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Frank Caestecker and Denis Scuto

The Benelux and the Flight of Refugees from Nazi Germany: The Luxembourg Specificity

In this article we outline Luxembourg asylum policy during the period 1933-1939 with a particular emphasis on the two last years before the outbreak of the Second World War. How were the Jews and political anti-Nazi activists who fled from Nazi Germany received at the Luxembourg consulates, at the Luxembourg border and in the country itself? The Luxembourg policy towards those fleeing Nazi Germany is compared to the policy, which two other frontline states, Belgium and the Netherlands, developed in these years.¹

1. The Flight from Nazi Germany, 1933-1937

Immediately after Hitler had been appointed chancellor of Germany on 30 January 1933 a mass departure of 'Jews' and political opponents of Nazism began.² The number of potential victims of the new regime was substantial. The German democratic organizations, but also the KPD were very large organizations with many full-time employees and the Jewish religious community as counted by the June 1933 German census counted about half a million members. The first targets of Nazi terror were those who had a high political profile – politicians, trade union leaders and journalists. The boycott of 'Jewish' businesses on 1st April 1933 was a symbolic gesture

¹ For a European comparative analysis of refugee policy in which the Benelux is treated more succinctly see CAESTECKER, Frank / MOORE, Bob, A Comparative analysis of Immigration Policies of Liberal States in Western Europe and the Flight from Nazi Germany, in: CAESTECKER, Frank / MOORE, Bob (ed.), *The Refugee Policy towards Refugees from Nazi Germany and the Liberal States of Europe, 1933-1939*, Oxford/New York 2010, p. 193-326.

² Seen that the National Socialist racial categorizations, such as Jew and Aryan were not at all transparent and self-evident categories we enclose those terms in quotation marks. Thus a 'Jew' or 'Jewish' refers to persons qualified as Jews in Nazi racial terminology, while this person, although of Jewish origin could be member of a Christian religious community or not be religious at all. A Jew without quotation marks refers only to a member of the Jewish religious community. On the construction of these categories see ESSER, Cornelia, *Die «Nürnberger Gesetze» oder die Verwaltung des Rassenwahns 1933-1945*, Paderborn 2002; FRASER, David, 'Aryan' and Jew in the Nazi Rechtsstaat', in: CHEAH, Pheng / FRASER, David and GRBICH, Judith (ed.), *Thinking Through the Body of the Law*, Sydney/New York 1996, p. 63-79. On the persecution of Jews see BARKAI, Avraham, *From Boycott to Annihilation, the economic struggle of German Jews, 1933-1943*, Hanover 1989; FRIEDLÄNDER, Samuel, *Nazi Germany and the Jews. I: The years of persecution, 1933-1939*, London 1998.

that these Germans were no longer considered part of the nation, but the 'Jews' were affected less directly by violence during the first years of the Nazi regime, largely because Hjalmar Schacht, the Minister of Economics (1934-1937) could convince Hitler that economic recovery was paramount. 'Jewish' economic activities considered profitable for the national economy could expect some protection from arbitrary measures. Superficially one may see the period 1934-1937 as a 'grace period' when few overt official attacks were made on the Jews in Germany, but the accumulation of quasi-legal and local Nazi initiatives against Jews and their businesses had the effect of a slow process of attrition of Jewish existence in Germany. By 1938 there were still about 350,000 'Jews' living in Germany.

In the first years after the Hitler took over power, Luxembourg seemed the obvious destination for German refugees, given the preferential treatment that German citizens enjoyed because of a trade and residence agreement between the two countries. The refugees encountered no major obstacles when crossing the border provided they had a German passport and enough cash to pay for their accommodation.³ Stateless persons or persons with an East European citizenship residing in Germany had a much more difficult time to get access to Luxembourg as they needed a visa, which was rarely granted to them.⁴

Those who had German citizenship were indeed welcome as long as they pretended to be visitors. However, such hospitality quickly evaporated when the guests expressed their wish to stay and revealed that they were neither willing nor able to return to their country of origin. In particular when it turned out they needed an income, their presence became for the Luxembourg authorities a nuisance. Immigrants had to have enough means to live in Luxembourg as the authorities jealously guarded the access to the national economy. The authorities protected the national labor force and seen the large unemployment during these years of depression this implied that it was hardly possible for newly arriving foreigners to work in Luxembourg. Luxembourg artisans and traders were equally protected as foreigners wanting to pursue any economic activity had to have the approval of the authorities.⁵ By comparison, access to the Netherlands was similarly easy, but access to the labor market was less restricted than in Luxembourg. The Dutch authorities considered that Dutch national interests were not served by a protectionist labor market policy as many Dutchmen worked in Germany and Belgium while only few foreigners worked in the Netherlands. The Netherlands would only start protecting its labor market by 1936.⁶

³ Mémorial du Grand-Duché de Luxembourg, 1926, p. 629f and 1929, p. 1045-1056.

⁴ HOFFMANN, Serge, Les problèmes de l'immigration et la montée de la xénophobie et du racisme au Grand-Duché à la veille de la IIe Guerre mondiale, in: *Galerie. Revue culturelle et pédagogique* 4/4 (1986), p. 521-536; GLODEN, Marc, L'immigration contrôlée des réfugiés juifs au Grand-Duché des années trente, in: FUCHSHUBER, Thorsten/WAGENER, Renée (ed.), *Emancipation, éclosion, persécution: le développement de la communauté juive luxembourgeoise de la Révolution française à la 2^e Guerre mondiale*, Fernelmont 2014, p. 173-202, here p. 186f; ARTUSO, Vincent, *La «question juive» au Luxembourg (1933-1941). L'Etat luxembourgeois face aux persécutions antisémites nazies. Rapport final remis au Premier ministre le 9 février 2015*, Luxembourg 2015, URL: <http://www.gouvernement.lu/4437050/rapport.pdf> [retrieved 15.10.2016], p. 27f.

⁵ SCUTO, Denis, *La nationalité luxembourgeoise (XIX-XXIe siècles)*, Brussels 2012, p. 92.

⁶ VAN EIJL, Corrie, *Al te goed is buurmans gek. Het Nederlandse vreemdelingenbeleid 1840-1940*, Amsterdam 2005.

The flight to Belgium was more difficult. Travel between Germany and Belgium was dependent on a previous authorization. Germans needed a visa to enter Belgium, the country they had invaded in 1914 and had occupied for four years. Some 'Jews' and political activists obtained a visa, mostly for a short time stay and others tried to get into Belgium by crossing the border illegally. Others yet fled to Belgium through the Netherlands where they applied for a Belgian transit visa allegedly to return to Germany – a visa granted routinely – but then stayed put in Belgium. In the summer of 1933 the conservative Belgian government was not prepared to make allowances for those refugees from Nazi Germany who arrived at the border without the necessary papers and they were refused entry to the country. When they succeeded in outwitting the border controls and entered the country illegally or when they overstayed their visa, they were treated as any other immigrant who had arrived without the proper authorization and were subject to expulsion. Only very few – mainly the most affluent immigrants – obtained extensions of their residence permits. Orders to leave the country were given to uninvited refugees from Nazi Germany, but the Belgian authorities did not immediately enforce them. Nonetheless, pressure was placed on these undocumented aliens to leave Belgium and many moved on to France. This policy of urging the refugees on to other countries soured diplomatic relations and France protested indignantly at the actions of her neighbor. 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, Belgian policy soon reached a stalemate as these refugees, 'Jews' as well as left-wing activists, adamantly refused to return to Nazi Germany and the neighboring countries took steps to close their borders to refugees for whom Belgium had been the first country of asylum.

The Belgian authorities were undoubtedly concerned over the potential for diplomatic repercussions the expulsion of refugees might create. By the end of 1933, a specific refugee policy had been formulated by which political refugees were granted semi-official asylum with the Minister of Justice deciding which immigrants were political refugees. The definition of 'refugee' was restrictive: only those whose lives or freedom were endangered because of their political activities could claim asylum and remain in Belgium. However, they were strictly prohibited from engaging in any economic activity and had to live on their own means or with the help of refugee relief organization. Only German political activists, who were small in number, qualified for this informal refugee status, and the more numerous German 'Jews' who had fled Nazi Germany were largely excluded. However, repatriation was not forced upon them either. Since the end of 1933 the Belgian authorities tolerated the stay of German-Jewish refugees.

Comparing visa regulations, we see that all German 'Jews' needed an explicit agreement of the central Belgian authorities in order to enter Belgium. By contrast, in Luxembourg and the Netherlands only those in need of financial support needed an authorization. In all three countries a large number of German-Jewish refugees who had not enough or no longer enough means and had entered the country legally, illegally or overstayed their visa were eventually tolerated. This tolerance of German-Jewish refugees was largely due to the lobby-work of the Jewish community, who had reached out to the refugees in all three countries since

1933. These Jewish communities were rather small in size, counting at the most 1 % of the population. Luxembourg's Jewish community, that is, the people statistically described as belonging to the Jewish faith, numbered in 1930 2,242 members (0,74 % of a population of 300.000 inhabitants) and in 1935 3,144 members (1,05 % of the population).⁷ Belgium did not register the persons of Jewish faith as this was considered a solely private affair. It was only in 1940, during the German occupation of Belgium, that the German authorities registered close to sixty thousand people as belonging to the "Jewish race".⁸ In the Netherlands the census of 1930 counted 111,917 Jews, representing 1,41% of the total Dutch population.⁹ In Luxembourg and Belgium this community was mainly composed of recent immigrants who did not have citizenship yet. In Luxembourg, the number of foreigners among the Jewish community amounted to 1,526 persons (out of 2,242) in 1930 and 2,274 (out of 3,144) in 1935. In the Netherlands the Jewish community had a different background: its members had lived in the Netherlands for generations and had Dutch citizenship. While in Belgium and the Netherlands a specific organization was set up in 1933 to cater for the needs of refugees, in Luxembourg the Jewish general welfare organization Ezra took this task upon itself. The Jewish refugee committees and Ezra guaranteed to provide succor to Jewish refugees from Nazi Germany, but only temporarily. Pending their move to other countries the Jewish committees underwrote all costs for their upkeep. The committees would also assist these refugees in finding a permanent asylum elsewhere, mostly overseas.

The Jewish elites supported the granting of asylum, which they considered in keeping with the liberal traditions of their country, and also part of the duty of all Jews. However, such solidarity with the refugees were not to damage the interests of the local Jewish communities. 'Jews' fleeing Germany, immigrating legally or illegally, and who were considered eligible for protection by the refugee committees were to be protected only temporarily until they were able to find permanent asylum elsewhere. The Jewish relief organizations held the key to their protection. Only with their (financial) support could refugees qualify for temporary protection. The role of the aid organizations in facilitating the influx was thus of critical importance. Their financial support was the indispensable condition of official readiness to tolerate the presence of large numbers of 'Jewish' refugees. Aid committees had limited funds and therefore had to make choices about whom they supported. In order to limit the costs, the Jewish aid organizations put considerable pressure on the refugees to leave quickly for another destination.

Providing asylum to political activists was less conditional. The request of the left wing organizations to provide for a specific immigration entrance for refugees had not been heeded in 1933 by the conservative cabinets in all three countries considered, but in practice political persecutees, in particular those supported by the Socialist refugee aid organizations, were mostly tolerated on a case-by-case basis.

⁷ *Résultats du recensement de la population du 31 décembre 1930*. Publications de l'Office de statistique, Fasc. 62, Luxembourg 1932; *Résultats du recensement de la population du 31 décembre 1935*, Publications de l'office de statistique, Fasc. 69, Luxembourg 1938.

⁸ SAERENS, Lieven, *Vreemdelingen in een wereldstad. Een geschiedenis van Antwerpen en zijn joodse bevolking (1880-1944)*, Tielt, 2000, p. 546-547.

⁹ MOORE, Bob, *Refugees from Nazi Germany in the Netherlands*, Dordrecht e.a. 1986.

Only Communists were denied this favor. Since political activists who were tolerated were mostly not allowed to take up any economic activity, the local refugee aid organization who supported them had promised to provide them with financial assistance. In order to limit the costs, the refugee aid organization was thus very selective in who they supported.

A more generous policy towards political refugees can be discerned when the Socialists entered government, as was the case in Belgium in 1935. Political activists fleeing Nazi-Germany were granted not only the right to stay, but also to work and from mid-1936 onwards the Belgian authorities also protected Communist refugees. In Luxembourg the Socialists entered the government in 1937 (together with Conservatives and Liberals) and in particular a Socialist Minister of Justice, René Blum (1937-1940), improved the lot of German political activists. Communists, however, seem to have hardly profited from this change in government.¹⁰ In the Netherlands Socialists only entered government in 1939 and political refugees could hardly count on any benevolence of the Dutch authorities until then. During the 1930s numerous German Communists were expelled from the Netherlands and following protest against this inhumane policy the Dutch authorities switched to internment as a manner to neutralize these "red elements".¹¹ A case in point is Hans Jahn, a railway trade unionist who fled in 1935 to Amsterdam and was expelled by the Dutch authorities because of his political activities. After a stay in Antwerp he finally settled in Luxembourg-Merl in March 1938. This move had been organized in collaboration with the two Socialist members of the government led by Pierre Dupong, ministers René Blum and Pierre Krier, the latter being himself a former trade unionist. Hans Jahn considered Luxembourg a good place from which to assist the resistance in Germany.¹²

Luxembourg, notwithstanding its 121 km long border with Germany, was only patrolled by customs officials as the Luxembourg army was very small. We know little of the actual refugee policy and its application at the border and in the country itself. While the overall number of foreigners residing in Luxembourg dropped significantly in the first half of the 1930s, the number of non-national residents of Jewish faith increased, as already observed, from 1.526 persons in 1930 to 2.274 in 1935.¹³ The issue of 'Jewish' Germans entering Luxembourg seems to have been a sensitive issue for the authorities as these refugees appeared soon as a specific category in the Luxembourg statistics (see graph 1). Since 1936

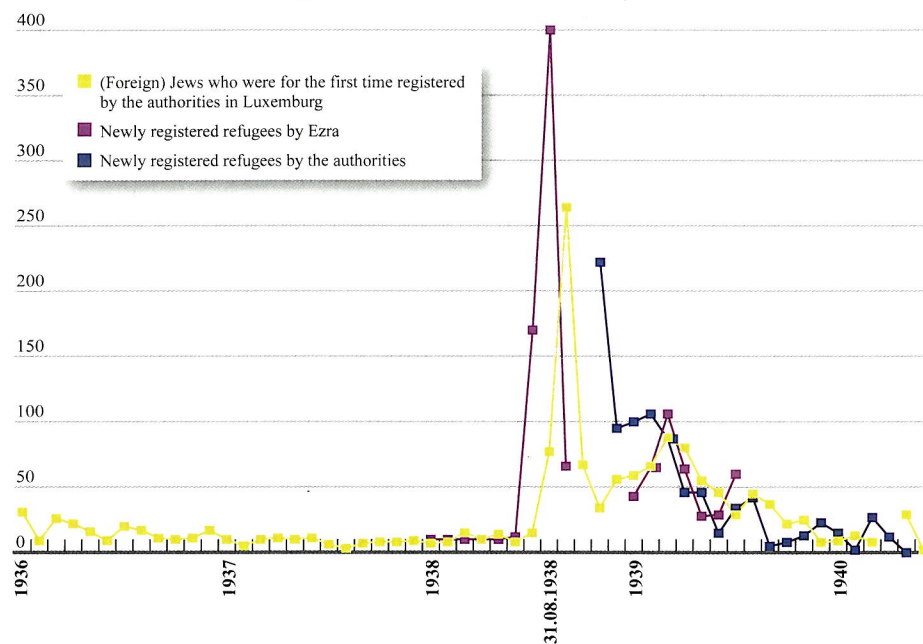
¹⁰ GLODEN, Marc, *Die Asylpolitik Luxemburgs von 1933 bis 1940. Der Anspruch auf Kontrolle*, Magisterarbeit, Universität Trier, 2001, p. 50-59. While Belgium consented in 1939 to the return of those German Communists who had been fighting in the Spanish civil war and who had been protected in Belgium before their departure to Spain, Luxembourg did not, even if René Blum granted individually some authorizations to return. HOFFMANN, *Les problèmes de l'immigration* (note 4); WEHENKEL, Henri, *D'Spueniekämpfer. Volontaires de la Guerre d'Espagne partis du Luxembourg*, Dudelange 1997, p. 81-91; GOETZINGER, Germaine/MANNES, Gast and MARSON, Pierre, *Exilland Luxembourg, 1933 - 1947: Exilland Luxembourg. Schreiben - Auftreten - Musizieren - Agitieren - Überleben / Ausstellung und Katalog*, Mersch 2007.

¹¹ MOORE, *Refugees from Nazi Germany in the Netherlands, 1933-1940* (note 9).

¹² ESTERS, Helmut / PELGER, Hans and SCHLINGENSIEPEN, Alexandra, *Gewerkschafter im Widerstand*, Bonn 1983, p. 67-73, esp.71; WEHENKEL, Henri, *Der antifaschistische Widerstand in Luxemburg (1933-1944)*, Luxembourg 1985, p. 23-28.

¹³ SCUTO, *La nationalité* (note 5), p. 92.

Flight to Luxemburg, official figures



The figures for the refugees newly registered by Ezra during the first 9 months of 1938 were found in "Note sur l'état actuel de l'émigration d'Allemagne et d'Autriche", 9.1938. Archives YIVO New York, HICEM (Paris)-Emigration record.group 245.5, Serie France I. Microfilms reel 16.11. The monthly figures of Ezra's proteges from January to July 1939 were found in a report of the Joint Distribution Committee. Archives UCL, Archives Paul Van Zeeland, 906. The number of foreign Jews who were for the first time registered in Luxemburg (Israélites qui ont fait une déclaration d'arrivée primaire au Grand-Duché) is a series which started in January 1936. ANLux, Ministère de la Justice, J 73/53. The monthly figures of the state authorities on the number of Jewish refugees from (Greater) Germany (Réfugiés israélites de l'Allemagne et de l'ex-Autriche) admitted from November 1938 onwards refers to refugees admitted on the basis of a temporary residence permit valid from between 2 days to 2 years. These figures are slightly higher than the figures we have for 1939 of the Jewish refugee committee in the JDC report mentioned above as probably not all Jewish refugees admitted passed through this committee. There is probably also a time lag as refugees who arrived spontaneously first were registered by Ezra and then only notified to the authorities. ANLux, Ministère de la Justice, J73/53, J74/11 and Foreign Affairs 3309 (p. 1-172).

foreign 'Jews' were listed separately among the foreigners who arrived for the first time in Luxemburg. Only a small number of these foreign, probably mostly German 'Jews' were registered and the number dropped to 98 in 1937. Most seem to have had enough means to stay in Luxemburg. Ezra supported only 40 refugees a month in average.¹⁴ However, this number fluctuated greatly,

¹⁴ It is unclear what the criteria were to categorize a foreigner as a foreign Jew. Luxemburg National Archives (ANLux), Ministère de la Justice, J 73/53, p. 16.

which was testimony of the transient nature of this refugee flow.¹⁵ Despite being temporarily protected in Luxemburg, refugees had to look soon for another destination.

Just as the Luxemburg policy at the border and in the country itself has not yet been thoroughly investigated, the concept of 'refugee' used in the management of immigration has not yet been assessed. It is highly likely that, as in other countries, 'Jewish' refugees with little or no means were treated as any other aliens. In particular during the economic depression of the 1930s when there was no need for additional hands this implied that they were expelled. Only when refugees were able to contact Ezra and the aid organization was willing to protect and support them financially were they spared such a repressive treatment. The forced expulsion was not necessarily to Germany; the Luxemburg authorities probably thought it expedient to expel their unwanted German 'Jews' to Belgium or France.

Two German-Jewish refugees who applied for asylum in Luxemburg, but were finally forced to ask the Belgian authorities for protection give us some insights, albeit biased by their negative experience, of the Luxemburg asylum practice. Only a detailed analysis of the individual aliens' files compiled by the Luxemburg police, in combination with other sources, can yield a more nuanced understanding of Luxemburg asylum policy.

Sally Frank had been accused in Germany of *Rassenschande*, a case which had been publicized in *Westland*, a newspaper published in Saarbrücken. He fled to Luxemburg in the spring of 1935. As he had no means and as Ezra could not, and eventually did not want to, protect him, he was evicted from the Luxemburg territory on 22 May 1935 and sent to Belgium. Frank evoked his expulsion in a letter to the Brussels refugee aid organization: *Nachdem ich von Luxemburg ausgewiesen worden bin, bin ich von der belgischen Grenzpolizei in Arlon wieder nach Luxemburg zurückgebracht und von der Luxemburger Polizei bei Nacht zwangsweise wieder über die belgische Grenze gebracht worden. Mein Aufenthalt in Belgien ist also kein freiwilliger.*¹⁶ Sally Frank as a German-Jewish refugee being pingponged from one country to another is a strong testimony of the undesirability of these persecutees who could not return to Germany.

The lot of those refugees who had been persecuted in Germany and who in the neighboring liberal countries had a hard time to be tolerated was not to be envied. Even those refugees who were tolerated by the Luxemburg authorities could forfeit their protection at any moment. When the Luxemburg authorities found out that immigrants, be they refugees who had been granted a residence permit - as they had proven that they had enough assets to live in Luxemburg without having to work - were working anyhow, their illegal employment was surely to be prosecuted.

¹⁵ ANLux, Ministère de la Justice, J73/53, J74/11 and Affaires étrangères, 3309 (p. 1-172).

¹⁶ He went on to explain his predicament: „Seit Oktober (1936) bin ich krank. Ich leide an Herzasthma und zwar durch die Misshandlungen, die ich in Deutschland erlitten habe und an einem Nervenleiden welches durch die dauernden Aufregungen des Emigrantenlebens verursacht ist. Ich bin seit zehn Monaten fast stets bettlägerig und in dauernder ärztlicher Behandlung» (Sally Frank to Max Gottschalk, 15.7.1937, Belgian state archives (AGR), alien police, individual files, A161511). The Belgian Socialist aid organization wanted Sally Frank to be protected by the Belgian authorities, but the authorities refused as Luxemburg was the first country of asylum.

Although the Luxembourg authorities denied, when asked by the Belgian authorities, that this reprimand would entail an expulsion it seems that these refugees were strongly pressurized to leave. A case in point is Karl Mathias, a business man from Nuremberg. He fled to Luxembourg in April 1934 as his brother Hans owned a tie factory in the capital of Luxembourg. His testimony indicates the fragile position of refugees. His bewilderment when the authorities of his country of asylum turned against him is striking. In panic he realized that he was living in a hostile world where Jewish refugees could not count on much benevolence.

Ich habe angegeben dass ich über genügend eigene Mittel verfüge um meinen Lebensunterhalt davon bestreiten zu können. Da sich jedoch eine Gelegenheit geboten hatte, im Geschäft meines Bruders in Luxemburg die Stelle eines Buchhalters zu bekommen, so habe ich diesen Posten angenommen, da ich ja als Mann im Alter von 40 Jahre nicht auf die Dauer ohne Beschäftigung sein konnte. (...) Ende März 1935 erhielt ich, als ich wie gewöhnlich im Geschäft meines Bruders arbeitete, eines Tages dortselbst den Besuch des Polizeibeamten Dolmolling,¹⁷ welcher mich bei der Arbeit antraf. Ich stellte zuerst in Abrede, dass ich arbeiten musste dies jedoch unter dem Druck der Beweise sodann zugeben, da Dolmolling sagte, dass eine Anzeige bei der Polizei gegen mich vorliege und auch Beweise für mein Arbeiten wie Eintragungen in die Geschäftsbücher etc. vorhanden seien. Nachdem ich dies nun nicht mehr widerlegen konnte, sagte mir der Polizeibeamte, dass ich mich gegen die in Luxemburg bestehende Fremdensetze vergangen habe und daher aus Luxemburg ausgewiesen würde, wenn ich nicht das Land Luxemburg innerhalb 24 Stunden verlassen würde. Wenn ich also nicht mit Gendarmen an die Grenze gebracht werden wolle, so sollte ich mich schleunigst aus dem Staube machen. Ich habe nun, um der mir in der geschilderten Weise angekündigten Ausweisung zuvorzukommen, Luxemburg fluchtartig verlassen müssen, da ja bekanntlich die Luxemburger Gendarmerie sehr rigoros mit Ausländern umgeht. Meine Ausreise aus dem Grossherzogtum Luxemburg erfolgte am 1. April 1935. (...) Ich habe auf keinen Fall freiwillig das Land Luxemburg verlassen, sondern lediglich infolge eines von der Polizei auf mich ausgeübten Zwanges, welchem ich mich wohl oder übel fügen musste.

Karl Mathias underlines his forced departure as he does not find another country willing to grant him asylum as Luxembourg is considered his first country of asylum. The Luxembourg authorities refuse however to re-admit him not so much, they say, because he has worked illegally but because he has left the country on a voluntary base.¹⁸

The predicaments of Sally Frank and Karl Mathias are maybe not typical of Luxembourg policy towards German refugees - only further research can yield better insights -, but this policy does not seem to have been very charitable. The small Jewish community was maybe also not capable or willing to support more refugees. Still for some Luxembourg was still being too generous. The head of the

¹⁷ The exact spelling of the police agent is Demoling.

¹⁸ Karl Mathias (b.19.9.1884 Nuremberg) to Max Gottschalk, 10.5.1937 and correspondence between Belgian and Luxembourg authorities. (AGR, alien police, individual files, A 119.861; ANLux, Ministère de la Justice, Police des étrangers, 263385). Karl Mathias arrived officially in Belgium only on 1.11.1936.

Sûreté, the public order agency, Maurice Stein, insisted on stemming the inflow of refugees in 1935 and pointed out the danger of rising levels of anti-Semitism if 'Jewish' refugees arrived in too large numbers. The agency also minimized the danger the 'Jews' were exposed to in Germany.¹⁹ Still the Luxembourg authorities in cooperation with the refugee aid organizations continued to provide protection to some political and 'Jewish' refugees.

However, things were changing for the worse. The xenophobic mood among policy makers and the public at large was getting stronger.²⁰ The Luxembourg office granting work permits to foreign workers made from 1938 onwards a distinction between 'non Aryan' German musicians and 'Aryan' German musicians. The work permits for 'non Aryan' musicians were shorter in time.²¹ In March 1938, the Socialist Minister of Justice René Blum had already opposed the hiring of 'non-Aryan' workers, who in case of unemployment could not return to their country of origin.²² This adoption of Nazi racial categorization shows that Luxembourg decision makers were not immune to racist thinking. From 1938 onwards the pressure from Germany would continuously increase.

While Ezra supported 36 refugees in February 1938 the number of refugees on the support list of Ezra exploded to 233 in March 1938.²³ This is linked to the great increase of newly arriving foreign, mostly German 'Jews': in 1937 a mere 98 foreign 'Jews' came to Luxembourg, in 1938 there were 575 such newcomers and 560 in 1939 (see graph 1). The pressure on the Luxembourg borders had risen considerably.²⁴

2. The 'Anschluss' and the Radicalization of Anti-Semitic Policy, March 1938-October 1938

1938 was a watershed in the persecution of the 'Jews' in Germany: anti-Semitic policies were substantially radicalized. The 'Anschluss' of Austria and its incorporation into the Reich provoked a flight of political activists. However, the vast majority of refugees from Austria were 'Jews'. The 'Anschluss' prompted an almost immediate and unprecedented wave of violence against 'Jews'. Administratively, all anti-Semitic legislation enacted in Germany over the previous five years was imposed overnight. In contrast to the so-called 'Altreich', the SS took a much more prominent role in the organization of anti-Semitic actions in Austria. Within a very short time, Adolf Eichmann had established the *Zentralstelle für jüdische Auswanderung* (Central Office for Jewish Emigration), an organization that systematically deprived the 'Jews' of their assets and provided them with the barest minimum of resources combined with a high level of terror to expedite their emigration from the Reich.

¹⁹ HOFFMANN, *Les problèmes de l'immigration* (note 4), p. 526.

²⁰ SCUTO, *La nationalité* (note 5), p. 93-97.

²¹ GLODEN, *Die Asylpolitik Luxemburgs* (note 10), p. 80.

²² René Blum to Pierre Krier, Socialist Labour Minister, ANLux, Police des Etrangers (PEt, 248918), quoted by GLODEN, *L'immigration contrôlée* (note 4), p. 193.

²³ ANLux, Ministère de la Justice, J73/53, J74/11 and Affaires étrangères, 3309 (p.1-172).

²⁴ ANLux, Ministère de la Justice, J 73/53, p. 16.

The 'success' of the *Zentralstelle* was spectacular when compared with the limited numbers of emigrants then leaving Germany. Nearly 50,000 'Jews' left Austria in the first six months after the 'Anschluss'. Even given the level of terror and the fact that Eichmann benefited from an initial emigration of people with limited attachment to Austria, the idea that coercive pressure might be combined with a greater degree of administrative collusion was novel, but one that clearly got results. 'Jews' would now receive the necessary travel documents and police certificates required by countries of emigration, rather than being left to the whim of individual bureaucrats.²⁵ Austria's neighboring countries took measures to prevent a mass flight from Austria. In the consulates visa were no longer granted and the Swiss, French, Czechoslovakian, Hungarian or Italian border guards increasingly denied refugees access to their territory. Opportunities for legal emigration became ever more severely restricted. Therefore the German police and border authorities increasingly flouted international law and local conventions by 'dumping' in an organized manner 'Jews' across the frontiers of neighboring countries.²⁶

2.1. The Increasingly Difficult Flight to Luxembourg

By late spring the authorities in the Benelux countries noticed an increasing pressure on their borders. The high pressure put on 'Jews' to leave Austria meant that any rumor of an opportunity to emigrate was seized upon. According to interviews with 'Jewish' refugees conducted by the French police, some Aachen residents had promised, out of greed, to assist Austrian 'Jews' in their flight abroad and the word had spread in Vienna. Other sources mention a rumor that the American Jewish Joint Distribution Committee had set up an aid committee in Brussels for Austrian 'Jews'. As a result, a large number of Austrian 'Jews' gathered in Aachen and some tried to cross into Belgium where they were apprehended by the Belgian border guards. As they had no Belgian visa they were sent back to Germany.²⁷ The German authorities decided to incarcerate these Austrian 'Jews'. During their detention in the local prison, they were issued with short-term German passports and made to sign a declaration that they would never return to Germany. On the Sunday night of 22 May 1938, the German police assisted fifty-four of these people to get into Luxembourg. The following nights other groups of 'Jewish' refugees were sent to Belgium. All these Austrian refugees entered Luxembourg and Belgium illegally as a visa was mandatory for Austrian citizen to enter both countries.²⁸

The refugees who had been 'dumped' on Belgian and Luxembourg territory on 22 May and who had successfully circumvented the border guards and got to Brussels or Luxembourg-city called upon the Jewish refugee committees. The committees

²⁵ RABINOVICI, Doron, *Eichmann's Jews: The Jewish Administration of Holocaust Vienna, 1938 – 1945*, Vienna 2008.

²⁶ FRIEDLÄNDER, *Nazi Germany and the Jews* (note 2), p. 260ff.; TOURY, Jacob, «Ein Auftakt zur 'Endlösung': Judenaustreibungen über nichtslawische Reichsgrenzen 1933-1939», in: BÜTTNER, Ursula (ed.), *Das Unrechts-Regime*, Hamburg 1986, vol. 2, p. 164-196.

²⁷ Report prefect of Moselle, 27.5.1938; report of the local police Thionville, 30.5.1938. French national archives (Paris), F7/16072.

²⁸ The German authorities replaced the Austrian passports from 15 August 1938 onwards with German passports and declared the Austrian passports invalid from 1 January 1939 onwards.

agreed to support them and they were, just as other refugees in the past, protected by the authorities. In Luxembourg the Jewish aid committee housed these refugees in several hotels.

When the Luxembourg authorities found out about the manner these refugees had intruded into Luxembourg territory they were furious and called this an infringement of their national sovereignty. They wanted to make a statement to the German authorities that carting unwanted people off to Luxembourg was unacceptable. In the early morning of Monday 23 May the Luxembourg authorities rounded up fifty-four 'Jews' who the Jewish refugee committee had taken care of. They were assembled at the military barracks in Luxembourg city, and then later that day brought under military escort to the Remich bridge and escorted to the German border. During this whole operation the soldiers were confronted with the despair of these refugees who tried to demonstrate that they could not return to Germany: one jumped into the Moselle and another tried to commit suicide with a razor.²⁹ Finally, they were all handed over to the German border guards, who accepted them and sent them to the concentration camp in Dachau.³⁰

This example of gesture politics backfired as the Luxembourg government was castigated by the left press.³¹ Already the next day the Socialist newspaper *Escher Tageblatt* mentioned the 'tragic' event in a short article. The expulsion was, according to the paper, the topic of that days' conversation in the whole country: for the first time Luxembourg had refused asylum to refugees and had returned them to Germany. The author stated that the unspeakable had happened: these returnees would be exposed to a treatment (in Germany) about which one better did not speak and it should not be explained any further that during the extradition at the border tragic scenes had unfolded. The article was imbued in indignation and finished strongly with *It is obvious, given our political and humanitarian position that we cannot condone this method of expulsion*.³² Also the paper *Die Neue Zeit*, to the left of *Escher Tageblatt*, harshly criticized these expulsions as a scandalous break in Luxembourg humanitarian refugee policy.³³ Minister Blum tried to silence this criticism and took control of the communication in the Socialist movement by commissioning a long article in the *Escher Tageblatt*. This article showed empathy for the plight of the political refugees, but attacked the so-called systematic manner by which their flight was organized by the Nazis. The Luxembourg authorities had done all they could but the local aid organization had refused to support this group and the neighboring countries were not ready to take in any refugees. Blum,

²⁹ ANLUX, J 73/47. GLODEN, *Die Asylpolitik Luxemburgs* (note 10), p. 97-99. Belgian ambassador in Luxembourg to the Belgian Minister of Foreign Affairs, 26.5.1938. AGR, alien police, 289. Report prefect of Moselle, 27.5.1938; report of the local police Thionville, 30.5.1938. French national archives (Paris), F7/16072.

³⁰ BERNA, Yves, *Politische Aspekte der Flucht europäischer Juden nach China während des Zweiten Weltkriegs*, Frankfurt 2010, p. 115.

³¹ The conservative Catholic *Luxemburger Wort*, the conservative liberal *Luxemburger Zeitung* and the nationalist-populist *Luxemburger Volksblatt* mentioned the affair in short articles on 24/25.5.1938 on the local pages, but did not comment on these repatriations.

³² Tragisches Flüchtlingschicksal, in: *Escher Tageblatt* (further ET), 25.5.1938, p. 4 (our transl.).

³³ Minister Blum löst das Flüchtlingsproblem; in: *Die Neue Zeit, Monatsschrift für Demokratie, Geistesfreiheit und Kultur*, 1.6.1938, p. 2.

the Socialist Minister who had *the most noble and humanitarian feelings* had been forced in order to protect the national interests to return these people. According to the article returning refugees to Germany probably happened at all the other borders with Germany on a daily basis, but the perforce (*notgedrungen*) returning of, according to this article, fifty refugees to Germany was the only time Luxembourg had done so. Whole caravans of miserable and destitute people were about to be dumped in Luxembourg and the Luxembourg authorities were not capable to support such a mass inflow of refugees. Individual infiltrators would still be protected in Luxembourg, but an invasion had to be prevented. Only an international solution, through the League of Nations, could provide a solution and Luxembourg was working towards such a solution. The article finished with a desperate call for a quick solution as otherwise *civilized humanity was in danger*.³⁴ Ezra, who was wrongly accused of not being willing to support these 50 refugees, put pressure on the editor of *Escher Tageblatt* to rectify the article. A few days later the same newspaper yielded to their demand and published a short article putting the record straight by underlining that the 50 refugees had only been in need of a temporary protection in Luxembourg and that their stay and further travel was financially guaranteed by Luxembourgish and French Jewish welfare committees.³⁵ Although the article finished with repeating the official Luxembourg version that the decision to force these 50 refugees to return to Germany was only an exemplary decision to prevent a further mass inflow of German refugees, Blum was furious about this article. He personally protested against this article in a letter to the director of the newspaper Hubert Clément, a Socialist MP.³⁶ The fact that the Socialist René Blum ordered the expulsions and successfully silenced the protests within his party meant that liberal elements in the Luxembourg political elite made no more public protests.³⁷

Still, the experiment was not considered a success and alternatives to deportation to Germany, such as internment, were immediately discussed in government circles.³⁸ When the American Jewish aid organization JDC provided means to en-

³⁴ Ein Wort zum Problem der Flüchtlingsfrage, in: *ET*, 28.5.1938, p. 6 (our transl.); on the desperate situation of Jewish refugees from Germany stopped at all borders, see also the article Verzweifelte Menschen, in: *ET*, 30.5.1938, p. 5-6.

³⁵ Zur Angelegenheit der israelischen Flüchtlinge, in: *ET*, 31.5.1938, p. 5.

³⁶ Hubert Clément to René Blum, 9.6.1938. ANLux, Justice 73/49: Réfugiés allemands et autrichiens, p. 2.

³⁷ Neither the conservative catholic *Luxemburger Wort* nor the liberal *Luxemburger Zeitung* criticized the expulsion of the 50 refugees. See: *Luxemburger Wort*, 25.5.1938.

³⁸ The word deportation is used here in contrast to expulsion, repatriation or extradition. Expulsion is referring to ordering aliens to leave the territory of a state, but expulsion can be 'limited' to an administrative order to leave the country. When this administrative decision is enforced by the physical removal of this alien from the territory of a state by members of the state apparatus we speak of deportation. Deportation has thus a larger meaning than transporting somebody to a concentration camp as it is part of the instruments a liberal state disposes of to enforce its sovereignty. An alien can be deported from his/her immigration country to his/her country of origin or to be repatriated. However, repatriation does not qualify the manner by which this alien returns to his country of origin and in the above mentioned case the repatriation has to be qualified as involuntary repatriation. Extradition is referring to a specific kind of deportation as the person is handed over to the authorities of the country to which he or she is being deported to. The deportation of 23 May 1938 could be qualified as an extradition. However, extradition is mostly used to refer to a specific manner of deportation of

able the local Jewish community to continue to support refugees and assist them in finding countries of immigration overseas, the policy changed course again.³⁹ The traditional policy of temporarily protecting refugees was restored in the Grand Duchy and 'Jews' whom the local Jewish refugee committee were ready to support were admitted until they could organize their final emigration. The increasing difficulty of denying that 'Jews' fleeing Germany were refugees meant that the Luxembourg authorities preferred to stem the flow by border and remote controls: external controls that were largely invisible to the public and could be organized through administrative decrees. Luxembourg strengthened its frontier policing and mobilized the army to offset a shortage of suitable personnel.⁴⁰

'Jewish' refugees needed to have a German passport and some means to be accepted on Luxembourg territory. For 'Jews' with an Austrian passport a visa was necessary to enter the country. Few refugees received such a visa. The Luxembourg consulate in Vienna received in June and July nearly 8,000 requests for a visa; only 182 requests received a positive answer.⁴¹ If German or Austrian 'Jews' intruded on Luxembourg territory they had to be returned to Germany, except if Ezra supported them. However, when the Luxembourg border guards wanted to return some refugees with an Austrian passport, but having no visa, to Germany, the German border guards refused their readmission, as they were Austrians, not Germans. Consequently, Luxembourg authorities ordered the border guards to be more severe with Austrian intruders and not grant them any access to Luxembourg territory.⁴²

For the 172 'Jewish' refugees stranded in Luxembourg an agent of HICEM (Hebrew Intergovernmental Committee for European Migration) drew up a plan to organize their final emigration.⁴³ The number of 'Jews' arriving in Luxembourg continued nonetheless to increase. By the end of June Ezra had another hundred refugees on its lists, another fifty in July. Then the numbers exploded. At the end of July there were 497 refugees on their list, but by the end of August they had 817 refugees to support and by the end of September even 1,307.⁴⁴

The arrival of ever more refugees, totally stripped of their possessions, made Ezra look desperately for solutions. The HICEM emigration program was overtaken by the events. Many refugees moved on to Belgium or France as the western Luxembourg border was hardly guarded. Ezra did not oppose that, on the contrary. The

suspected or convicted criminals with a judicial procedure laid down in a bilateral treaty between two countries. See: VAN DEN WIJNGAERT, Christine, *The Political Offence Exception to Extradition: The Delicate Problem of Balancing the Rights of the Individual and the International Public Order*, Deventer 1980.

³⁹ BAUER, Yehuda, *My Brother's Keeper: A History of the American Jewish Joint Distribution Committee, 1929-1939*, Philadelphia 1974, p. 242.

⁴⁰ GLODEN, *Die Asylpolitik Luxemburgs* (note 10), p. 81.

⁴¹ Report Luxembourg consulate in Vienna to Ministry of Justice, 6.9.1938. ANLux, Ministère de la Justice, J73/47.

⁴² Ministry of Justice to Ministry of Foreign Affairs, 2.8.1938. ANLux, Ministère de la Justice, J73/47.

⁴³ The HICEM was an amalgam of several Jewish emigration and immigration organisations established in 1927, which mainly organized transatlantic voyages of Jewish emigrants.

⁴⁴ Note sur l'état actuel de l'émigration d'Allemagne et d'Autriche, 9.1938 YIVO Institute for Jewish Research, New York, HICEM (Paris) - Emigration record.group 245.5, Serie France 1. Microfilms reel 16.11.

Belgian ambassador, Ernest Kervyn de Meerendré, complained that the Luxembourg authorities did not do anything against this organized flight from Germany to Belgium through Luxembourg. He proposed that Luxembourg impose visa for Germans in order to select the inflow and to take full responsibility for those refugees who Luxembourg had granted admission.⁴⁵ This diplomatic intervention and the explosion of the number of refugees convinced the Luxembourg authorities that they needed to halt further 'Jewish' immigration. The Sûreté had in August 1938 more success with its lobby work for a restrictive immigration policy than in 1935.⁴⁶ The Luxembourg authorities had noticed the hardening of the attitude towards refugees in the neighboring countries. By July 1938, Belgium had supplemented its border police with 160 policemen stationed on the eastern frontier and mobile units on bicycles, popularly known in the border region as the 'Jew hunters'. The Netherlands deployed an extra 300 additional border guards and denied access to the Netherlands to all those carrying Austrian passports.⁴⁷ The Luxembourg authorities were convinced that those who wanted to flee Nazi Germany had it much easier to cross the German-Luxembourg border than to confront the Belgian or Dutch border guards at the heavily protected Belgian/Dutch-German border. The Socialist Minister of Justice, René Blum considered that due to the closing of the borders elsewhere and the insufficient means of Ezra it was mandatory for Luxembourg to close its borders too.⁴⁸

On 11 August 1938 the Luxembourg consulates got instructions that they were only authorized to grant visa if the Ministry of Justice gave its agreement. On 18 August the border guards received the instruction to stop the intrusion of 'Jewish' refugees and return them to Germany. Those with a German passport were only to be accepted if they had the German authorization to take their money with them, as proven by a document of the German *Devisenzentrale*. They also had to provide proof that another country would ultimately accept them so that their stay would be only temporary.⁴⁹ Political refugees were exempted from this treatment.⁵⁰ Blum gave also instructions to his civil servants not to inform the press in any way about deportations. Blum had learned from the experience of May 1938 that deportations were a sensitive issue and ones that should be hidden as much as possible from the public.⁵¹

The temporary protection for 'Jewish' refugees through the help of Ezra was to a large extent rescinded and orders were given to close the borders.⁵² Putting

⁴⁵ GLODEN, *Die Asylpolitik Luxemburgs* (note 10), p. 95.

⁴⁶ GLODEN, *Die Asylpolitik Luxemburgs* (note 10), p. 84.

⁴⁷ CAESTECKER/MOORE, *A Comparative Analysis* (note 1).

⁴⁸ Minister of Justice 15.9.1938. ANLux, Ministère de la Justice, J73/47.

⁴⁹ Report Luxembourg consulate in Vienna to Ministry of Justice, 6.9.1938. ANLux, Ministère de la Justice, J73/47; Report Martin Schiltz, 4.10.1938 and Ministry of Justice to Ministry of Foreign Affairs, 13.8.1938. ANLux, Ministère des Affaires Étrangères, 3309.

⁵⁰ Gloden refers to a letter of Blum of 31 August 1938 to the High Commissioner for the refugees from Germany, Neill Malcolm, in which Blum states to only exempt the political refugees whose life was in danger from these harsh measures. GLODEN, *L'immigration contrôlée* (note 4), p. 197.

⁵¹ GLODEN, *Die Asylpolitik Luxemburgs* (note 10), p. 93-99; BAUER, *My Brother's Keeper* (note 39), p. 243.

⁵² GLODEN, *L'immigration contrôlée* (note 4), p. 197. One of the leading figures of Ezra in Luxembourg, Albert Nussbaum, related after the war that Minister Blum had still a good working relation with Ezra

this policy into practice proved extremely difficult: it remained difficult to tell 'Jews' from other immigrants at the border, as passports bore no indication as to the bearer's religious denomination, let alone his or her racial categorization.⁵³ Travelers from Germany faced close interrogations at the borders to find out if they were Jewish and, if so, whether they qualified for entrance. Admission at the Luxembourg borders was discretionary and not set out clearly in published regulations. This meant that many refugees arrived at these frontiers not knowing if they would be admitted. Not only did the Luxembourg authorities have to deploy increasing resources to guard their frontiers, but they also placed great strain on their border and customs officials in having to carry out this exclusionary policy. The border guards zealously executed the order to stop the intrusion of refugees. In their blind zeal they even refused Austrian refugees with Luxembourg visa. When these Austrians protested against their expulsion, notwithstanding their visa the border guards, according to these refugees, retorted rudely: *Den Wiener Konsul kennen wir schon: Sie sind heute schon der 25. den wir zurückschicken. Wenn Sie noch einmal herkommen, brech' ich Ihnen sämtliche Knochen.* The Consul in Vienna, Dr. Ernest Pieta, was informed and reacted furiously against what he called the arbitrarily policy of the Luxembourg border guards: *Das Vorgehen der Grenzorgane läuft darauf hin, dass sich diesselben das Recht beilegen, ihrerseits eine Prüfung vom grossherzoglich-luxemburgischen Konsulat in Wien erteilten Visa vorzunehmen und damit die Weisungen zu kontrollieren, die grossherzoglich-luxemburgische Regierung ihren Konsulaten erteilt hat.* The protest of the consul was to no avail, the brutalization of the border guards and the totally arbitrary decision taken by them were fully covered by the Luxembourg authorities.⁵⁴

In the two weeks after 18 August 1938 according to Martin Schiltz, Sûreté sergeant and head of the Luxembourg border guards, 306 Jewish refugees from Austria had been stopped at the border. Once refugees had crossed the German-Luxembourg border and had received a German emigration stamp on their passport, the German authorities did not readmit them to German territory. Probably this happened continuously. On 30 September 1938 a group of eight refugees with German passports had been sent back ten times to Germany. Finally, they had been given an authorization to stay 48 hours in Luxembourg. Perforce Luxembourg had to accept them. Others succeeded in circumventing the border control with the connivance of the German police who brought them from Trier at night to the river Sauer where they crossed the river into Luxembourg. Once they were inside the country it was very difficult to send them back to Germany or even to send them to France or Belgium as both countries had closed their borders. Martin Schiltz insisted that the only way to stop the 'intrusion' of the refugees was to increase border control. The Luxembourg authorities agreed with him and

which enabled them to host about a thousand refugees in Luxembourg or send 'Jewish' refugees to Belgium. Albert Nussbaum is quoted by NILLES, Léon N., *Er verhalf den Juden zur Flucht*, in: *Revue*, 20.10.1973. Further research has to analyze to which extent Ezra opposed the closing the border and if so, whether Ezra's lobbying for enlarging the scope of its assistance to newly arriving Jewish refugees received any support of Blum.

⁵³ The J-passport for German Jews was only introduced later on, by the *Verordnung über Reisepässe von Juden* of 5 October 1938.

⁵⁴ Minister of Justice 15.9.1938. ANLux, Ministère de la Justice, J73/47.

allocated another 38 men to the border control.⁵⁵ Remote and external control were the main strategies of Luxembourg inhumane immigration policy.

The Luxembourg authorities tried to improve the effectiveness of their protectionist policy through diplomatic means. That the German authorities were unwilling to accept these refugees was considered unacceptable given Germany's legal obligations. Even those 'Jews' who the Nazi authorities had stripped of their German citizenship were according to international law still to be granted access to German territory. The Gotha Treaty of 1851 to which Luxembourg was a party entitled the Luxembourg authorities to return all German nationals, even German nationals who had become stateless. The Luxembourg authorities repeated time and again the obligation of Germany to respect the terms of the treaty but it seems to have been to no avail.⁵⁶

The Luxembourg authorities did not communicate about the closing of the border, the diplomatic negotiations and the deportations back to Germany. They succeeded, as was the intention of René Blum, to keep all these matters invisible to the public. Deportations were not reported in the local press. Even the foreign press was silent about this turn in Luxembourg policy towards 'Jewish' refugees from Nazi Germany.

2.2. Belgium and the Netherlands Also Want to Keep the Refugees Out

In 1938 also the Netherlands had introduced quasi-visa requirements for German (and Austrian) 'Jews'. Dutch visa policy was very restrictive and very few 'Jews' in Germany or Austria were granted the authorization to enter Dutch territory. In this manner the Netherlands could implement a straightforward bureaucratic border policy whereby insufficiently documented aliens, i.e. 'Jewish' refugees without visa, were collectively refused admission to the country. Still many 'Jewish' refugees succeeded, with the cooperation of the German police and border authorities, in entering Dutch territory uncontrolled, and appealed to the Jewish committees for help. The Dutch authorities had already in the spring of 1938 rescinded the temporary protection for 'Jewish' refugees recommended by the Jewish aid organization. The Dutch Jewish community who paid the bill lost the competence to decide about who was eligible for protection. The Dutch authorities found that the Jewish committee had been overly generous. For the Dutch authorities even those who had been imprisoned in a concentration camp were not to qualify prima facie as refugees. They even couched this point of view in anti-Nazi terms by stating to the refugee committee that the Netherlands would not let decide the German authorities who qualified to stay in their country. Still, there was a certain reluctance to deny 'Jews' from Germany any protection at all. The Dutch central authorities brushed away the recommendations of the Jewish refugee committee, but when individuals protested fiercely against their expulsion, they advised local authorities

⁵⁵ Martin Schiltz to the Head of the *Sûreté*, Stein, 4.10.1939. ANLux, Ministère des Affaires Etrangères, 3309. See also GLODEN, *L'immigration contrôlée* (note 4), p. 196-198.

⁵⁶ ANLux, Ministère de la Justice, J73/47 and 48. For the Gotha treaty see FAHRMEIR, Andreas, *Citizens and Aliens: Foreigners and the Law in Britain and the German States, 1789-1870*, New York 2000, p. 37-39 and for Gotha and Luxembourg see: SCUTO, *La nationalité* (note 5), p. 123, 236.

to reconsider the negative closure of the asylum request. As the local authorities had considerable autonomy in deciding about the forced repatriation of alleged victims of persecution, refugee committees could, depending on local circumstances, still exert some influence.⁵⁷

At the end of September 1938 the Belgian government joined the position of the Netherlands and Luxembourg by deciding to abolish the temporary protection for 'Jewish' refugees on its territory. The lenient attitude towards 'Jewish' refugees on Belgian territory who were covered by the Jewish aid committee, even if they had arrived illegally in the country, lasted in Belgium throughout the summer. As their numbers skyrocketed the authorities first invested in securing the border, but as refugees continued to arrive in considerable numbers the next step was taken. Roundups took place in hotels and refugees were arrested when they reported to police stations on the recommendation of the Jewish refugee committee. This netted at least 250 Austrian 'Jews'. About 150 of them were immediately repatriated to Germany. The expulsion of these 'Jewish' refugees immediately became known to Emile Vandervelde, the president of the Socialist Party, through an informer in the prison where the 'Jews' were being held prior to repatriation. Although Vandervelde led the Belgian Socialists, he was unaware of political deals struck by the independently-minded Socialist Prime Minister Spaak, who took a very pragmatic line in trying to maintain his political coalition. Spaak did not consider protecting refugees an important cause and his Minister of Justice, a conservative and xenophobic Catholic, Joseph Pholien, hoped for electoral advantages with his tough policy towards refugees. Vandervelde chose to champion the cause of the 'Jewish' refugees, and lobbied within his party to grant asylum to the 'Jewish' refugees in Belgium. Vandervelde even took his demand for a humanitarian immigration policy to the streets by publishing a fierce protest against the expulsion of 'Jewish' refugees in the Socialist daily *Le Peuple* on 16 October. Refugee policy - which until then had been an uncontested prerogative of the executive power - became a matter of public debate. The Jewish refugee aid committees also joined the protests in order to restore safety for their protégés.

This outspoken politicization of immigration policy in Belgium meant that the political elite had to take a watchful public into account. Further deportation of illegally immigrated 'Jewish' refugees was suspended.⁵⁸

3. "Imposed" Solidarity in the Wake of the *Reichskristallnacht*, November 1938-September 1939

During the euphemistically named *Kristallnacht*, an orgy of violence and destruction swept over Germany, and officially 91 people were killed. Many hundreds more died of their wounds or in concentration camps in the following days and

⁵⁷ CAESTECKER, Frank, Jewish Refugee Aid Organizations in Belgium and the Netherlands and the Flight from Nazi Germany, 1938-1940, in: HEIM, Susanne/MEYER, Beate and NICOSIA, Francis (ed.), *«Wer bleibt, opfert seine Jahre, vielleicht sein Leben»*. *Deutsche Juden 1938-1941*, Göttingen 2010, p. 45-65.

⁵⁸ CAESTECKER, Frank, Onverbiddelijk, maar ook clement. Het Belgische immigratiebeleid en de joodse vlucht uit nazi-Duitsland, maart 1938- augustus 1939, in: *Bijdragen tot de Eigentijdse Geschiedenis* 13-14 (2004), p.112-114.

weeks. Approximately 30,000 male 'Jews' were arrested and taken to concentration camps. It was also the start of a policy segregating the 'Jews' from the rest of German society in every aspect of their daily life. Restrictions of all kinds rained down on the 'Jews', their pauperization proceeded apace and 'apartheid' became a fact of daily life. The 'Jews' also became subject to segregated labour deployment as the Nazis chose to physically exploit those whose unemployment made them dependent on state welfare.⁵⁹ In March 1939, when the German state annexed Bohemia-Moravia, a further 118,000 'Jews' came under Nazi control.

In Belgium the political discussion following the policy of forcible deportation had not subdued when the *Reichskristallnacht* swept over Germany. Public empathy with the refugees' plight increased. Numerous MPs, including some in the governing coalition, expressed in public their support for a restoration of temporary protection for 'Jewish' refugees. An assertive humanitarian lobby obtained that the temporary protection for 'Jews' from Greater Germany who the refugee aid committees catered for was officially restored. Deportations of 'Jewish' refugees to Germany had sparked off such strong protests in Belgium that this policy option was written off for a long time. As a result of the violence of the *Reichskristallnacht* in November 1938 the Netherlands also reaffirmed their solidarity with the 'Jewish' victims of Nazi persecution and agreed to grant a number of 'Jewish' refugees temporary asylum.

Belgium continued to grant asylum to those refugees who had arrived legally or illegally on its territory, but it seems it was also made easier for 'Jews' in Germany who had close contact with people in Belgium or whose immigration could be economically advantageous for Belgium to obtain a visa. Belgium and the Netherlands also agreed to support a scheme to provide protection to unaccompanied 'Jewish' children. Through these famous *Kindertransports* Belgium provided asylum to a thousand children while the Netherlands were even more generous in accepting two thousand children. The Dutch also developed schemes to grant protection to 'Jews' in Germany with relatives in the Netherlands or who had a fair chance to leave soon for overseas. Moreover, beside this organized flight, 'Jews' who fled Germany spontaneously and arrived unsolicited in the Netherlands were also protected.

In contrast, Luxembourg did not take part in these schemes and persisted altogether in routine exclusionary practices in the consulates, at the border, but also in the country itself.⁶⁰ René Blum had said it on the Socialist Party assembly just before the *Reichskristallnacht* and it remained the principle of the Luxembourg authorities: *Politische Ausweisungen von Ausländern die unsere Verfassung und unsere demokratische Prinzipien achten, kommen nicht mehr vor. Wer sie nicht befolgt, hat aber im Gegenteil kein Erbarmen zu erhoffen. Die Menschlichkeit ist unser höchstes Prinzip; gegenüber dem Ausland sind wir als Nation die menschlichste. Aber alles hat seine Grenzen. Wir hätten heute ganz Wien und halb Prag hier. Aber leider müssen wir im Interesse unseres Landes der Einwanderung Grenzen setzen.*⁶¹ Without naming them explicitly Blum made it clear that 'Jewish' refugees

⁵⁹ GRÜNER, Wolf, *Jewish Forced Labor Under the Nazis: Economic Needs and Racial Aims, 1938–1944*, Cambridge 2006, p. 5–6.

⁶⁰ A circular letter dated 25.11.1938 instructed to refuse all visa-requests of refugees. ANLux, Ministère de la Justice, J73/47.

⁶¹ *ET*, 4.11.1938, p. 1.

remained altogether excluded from any Luxembourg protection. Indeed, most people in need of protection arriving at the Luxembourg border were turned around. Even if they could bypass the border control they were to be deported back to Germany.⁶² Luxembourg's exceptional stand within the Benelux did not last long. When by the end of December 1938 the Dutch authorities had temporarily accepted 7,000 refugees, they considered that the sheer numbers admitted could no longer be sustained. They decided to close the Dutch border again.

Notwithstanding a reinforced and more efficient external control, the borders of the Benelux countries remained permeable. The authorities had to deal with refugees who simply appeared inside its frontiers. The Luxembourg authorities complained that they had been confronted with *nombreuses tentatives des réfugiés israéliens d'entrée par ruse, même à l'aide de passeports substitués, à pied, en auto, en chemin de fer, voire dans des guérites et dans des cages à chiens. Nombreux sont les cas où nos agents ont dû refouler jusqu'à quatre ou cinq fois les mêmes personnes. Ce jeu pénible s'est notablement ralenti, mais eu égard à la configuration accidentée du terrain qui se prête particulièrement à l'introduction nocturne par le passage des rivières formant frontière entre le Grand Duché et l'Allemagne, les effectifs de surveillance ont dû être renforcés.*⁶³ In order to make border control more effective Luxembourg passed legislation to punish those assisting the refugees to enter illegally. Human smugglers and document counterfeiters became the focus of repressive legislation.⁶⁴ 'Jewish' refugees who succeeded in entering Luxembourg territory were considered as illegal aliens and forced repatriation was used as a remedy. Few refugees were afforded temporary protection: between November 1938 and September 1939 only 793 temporary residence permits were granted to German 'Jews' newly arriving in Luxembourg.⁶⁵ Over the same time period at least 3,193 'Jewish' refugees were tolerated by the Dutch authorities.⁶⁶ How many illegally immigrated 'Jewish' refugees were stopped at the border or were deported by Dutch and Luxembourg authorities is unknown to us.

Belgium, similar to the Netherlands, officially resumed in November 1938, in the wake of the *Reichskristallnacht*, the policy of protecting 'Jewish' refugees, even if they had arrived illegally in the country. Belgium continued to do so until the outbreak of the Second World War. Border policy was very restrictive, but those who managed to cross the border could count on clemency. Belgian policy was generous thanks to a humanitarian political elite who had mobilized public opinion in its

⁶² MCDONALD STEWART, Barbara, *United States Government Policy and Refugees from Nazism, 1933–1940*, New York 1982, p. 31.

⁶³ The Luxembourg attorney, Léon Schaack, to Robert de Foy, head of Belgian Sûreté, 25.1.1939. AGR, Alien police, 149.

⁶⁴ Luxembourg decree of 3.6.1938 and the Luxembourg law of 11.1.1939. The Luxembourg attorney general to Robert de Foy, 25.1.1939. AGR, Alien police, 149.

⁶⁵ The figures for Luxembourg in 1939 are listed in a report of the JDC. Archive Université Catholique de Louvain la Neuve, Papers Van Zeeland, 906.

⁶⁶ This figure only refers to the most important refugee committee, the Jewish committee in Amsterdam (2,551 transit refugees who mostly left the Netherlands shortly after arrival are not included in this figure). Nederlands Instituut voor Oorlogsdocumentatie, 181 k, comité voor Joodse Belangen Map 1a, annual report for 1938/39. In order to have the total number of refugees registered by the refugee committees we should add up also the figures of the Jewish committees in other places and those registered by the Catholic, Protestant or non-religious refugee aid committees.

campaign for preserving temporary protection. The Belgian authorities were afraid of a negative political backlash if a more selective refugee policy was introduced. However, what happened at the Belgian border and abroad was beyond the purview of the generously minded part of public opinion. The Belgian authorities pressurized the German authorities in the winter of 1938/1939 to order their border guards to arrest all 'Jews' without proper travel documents (a Belgian visa!). The German authorities conceded and refugees heading to Belgium had from November 1938 onwards not only to circumvent the Belgian, but also the German border guards in order to enter Belgian territory and be protected by the Belgian government.⁶⁷ The Luxembourg authorities similarly insisted on the German authorities stopping their assistance to the unauthorized immigration of 'Jews' into their country. On 25 February 1939 the German Ministry of Finance gave in to Luxembourg's pressure and instructed the custom officials to no longer facilitate the illegal immigration of 'Jews' to Luxembourg.⁶⁸

In the Netherlands and Luxembourg immigration policy remained largely isolated from public scrutiny and took hardly into account the fact that many immigrants were refugees. Most of the German-Jewish refugees were treated as illegal aliens. Luxembourg succeeded in keeping their inhumane actions at the border but also within the country from any public scrutiny. Not only the restrictive policy implemented in the consulates and at the border but also deportation from within Luxembourg territory itself remained largely invisible to the public. In January 1939, five months after Luxembourg had embarked on the brutal policy of returning the 'Jews' even from inside the country, the Belgian journalist Frédéric Denis wrote an eulogous article on the refugee policy of René Blum in the Socialist paper *Le Peuple*. Although René Blum refused to make any public statement on *cette triste question des réfugiés politiques!* he explained *Nous n'en pouvons plus. Nous sommes saturés. A présent, c'est aux autres à faire leur devoir. Nous avons fait le nôtre dans toute la mesure de nos possibilités... il est dur, pour un socialiste surtout de devoir répondre non.* The article interpreted the Luxembourg "non" as a rejection of those applying for asylum by mail from abroad, but explicitly denied that refugees were deported from inside Luxembourg territory or at the border: *On les secourt comme on peut. ... Mais toutes les mesures qu'on a bien dû prendre sont appliquées avec le maximum possible d'humanité. Quant à des refoulements, on n'en a jamais faits.*⁶⁹ A few days later the journal rectified the article as a thrustworthy German refugee who had received asylum in Belgium reported that he, together with his wife and child, had been deported about 20 times from Luxembourg territory. The paper lamented that they had received in Luxembourg inexact information about *this point douloureux des refoulements.*⁷⁰

⁶⁷ CAESTECKER, Onverbidelijk, maar ook clement (note 58), p.118-120.

⁶⁸ Archive of German Ministry of Foreign Affairs, R 99491 quoted by BERNA, *Politische Aspekte der Flucht* (note 30), p. 301.

⁶⁹ *Le Peuple*, 14.1.1939.

⁷⁰ *Le Peuple*, 19.1.1939.

Conclusion

Immigrants, be they refugees, could only enter a Benelux country and have their resident permits renewed time and again if they could live off their own means. As economic activities became increasingly regulated, to earn one's living in the Benelux became increasingly difficult, if not impossible for an immigrant. External control - border control and the control in the consulates - sought to keep immigrants, be they refugees, out of the country if they were undocumented or had no means. The refugees from Nazi Germany who had succeeded in entering the country were tolerated as long as a refugee aid organization agreed to shoulder all the risks and responsibilities. The authorities in all three countries subcontracted the upkeep of refugees to private organizations.

For the German 'Jews', the quantitative most important group of refugees, the Jewish aid organizations assumed the management of the refugee influx and underwrote its costs. All of these refugees were told to find another destination as the protection in the Benelux was only temporary. The authorities in the Benelux-countries granted them temporary protection in order to enable preparations for re-emigration. During their temporary stay these refugees were mostly prohibited from engaging in any economic activity. Only in few cases exceptions were made. The Netherlands seem to have been more willing to tolerate economic activities of refugees. The specificity of Luxembourg policy before and after 1938 is difficult to assess. Only a more detailed analysis of the archival material - this article only provided a broad outline - can yield a nuanced insight into Luxembourg's immigration and refugee policy.

This article is better documented for the period after the 'Anschluss' when the emigration of 'Jews' became an acute flight movement. The Netherlands was the first to react by restricting access to temporary protection. Luxembourg reacted promptly to the new persecution dynamic in Nazi Germany. Already in May 1938 the Luxembourg authorities decided to deport 'Jewish' refugees back to the territory of the state they were being persecuted by to protest against the latter's policy of 'dumping' people at the border. This highly visible deportation of refugees was strongly criticized. The Luxembourg government was castigated by the press and quickly changed course. For the following three months Luxembourg remained a temporary safe haven for 'Jewish' refugees from Nazi Germany on their way overseas. In the meantime, the other Benelux countries had reinforced their borders to counter the German 'dumping' policy. The Luxembourg authorities felt themselves being encircled by countries refusing seemingly to share the burden. The closing of the Luxembourg border in mid-August 1938, except for so-called 'real' refugees (that is, political refugees) caused immense hardship for the 'Jewish' refugees. In order to fend off the 'refugee invasion' the border guards violently and in a totally arbitrary manner turned away refugees, even those 'happy few' who had obtained a visa. This brutal policy did not cause any damage to the authorities' reputation, domestically or internationally, as Luxembourg dehumanized border control remained largely invisible to the public. As the national and international press did not report on this new and violent policy, it was never questioned.

This was also the strategy of the Socialist Minister of Justice, René Blum who had decided on a less visible external control as preferred manner to stem the flow. Belgium and the Netherlands had also reinforced border control and were also deporting

those who had intruded into their territory. The Belgian hard liners had, similar to the May 1938 debacle in Luxembourg, in October 1938 their Waterloo. The timing, just before the *Reichskristallnacht* and a more intensive political discussion about humanitarian refuge, implied that Belgium resumed to grant temporary asylum to those fleeing Nazi Germany until the outbreak of the Second World War. This was not always wholehearted as the restrictive border policy and the pressure on the German authorities to assist Belgium in keeping the refugees at bay show. Still a watchful public opinion protected at least those refugees who managed to circumvent the Belgian (and German) border guards. In the Netherlands the authorities oscillated between repression and protection. Already shortly after the 'Anschluss' the Dutch authorities had decided to deport 'Jewish' refugees who did not have the necessary documents and/or means. A blanket policy was not implemented, as exceptions were continuously made. The violence of the *Reichskristallnacht* caused the Dutch authorities, under pressure of the generously minded part of the public opinion, to fully restore the temporary protection for 'Jewish' refugees. From January 1939 onwards this benevolence was rescinded again, but exceptions continued to be made.

In Luxembourg the hard line policy adopted mid-August 1938 was not called into question. Jewish refugees were considered as any unwanted immigrant to be stopped at the border or deported from within Luxembourg territory. Only exceptionally and under strict conditions could they await their final departure for overseas in Luxembourg. However, further research could nuance this judgment as it is possible that the day-to-day policy at the border and in the country itself was more liberal than the official discourse.⁷¹ Still it seems that the authorities did not even change course when the *Reichskristallnacht* made it clear to anybody that 'Jewish' refugees had legitimate reasons to flee. Keeping Jewish refugees out remained the policy goal of the Luxembourg authorities and with a fully patrolled border and the use of violence the message came across. The pressure on the Luxembourg border alleviated, while the pressure on the Belgian and Dutch border increased. The human costs but also the risks of a tarnished reputation were taken into account by the Luxembourg authorities. Luxembourg finally succeeded with the help of a subservient press and a lax public opinion to retain their reputation as a liberal country which supposedly respected human rights.

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⁷¹ The internal research project at University of Luxembourg (2016-2018) about «Luxembourg State Policy Towards Jews (1930s to 1950s)», undertaken by researchers Vincent Artuso, Marc Gloden, Marten Düring and Denis Scuto, will allow to update our knowledge on flight to Luxembourg.

Frank CAESTECKER and Denis SCUTO, *The Benelux and the flight of refugees from Nazi Germany: the Luxemburg specificity* [Le Benelux et les réfugiés fuyant l'Allemagne nazie: les spécificités du Luxembourg]

L'article esquisse la politique d'asile du Luxembourg durant les années 1933-1939 avec un accent sur les deux années précédant la Deuxième Guerre mondiale, tout en comparant avec la situation en Belgique et aux Pays-Bas. Avant 1938, la politique poursuivie était largement la même dans les trois pays : les réfugiés politiques et juifs étaient exemptés de la politique restrictive en matière d'immigration. À partir de mars 1938, quand le nombre des réfugiés explosa, le contrôle aux frontières fut renforcé afin d'empêcher l'entrée de réfugiés. Les réfugiés juifs, même ceux qui étaient recommandés par les comités d'aide, étaient expulsés des trois pays : en mai 1938 du Luxembourg et des Pays-Bas, en septembre 1938 de la Belgique. En juillet 1938, après avoir été fustigé par la presse, le gouvernement luxembourgeois rétablit la protection accordée aux réfugiés juifs. Un mois plus tard le gouvernement retourna à sa ligne dure et de nombreux réfugiés furent repoussés et même expulsés du territoire luxembourgeois. À partir de ce moment le gouvernement luxembourgeois réussit, avec l'aide d'une presse obséquieuse, à cacher ces expulsions au regard du public. En Belgique, les expulsions étaient suspendues, à la suite de longues discussions publiques, et les réfugiés juifs et politiques étaient protégés jusqu'au déclenchement de la guerre.

The article outlines Luxembourg asylum policy during the period 1933-1939 with a particular emphasis on the two last years before the outbreak of the Second World War, in comparison to Belgium and the Netherlands. Before 1938, policy was similar in all three countries, exempting political and Jewish refugees from the harsh treatment of the restrictive immigration policy of these days. From March 1938 onwards, when the number of refugees exploded, border control was strengthened to keep refugees out. Jewish refugees, even recommended by the aid committees, were expelled from within these countries: in May 1938 in Luxembourg and Netherlands, in September 1938 in Belgium. In July 1938, after having been castigated by the press, the Luxembourg government restored the protection granted to the Jewish refugees. A month later the Luxembourg government returned to its hard line policy and many refugees were pushed back and even deported from within Luxembourg territory. From then on, the Luxembourg government succeeded, with the help of a subservient press, to keep these expulsions out of public view. In Belgium the deportations were, after a public discussion, suspended and Jewish and political refugees received protection until the outbreak of the war.

Mauve CARBONELL, Victor Bodson (1902-1984) : un notable luxembourgeois dans la tourmente européenne au XX^e siècle. Une approche biographique [Victor Bodson (1902-1984): A Luxembourg dignitary in the European turmoil of the 20th century. A biographical approach]