in Denmark after the war. This had important repercussions on social policy with the rise of the Danish welfare state, but also on immigration policy. From 1926 onwards it was mandatory for all foreign workers in Denmark to apply for a work permit that was only granted if no indigenous labour was available. The views of trade unions and professional bodies were heard in each case. Permits were temporary (six months) and limited to a specific employment. The self employed also required a work permit and this would only be granted if the business concerned, in the opinion of the Ministry of Trade or other government departments, did not compete with existing Danish business and furthermore could benefit the Danish export trade. Violations were penalised with fines and could in severe cases lead to the expulsion of the individuals concerned.²⁷ Likewise in Luxemburg, although the labour movement was less powerful, it was nevertheless seemingly able to insist that from 1929 foreign workers had to apply for a permission to work in the country.²⁸

In contrast, the labour movements in Belgium, Switzerland and the Netherlands had no real influence over immigration policy. The main workers' party in Belgium, the Socialists, had a voice in nearly all Cabinets until 1927 but from then until 1935 their lack of ministerial posts meant that direct representation of workers' interests was restricted to the more moderate and much smaller Christian Democratic Party. Labour's influence was never sufficient to sway other elements within the government to regulate labour migration and immigration policy remained centred on considerations of public order. In Switzerland and the Netherlands

protecting local labour from foreign labour was perceived as less of a problem. In this context, it is worth noting that in both countries, neither organised labour nor social democratic political movements had any direct influence over the decision-making process. Social democracy was first represented in Swiss government in 1937 and in the Netherlands only in 1939.

In France, all aliens were subject to regulation through controls on the labour market. During the First World War, the economy had relied on the recruitment of foreign labour and from 1917 onwards all such workers were obliged to carry a work permit which enabled the authorities to ensure that they were employed to serve the needs of the war effort. After the war, neither heavy industry nor agriculture wanted a return to a free labour market on account of their mutual shortage of labour. They embraced government intervention as a solution to their continuing needs for foreign manpower and insisted that the state ensured foreign workers were tied to their segments of the labour market. For its part, the state attempted to protect the interests of the labour recruiting industries, in particular mining, against other industries that wanted to procure cheap foreign labour by poaching immigrant workers from the mines. Organized labour also pressed for the regulation of migration in order to protect French workers, but its role in the new regulatory mechanism was mainly informal. Aliens who earned their livelihood independently had to apply for identity cards through the Ministry of Justice. In practice, the civil servants did not monitor the economic activities of these aliens, and the issue of residence permits to the self-employed was based entirely on law and order considerations while foreign workers were subject to an economically based administrative control of their access to the country and mobility within the French labour market. However, there appear to have been few difficulties in obtaining a workers' identity card, and even the control of aliens by the police was lenient. Moreover, supervision of foreign workers by a poorly staffed labour inspectorate was equally ineffective.²⁹

In practice, increasing state intervention in the settlement of aliens and their occupational opportunities in these liberal West European countries was limited mainly to new arrivals. The authorities of the liberal states exempted aliens from the stipulations of immigration legislation after a few years on a temporary residence permit. Then these immigrants were granted a permanent residence permit, a type of fully-fledged residency status, placing foreigners legally almost on the same footing as nationals.³⁰

Economic Nationalism and the Depression, 1930-1932

By 1930, policies towards German migrants had stabilised in all Western European states and their numbers in these countries increased. Dutch policy was most favourable to this immigration. The importance of an economically resurgent Germany to the well being of the Dutch economy dictated the free movement of labour across the frontier. This was reinforced by a further agreement of 17 October 1930 wherein both governments agreed not to obstruct the employment of each other's nationals in their country.³¹

Once the economic recession began to bite and unemployment rose across Europe, protests against foreigners in the labour market became commonplace everywhere. In 1931 a Swiss and Belgian statute restricted immigrants' occupational rights and in Switzerland foreign workers' residence became dependent on the possession of a work permit. These were often limited to a year or less, and extensions were not automatic. In 1932, Luxemburg required both workers and the self employed to apply for permits to continue their livelihoods and in France, concern about the numbers of foreign workers provoked a law under which the Minister of Labour was empowered to set quota limits to the proportion of foreigners employed in specific sectors of the economy.³² Careful lobbying by the liberal professions in Belgium and France, and especially by the medical profession, succeeded in acquiring almost complete protection against foreign 'colleagues', even when they had acquired their qualifications at universities in that country.³³

The Netherlands remained largely detached from this increasing restrictionism, and although the Belgian introduction of work permit requirements created frictions, the Dutch refused to be drawn into direct retaliation or legislation of its own, mindful of the numbers of Dutch men and women still employed in both Belgium and Germany. The Dutch authorities were also keen to retain normal relations with two of her major trading partners. In spite of some protests from inside the country, the government did not believe that wholesale dismissals of foreigners would bring about commensurate gains for Dutch workers.³⁴ However, controls on new foreign workers were sharpened from 1931 onwards. For example, domestic servants were asked to produce an offer of work from an employer. This was first enforced on the main railway routes from Germany but was soon extended to all other crossing points, and after March 1933, the employer's offer had to bear the stamp of the relevant local police chief to ensure its authenticity and the integrity of the signatory.³⁵

Refugee Policy before 1933

During the 1920s, the largest group of refugees in Western Europe were the approximately one million subjects of the former Russian empire who had fled abroad in the years during and after the Russian Civil War. Political considerations - the international sympathy for these refugees and the expected role they would play once 'legality' was restored in Russia and a feeling of responsibility for the remnants of the armies once supported by the West - meant that France in particular was prepared to admit Russian refugees, thus allowing them to leave the precarious asylum they had found in the countries bordering Bolshevik Russia. There was also an important economic dimension to this generous attitude. Thousands of Russian refugees in Balkan and Turkish camps had signed up to help repair the devastated regions of North-Eastern France thereby becoming an important addition to a depleted labour force. Throughout the 1920s, France was generally far more welcoming than other countries to refugees from Russia. After the collapse of the German currency in 1923, Russian émigrés fled *en masse* from Germany (their first country of asylum) to settle in France.³⁶ By 1930, 65,000 Russian and 63,000 Armenian refugees were registered as living there.³⁷ Smaller number of Russians and Armenians could also be found in Great Britain, Belgium and Switzerland, and handfuls in the Netherlands, Luxemburg and Denmark.³⁸

The numbers of other identifiable political refugees in Europe during the 1920s were relatively small. Italians fleeing fascism found a refuge in France, Belgium and Switzerland. There was also a trickle of Hungarians, Spaniards, and Poles but as most were left-wing political exiles they were not especially welcome. However, the need for labour in Western Europe during most of the 1920s meant that those forced to flee their own country because of their political views could find a safe heaven without too much difficulty. In all seven countries, those who might have been deemed to be refugees were in practice treated according to legislation on aliens. For the most part, this legislation was only used to keep out those deemed politically undesirable or indigent and vagrant.³⁹ Up to this point, there had been no justification or need to consider the principle of asylum separately from the construction of the laws on aliens. In Britain, where destitute 'refugees' had been explicitly exempted from exclusion in the 1905 Aliens Act, this provision had been overturned by the draconian wartime Aliens Restriction Act of 1914 that continued in amended form into peacetime. It gave the Home Office enormous powers to regulate the admission and residence of foreigners, and also removed any implicit protection for 'refugees'.⁴⁰ Thus after the First World War there was nowhere in Western Europe a Liberal state that provided statutory protection for refugees. Asylum was only a privilege conferred

by sovereign states, and they had no legal obligations to those applying for asylum. Nevertheless, a European tradition of asylum still counted for something. Refugees could appeal to administrative discretion for a humanitarian exemption to immigration rules. In some countries, the forms that they completed on arrival at the frontier even provided space for individuals to explain their particular situation. In line with nineteenth century policy 'refugees' were perceived as specific and limited categories of persons whose fate could be dealt with by a minor provision in immigration policy.

In the Netherlands however the authorities sought to discourage both immigration and requests for asylum, not least because these came almost exclusively from left-wing elements whom successive governments found objectionable.⁴¹ In any case, the difficulty of finding suitable jobs in the Netherlands, the absence of migrants' or exile communities, and the marginal nature of the political left meant that the Netherlands exerted little attraction to refugees. The combination of the change in Comintern policy in 1928 to an attack on social democracy as 'social fascism', and the emergence of increasingly right-wing governments in Continental Europe meant that communists and others seen as left-wing became the targets for state repression elsewhere too. The British security services advised the immigration authorities on keeping Bolshevik agents at bay.⁴² By 1926, France and Luxemburg became more restrictive towards Italian and other left-wing refugees, and in 1928 Belgium followed suit. The Swiss central authorities also wanted to expel (mainly Italian) left-wing refugees, but encountered some opposition from cantons with strong socialist representations, who used their powers to grant residence permits and thereby undermined the wishes of the federal government.⁴³ Although expulsions remained common, repatriations were rare. The French and Swiss authorities were reluctant to send politically active Italians over the Italian frontier and showed a preference for dumping them at the border of another neighbouring country.⁴⁴

As the recession bit deeper, not only those without papers, but all aliens without visible means of support were denied access to the countries of Western Europe. This made it harder for refugees, especially where countries shared frontiers with non-democratic regimes. For example, Swiss border guards returned some anti-fascist political activists back across the Italian border. As a result, special instructions were issued to the police in 1932 not to expel those destitute or undocumented Italian immigrants who claimed to be refugees. Their stories were then checked by the federal authorities and, if found to be genuine, they were granted a residence permit. 'Refugees' became a privileged category within Swiss immigration policy as even without means or without papers, they were allowed into

the country and granted short-term residence permits that could be extended provided the holders refrained from political activities.⁴⁵

¹ A. Desjardins, 'La loi de 1849 et l'expulsion des étrangers', *Revue des deux mondes*, 1882, p.674; B. Porter, *The Refugee Question in Mid-Victorian Politics*, Cambridge 1979; F. Caestecker, *Alien policy in Belgium, 1840-1940. The Creation of Guest workers, Refugees and Illegal Aliens*, Oxford 2000, p.10f.

² A. Kamis-Müller, *Antisemitismus in der Schweiz, 1900-1930*, Zürich 1990; C. Van Eijl, *Al te goed is buurmans gek. Het Nederlandse vreemdelingenbeleid 1840-1940*, Amsterdam 2005; M. Leenders, *Ongenode gasten. Het vluchtelingenbeleid in Nederland, 1815-1938*, Hilversum 1993.

³ D.A. Gordon, 'The Back Door of the Nation State: Expulsions of Foreigners and Continuity in Twentieth-Century France', *Past and Present* 186, no.1, 2005, pp. 201-232.

⁴ L.Keunings, 'Geheime politie en politieke politie in België van 1830 tot 1914', *Panopticon* 9, no. 2, 1980, pp.128-158.

⁵ Gordon, 'The Back Door'; Leenders, *Ongenode Gasten*.

⁶ F. Caestecker, 'The transformation of Nineteenth-Century West European Expulsion Policy, 1880-1914', in *Migration control in the North Atlantic World. The Evolution of State Practices in Europe and the United States from the French Revolution to the Inter-War Period*, eds A. Fahrmeier, O. Faron and P. Weil, New York/Oxford, 2003, pp.120-123.

⁷ Caestecker, 'transformation', pp.123-132.

⁸ Van Eijl, *Al te goed*, p.80-89 and 94; Caestecker, 'transformation'.

⁹ Cabinet de Commissaire General to Prefect, 14.6.1912. AN, F7 14711. X. Barthélemy, *Des infractions aux arrêtés d'expulsion et d'interdiction de séjour*, Paris 1936, pp.124, 174; Gordon, 'The Back Door', pp.227f.

¹⁰ Caestecker, *Alien policy*, p.40f; A.Martini, *Les expulsions des étrangers*, Paris 1909, p.137; J. Krabbe, *Toelating en uitzetting van vreemdelingen*, Leiden 1912, p.110; Kamis-Müller, *Antisemitismus in der Schweiz*, p.83.

¹¹ We use the word refugees for referring to the sociological reality of migration of persons whose departure was not voluntary and politically induced. The word used in inverted commas refers to those people who were recognized by receiving countries as eligible for the status of refugee. Thus the term 'refugee' has no pejorative meaning in this context, but refers only to the political confirmation that the receiving state clearly accepts that the aliens concerned were fleeing persecution and deserved asylum.

¹² Mémorial du Grand-Duché de Luxembourg, 1894,1; F. Caestecker, 'Belgisch immigratiebeheer: veranderende doelstellingen, resultaten en statistische presentaties (1861-2005)' (in press); G. Noiriel, *Le Creuset Français, histoire de l'immigration XIX-XXe siècles*, Paris 1988.

¹³ Social scientists and in particular Aristide Zolberg, but also Grete Brochmann and Thomas Hammar with their publication *Mechanisms of Immigration Control: a Comparative Analysis of European Regulation Policies*, Oxford Berg, 1999 have been helpful in providing an analytical framework which structures this analysis.

¹⁴ B. Gainer, *The Alien Invasion: The Origins of the Aliens Act of 1905*, London 1972; J. Pellew, 'The Home Office and the Aliens Act, 1905', *The Historical Journal* 32, 2, 1989, pp.369-385.

¹⁵ B.Moore, *Refugees from Nazi Germany in the Netherlands 1933-1940*, Dordrecht 1986, p.142f; U. Gast, *Von der Kontrolle zur Abwehr. Die eidgenössische Fremdenpolizei im Spannungsfeld von Politik und Wirtschaft 1915-1933*, Zürich 1997.

¹⁶ G. et S.Arlettaz, *La Suisse et les étrangers. Immigration et formation nationale (1948-1933)*, Lausanne 2004; P. Kury, *Man akzeptiere uns nicht, man toleriere uns. Ostjudenmigration nach Basel, 1890-1930*, Basel 1998; see also the article of Regula Ludi in this volume.

¹⁷ Leenders, *Ongenode gasten*, pp.173-76.

¹⁸ The Danish authorities wanted greater power over the immigrants in their country as they feared that immigration would aggravate the (German) minority issue in Denmark. L Rünitz, *Af hensyn til konsekvenserne, Danmark og flygtningespørgsmalet 1933-1939*, Odense 2005, p.22f.

¹⁹ G.Meershoek, *Dienaren van het gezag. De Amsterdamse politie tijdens de bezetting*, Amsterdam 1999, p. 62f.

²⁰ The Aliens law had to be extended on an annual basis. An attempt to make these powers permanent was rejected by Parliament. R.Cohen, 'Shaping the Nation, Excluding the Other: The Deportation of Migrants from Britain', in *Migration, Migration History, History. Old Paradigms and New Perspectives*, eds J.Lucassen and L.Lucassen, Bern, 1997, p. 362.

²¹ L.London, *Whitehall and the Jews, 1933-1948: British Immigration Policy and the Holocaust*,

Cambridge 2000, p.18; C.Holmes, *John Bull's Island: Immigration and British Society, 1871-1971*, London 1988, pp. 154-155.

²² Cohen, 'Shaping the Nation', p.361f.

²³ Moore, *Refugees*, p.55; Van Eijl, *Al te goed*, pp.111-142; J. Oltmer, *Migration und Politik in der Weimarer Republik*, Göttingen 2005, pp.428-432; Gast, *Kontrolle*, pp.239-259; D. Bourgeois, 'La porte se ferme: la Suisse et le problème de l'immigration juive en 1938', *Relations Internationales* 54, 1988, p.199; Rünitz, *Af hensyn*, p. 23.

²⁴ see further

²⁵ For respectively the Netherlands, Denmark and Switzerland the trade with Germany was in 1930 32, 36 and 28% of total import and 21, 17 and 16% of total export. For Belgium, France and Great Britain it was 17, 15 and 6% of imports and 11, 10 and 5% of exports. B.R. Mitchell, *European Historical Statistics*, London 1980, pp.513ff and London 1998, pp.571ff.

²⁶ London, *Whitehall*, p.20; L.London, 'British Immigration Control Procedures and Jewish Refugees, 1933-1939', in *Second Change: Two Centuries of German-Speaking Jew in the United Kingdom*, ed. Mosse Werner, Tübingen 1991, p.191f.

²⁷ Rünitz, *Af hensyn*, p.22ff.

²⁸ M.Gloden, *Die Asylpolitik Luxemburgs von 1933 bis 1940. Der Anspruch auf Kontrolle*, Wissenschaftliche Arbeit zur Erlangung des akademischen Titels eines Magister, Universität Trier, Fachbereich III. Geschichte, 2001, p.20.

²⁹ J. Ch. Bonnet, *Les Pouvoirs publics français et l'immigration dans l'entre-deux-guerres*, Lyon 1976, p.48.

³⁰ In France, identity cards were automatically renewed every five years, in Belgium after four months. In Switzerland, the cantonal authorities were responsible for granting full residency status from 1921 onwards and agreed in 1929 to grant aliens the status of *Niedergelassene* after three years. The small numbers of foreign immigrants who had entered the United Kingdom as foreign workers in areas of labour shortage were required to stay in that employment for four years and acquired thereafter an unconditional leave to remain. Gast, *Kontrolle*, p.328; Caestecker, *Alien policy in Belgium*, p.56; T.Kushner, 'An Alien Occupation: Domestic Service and the Jewish Crisis, 1933 to 1939', in *The Holocaust and the Liberal Imagination. A Social and Cultural History*, Oxford, 1994, pp.96-97.

³¹ Moore, *Refugees*, p.55f.; Gast, *Kontrolle*, pp.249f., 273-277, 325; M.Pauly, 'L'immigration dans la longue durée', in *Lëtzebuerg de Lëtzebuerg? Le Luxembourg face à l'immigration*, ed. M. Pauly, Luxembourg, 1984, p.13; B.Vormeier et H.Schramm, *Vivre à Gurs. Un Camp de Concentration français 1940-1941*, Paris 1977, p.210.

³² J. Simpson, *The refugee problem, report of a survey*, London 1939, p. 275; Gloden, 'Die Asylpolitik Luxemburgs', p.20; Caestecker, *Alien policy*, pp.143ff.

³³ G. Noiriël, *Le Creuset Français*, p.57; Caestecker, *Alien policy*, p.143.

³⁴ Moore, *Refugees*, pp.57f.; Van Eijl, *Al te goed*, pp.150-152.

³⁵ Henkes, *Heimat in Holland*, pp.120f.; Van Eijl, *Al te goed*, pp.151f.

³⁶ Simpson, *The refugee problem*, p.274; Noiriël, *Le Creuset*, p.107.

³⁷ J.Vernant, *Les réfugiés dans l'après-guerre*, Monaco 1953, p.257.

³⁸ M. Leenders and W.Van Meurs, 'Nederland en het Nansen-paspoort. De houding van de Nederlandse regering tegenover statenloze vluchtelingen', in *Geschiedenis van de mensenrechten*, eds M. Kuitenbrouwer en M. Leenders, Hilversum, 1996, pp.114ff; Simpson, *The refugee problem*, pp.339f.

³⁹ Simpson, *The refugee problem*, p.252.

⁴⁰ London, *Whitehall*, p.17.

⁴¹ Leenders, *Ongenode gasten*, pp.199-234.

⁴² A.W. Brian Simpson, *In the Highest Degree Odious. Detention Without Trial in Wartime Britain*, Oxford 1992, pp.35-6; London, *Whitehall*, p.21.

⁴³ M.Cerutti, 'La Suisse et les réfugiés antifascistes italiens', in *L'émigration politique en Europe aux XIXe et XXe siècles*, ed. Ecole française de Rome, Roma, 1991, pp.305-326.

⁴⁴ R.Schor, *L'opinion française et les étrangers en France, 1919-1939*, Paris 1985, p.302.

⁴⁵ Gast, *Kontrolle*, pp.311-316; Unabhängige Expertenkommission Schweiz-Zweiter Weltkrieg (UEK), *Die Schweiz und die Flüchtlinge zur Zeit des Nationalsozialismus*, Bern 2001, p.177.