

## Swiss tragedy – borders and refoulement

(From: *Which Borders do we need?*)\*

For years, the European discussion on borders has been dominated by popular misconceptions, by perceptions that sound superficially plausible, but, in fact, are not. The French writer Gustave Flaubert called them “*idées reçues*”, formulaic clichés. Their dominance is fostered by the habit of describing flight and migration as phenomena in the language of physics and hydraulics: they are about pull and push effects, about dams that stop flows and about biblical floods so strong that no dam can withstand them. These images give rise to a widespread cliché adopted by many of those who reject migration control as immoral. They declare that such controls are doomed to failure from the outset. Once the pressure to flee and migrate is great enough, the crossing of borders can no longer be prevented.



In 2016, the British-Polish sociologist Zygmunt Bauman wrote an essay on migration and scaremongering. He predicted that the current mass migration “will not stop soon” because it is the result of global inequalities. According to Bauman, the world’s population “behaves like a fluid in communicating tubes.” The number of immigrants will increase until equilibrium is reached and the levels of prosperity in the “developed” and “developing” parts of the globalised world have been equalised.<sup>1</sup> Therefore, the erection of walls to keep out migrants is “ridiculous” and should not even be attempted. Author Sascha Lobo recently argued in the same way: “Migration can be stopped neither by force nor by money ... Migration is unstoppable, because today it takes place with the power of networking.”<sup>2</sup> According to Lobo, right-wingers and right-wing extremists will also fail in preventing migration. They “rely on deterrence, fences and violence. But that, along with showing deadly hatred towards others, is also a fallacy. The truth is: migration cannot be prevented, not even by force.”<sup>3</sup>

The political message behind such analyses is clear: don’t believe the fortress builders who promise closure, because it is impossible. The desirable, an open borders policy, is also the scientifically proven inevitable. Because, according to Lobo 2019: “Several million people have created a ring of migratory pressure around Europe.” No dam can resist this pressure.

The problem with this picture is: it is false. It is based on wishful thinking. And it distracts from the challenge of achieving humane borders. Because decisive border control can work. It is not technical inability or some natural law of migration physics that prevents governments from stopping major migration movements, but their values and the interests they pursue.

This is exactly what tragically took place about 80 years ago in the middle of Europe. At that time, one of the great refugee dramas in European history took place at Switzerland’s borders. In the jargon of today’s migration literature, an immense “migration pressure” had developed in Switzerland’s neighbouring countries in those years on a scale seldom seen before. There

\* Excerpt from: Gerald Knaus, [Welche Grenzen brauchen wir? Zwischen Empathie und Angst – Flucht, Migration und die Zukunft von Asyl](#) [*Which Borders do we need? Between Empathy and Fear – Refuge, Migration and the Future of Asylum*], Piper, September 2020.

were many people who had to leave their homelands to save their lives: Jews and Roma, but also persecuted political opponents of the Nazis, sexual minorities and religious communities. Between 1938 and 1945, people seeking protection tried to cross the Swiss border secretly because they were refused legal entry. Tens of thousands were turned away and sent back. For many, this meant death.

In March 1938, after the “Anschluss” of Austria, an orgy of violence descended on the Viennese Jews, with arrests, expropriations and constant terror.<sup>4</sup> The German writer Carl Zuckmayer, who was living in Vienna at the time, was stunned by the destructive fury, which he described as a “witches’ sabbath of the mob and a burial of all human dignity”. Zuckmayer did the obvious sensible thing and fled by train to Switzerland within a few days.

The expulsion through terror of all Jews now became the goal of National Socialist policy. In Vienna, Adolf Eichmann headed the “Central Office for Jewish Emigration” of the SS from August 1938 onwards. The Jewish Community was forced to register those who sought to leave Austria.<sup>5</sup> Some who wanted to flee were even led by the Gestapo along unguarded paths to the Swiss border. They had to leave their belongings behind and were warned that if they returned they would be taken to a concentration camp.<sup>6</sup> Brutal repression, which became worse and worse by the month, accelerated the exodus. The pogroms of the “Reichskristallnacht” (Night of Broken Glass) on the night of 9 November 1938 led to mass arrests. In Vienna alone, 42 synagogues were destroyed, more than 4,000 Jewish businesses closed and more than 6,500 Jews arrested. Throughout the Reich, so-called “Aktionsjuden” were taken to concentration camps, with about 6,000 taken to the Sachsenhausen concentration camp north of Berlin. At the time, those who could claim to have a visa for emigration still had the opportunity to get out of the concentration camps.<sup>7</sup> Thus, the intentions of the Nazi regime were clear for the neighbouring states. A few days after the November pogrom, the State Secretary in the German Foreign Office, Ernst von Weizsäcker, explained to the Swiss envoy in Paris that the more than 500,000 Jews living in Germany “absolutely had to be deported somewhere, because they could not stay in Germany. If, however, as has been the case up to now, no country is prepared to take them in, then they would sooner or later face their complete annihilation.”<sup>8</sup>

In September 1939, the Second World War began. In 1940, France, the Netherlands, Belgium, Luxembourg and Denmark were occupied by the German army. From October 1941 onwards, the Nazi regime banned all Jews from leaving the country. The cruel logic of expulsion was replaced by the murderous logic of extermination. At this point, the systematic murder of Jews in Eastern Europe was already in full swing. In January 1942, at the Wannsee Conference in Berlin, the organisation of the killing of eleven million Jews throughout Europe was arranged. In June 1942, deportations from France to the concentration camps began. Now there was no place in Central Europe, except Switzerland, where Jews were safe.

One cannot imagine a stronger incentive – in clumsy academic jargon: a stronger “migration-promoting factor” – to flee than this situation. But tragically, the necessity to flee across borders did not mean the possibility to do so. For the Swiss strategy from 1938 onwards was also clear: the immigration of Jews was undesirable and should be resisted. On 31 March 1938, the Federal Department of Justice and Police (FDJP), which was responsible for this action, informed the cantons and embassies that it was necessary to prevent Switzerland “being overwhelmed by aliens” and the influx of “foreign elements”.



*A proud architect of the Swiss policy to return Jewish refugees to Nazi Germany:  
Heinrich Rothmund, head of Swiss Foreigner Police from 1929 to 1954.<sup>†</sup>*

From 1929, Heinrich Rothmund was the head of the police department in the FDJP responsible for immigration issues. He was also a committed anti-Semite. In 1938, he told a politician: “But we will not let ourselves be walked on, especially not by Eastern Jews ... in this, our view is probably entirely in line with that of our Swiss people.”<sup>9</sup> In January 1939, Rothmund wrote in a report: “We have not fought for twenty years against the increase of foreign infiltration and especially against the Judaization of Switzerland with the help of the Foreigners Police in order to have emigrants forced upon us today.”<sup>10</sup>

And so, on behalf of the government, Rothmund set to work. In the three weeks after the “Anschluss” of Austria, about 4,000 Austrian Jews had managed to flee to Switzerland with their regular passports. This now came to an end: on 1 April 1938, a visa requirement was introduced for Austrian passports. More than 14,500 applications for entry submitted to embassies and consulates abroad by people seeking protection were rejected in the following years.<sup>11</sup> Jews were only to be allowed to travel to Switzerland if it was guaranteed that they would be able to quickly leave again for another country. The only migration allowed by Switzerland was transit migration.

Nevertheless, many hundreds of Jewish refugees continued to cross the “green border” into Switzerland during the summer of 1938, not least at the Altrheinbogen near Hohenems between Vorarlberg and the canton of St. Gallen. Word got around in Vienna that people were crossing the border there. And indeed, in July and August, refugees were met there at the railway station by the Gestapo, robbed of all valuables and sent towards the border with the permitted 10 Reichsmark.

In Switzerland, this flow of refugees led to harsh reactions. Border controls were tightened. Rothmund turned to the German government. In August 1938, he wrote in a paper for the Swiss Federal Council that it was time “for Germany to be brought to its senses and prevent the illegal movement of emigrants once and for all.”<sup>12</sup> In order to identify Jews entering the country, Bern

<sup>†</sup> More about Rothmund: <https://www.kathbern.ch/pfarrblatt-bern-angelus-biel/pfarrblatt-bern/news-artikel/news/eine-wachsende-front-gegen-die-verjudung/detail/News/>.

and Berlin agreed in autumn 1938 that the Nazi regime would stamp a red “J” in all Jews’ passports.

In addition, border controls were tightened and those who helped anyone trying to flee were punished. In 1939, Switzerland declared a zone along the border near Basel a restricted military area where anyone attempting to flee would be shot. Those trying to help refugees across the border were persecuted, as well. A fisherman helping refugees on Lake Geneva was fatally wounded by a Swiss official. Customs officer Robert Matthey was given an eight-month suspended prison sentence for not deporting an Austrian Jewish woman back to France in 1942.

The most important measure Rothmund insisted on was the deportation of all Jews who tried to reach Switzerland via the “green border”. The government’s directive of 7 September 1938 was clear: all refugees without visas, especially those who were “Jews or very probably Jews”, were to be sent back with the remark “rejected” (refoulé) in their passports.<sup>13</sup> Countless unfortunates were stopped at the border and handed over to the German authorities. But even those whose onward journey from Switzerland was stalled had to fear deportation. Like the family of Bertold Berger, a dental technician from Vienna, who in autumn 1938 managed to escape to Switzerland across the “green border” with his wife Trude and their children Heinz and Fredi: “They wait in a reception camp for a visa for Uruguay. But the family is ‘deported’ from Switzerland after several months – the visa arrives only a few days later. The entire Berger family is deported to an extermination camp in occupied Poland and killed.”<sup>14</sup> In September 1942, the Geneva military police handed over a Jewish fugitive to the Germans, even presenting the Germans with the interrogation transcripts regarding his contacts in the Dutch resistance.<sup>15</sup> And not only Jews were handed over to their executioners. In September 1941, the army command informed the responsible authorities that “Russians”, be they officers, civilians or soldiers, “who find themselves at the border are to be deported back to the border with immediate effect.”<sup>16</sup> The Roma too were sent back, as were escaped Polish or Ukrainian forced labourers. Most of them were executed immediately by the Nazi state. The Swiss diplomat Walter Stucki wrote in 1941 against the background of the events in Europe: “The law has lost most of its power and power dominates the law.”<sup>17</sup>

Did the politicians who gave these instructions know what they would mean for the rejected? Yes, they knew. As early as July 1938, Rothmund wrote in a report to his superior about the “inhuman, calculatedly cruel treatment of the Jews in German Austria.”<sup>18</sup> In July 1942, an internal report from his office described the situation of the Jews as “so ghastly that one must understand the desperate attempts of the refugees to escape such a fate and can hardly justify a refoulement.”<sup>19</sup> On 12 August 1942, a Swiss daily newspaper wrote about the situation in Europe occupied by Germany: “One is in the process of systematically exterminating a race.” On 30 August, Eduard von Steiger, the Federal Councillor responsible for the police and Rothmund’s immediate superior, addressed 8,000 Swiss youths in Zurich. He explained why Switzerland could not take in anyone and why this was the only humane policy: “Anyone who has to command an already crowded, small lifeboat with limited capacity and equally limited supplies, while thousands of victims of a ship disaster are crying out for rescue, must seem harsh if he cannot take them all in. And yet he is still humane when he warns in good time against false hopes and at least tries to save those who have already been taken in.”<sup>20</sup>

Did those who carried out these instructions not have empathy? Yes, many had empathy. Police officers, residents of the border regions, cantonal politicians in Basel, Schaffhausen or St. Gallen. But it was of little use. The daughter of a customs officer recalled her father who, at the end of 1938, repeatedly brought refugees back to the border in Basel, where they were met with kicks and blows: “It was so much easier for those who sat in Bern to issue decrees – the others

had to carry them out.”<sup>21</sup> Another border guard explained: “Sometimes it was possible to help ... But we had to turn back a lot of people. Men, women, even children. It was a damn hard job.”<sup>22</sup> The son of a border guard near Basel later said of his father: “You see, when someone has to send 150 Jewish refugees – most of them children and women – back across the border, and he knows that they will be shot and gassed ... you can’t forget that. It comes back every night.”<sup>23</sup> The former head of the Swiss customs authority described heart-breaking scenes “that made it difficult or impossible for the border guards to carry out the expulsions. In these cases, the customs officer’s position was particularly difficult because, on the one hand, he had to carry out orders he disapproved of on humanitarian grounds, and on the other, because the civilian population witnessing these events, always sided with the refugees.”<sup>24</sup> He noted that even the police authorities, when personally approached by fugitives for help, often “decided in favour of the victims”.

This was also true for Heinrich Rothmund. At the beginning of August 1942, he visited the border with occupied France with senior officials. His group had received a call from a border post. What happened next he described in a report to his minister: “We went there and found Polish and Belgian Jews, all from Brussels ... It was a rather unpleasant company in both places. I considered whether I should order the expulsions ... But I didn’t want to make a decision off the cuff, and frankly I wouldn’t have been able to do it, as there were two lovely children there, and I had to believe that their lives would be in danger if they were turned back.”<sup>25</sup> In the face of “lovely children” Rothmund did not want to implement his own policy. He only did so again at his desk in Bern.

How many people became victims of this policy? It is not known, because after the war the authorities’ files on deportations were destroyed. In 1999, an independent commission of experts spoke of 24,400 documented deportations.<sup>26</sup> Historian Jacques Picard assumed that “up to 90,000 refugees were directly or indirectly sent to their deaths” as a result of Switzerland’s deterrence policy.<sup>27</sup>

From Rothmund’s point of view, however, his strategy was a great success. In November 1942, Rothmund proudly wrote to his superior: There “came the night of 9 November 1938 with its particularly ugly persecutions of the Jews. As a result, Basel and St. Gallen took in several hundred more refugees who had entered illegally, despite our constant protests. Then, at last, there was peace.”<sup>28</sup>

Rothmund’s “success” can be expressed in figures. From the beginning of the war in September 1939 until the end of the same year, only 45 civilian refugees were accepted in Switzerland. In 1940, there were 47. The following year, 120. During the entire war, a total of about 21,000 Jewish civilian refugees from all over Europe were accepted, the vast majority only in 1944 and 1945. Among them were only 2,203 Jews from Germany and Austria, about one percent of the 230,000 German and Austrian Jews who were murdered in the Holocaust.

The Federal Department of Justice and Police even succeeded in mitigating the “over-foreignisation” of the country, despite the extraordinary conditions of those years. Thus the proportion of the resident population in Switzerland of foreign origin, which had been 15 per cent in 1910, fell from 9 to 5 per cent between 1930 and 1941.<sup>29</sup> Rothmund, who died in 1961, lived to see it return to 17 per cent in 1960. In 2016, 25 per cent of the Swiss resident population were foreigners.

But Rothmund was not isolated with his strategy, neither in Switzerland nor internationally. For his policy to be implemented, a broad political consensus was necessary. And this

consensus existed: in the Federal Council, in cantonal governments, in the military leadership and among most diplomats. Moreover, other democracies acted no differently. The Netherlands tightened its border controls in 1938 and brought a bus with 70 Jewish refugees back to the “Third Reich” on Christmas Eve. Belgium asked the government in Berlin to build a barricade at the border to prevent Jews from fleeing to their country. Jews were deported at the Belgian border, as well.

Even democracies are capable of using brutal force to prevent refugees from entering their borders. Switzerland succeeded for years in stopping desperate people. But democracies can also learn from history. Today, Heinrich Rothmund and his superior Eduard von Steiger are dark figures.

The non-refoulement principle, which prohibits the refoulement of people in danger, was included as a central article in the Geneva Convention on Refugees in 1951, as were criteria for granting refugee status. This was intended to end the arbitrary way in which governments used the term “refugee” and to make only the question of the individual’s need for protection count. A refugee, according to the Geneva Convention, was a person who “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” Here every word was weighed: it was about well-founded fear of persecution and no longer about whether someone was French, Jewish or an escaped Russian prisoner of war. It was about individual persecution.

Since then, the principle of non-refoulement has been incorporated into more and more laws and conventions. Article 3 of the 1984 UN Convention against Torture prohibits non-refoulement: “A State Party shall not expel, deport or extradite a person to another State if there are substantial grounds for believing that he or she would be in danger of being subjected to torture there.” The commandment is based on a strong intuition: a person facing a real human being and experiencing his fear of torture and death face to face would want this to happen.

Only two-thirds of Austrian Jews managed to escape the Nazi regime, although this regime did everything it could to expel them. In Germany it was 60 percent. What would have happened if there had been no deportations from Switzerland? If the visa requirement for Jews had not been introduced? Would Swiss society have been prepared to take in 200,000 Jewish refugees? That would have corresponded to 5 per cent of the resident population at the time, an impressive but by no means unique figure. In percentage terms, there would have been about as many refugees as officially live in Turkey today, and much fewer than in Lebanon.

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<sup>1</sup> Zygmunt Bauman, *Die Angst vor den anderen: Ein Essay über Migration und Panikmache* (Suhrkamp, 2016), 13.

<sup>2</sup> Sascha Lobo, *Realitätsschock: Zehn Lehren aus der Gegenwart* (Kiepenheuer & Witsch, 2019), 65.

<sup>3</sup> Lobo, 78.

<sup>4</sup> Historian Saul Friedländer spoke of an „Austrian Model” of anti-Semitic violence: Saul Friedländer, *Nazi Germany and the Jews* (Phoenix, 1998), 241.

<sup>5</sup> Within 18 months, until the outbreak of the World War, almost 150,000 people left Austria.

<sup>6</sup> Seiler und Wacker, *Fast täglich kamen Flüchtlinge*, 39.

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- 7 Wolfgang Benz, *Gewalt im November 1938: die »Reichskristallnacht«, Initial zum Holocaust* (Metropol, 2018).
- 8 Seiler und Wacker, *Fast täglich kamen Flüchtlinge*, 43.
- 9 Independent Commission of Experts Switzerland – Second World War, *Die Schweiz und die Flüchtlinge zur Zeit des Nationalsozialismus* (Chronos, 2001), 48.
- 10 Independent Commission of Experts Switzerland – Second World War, 87.
- 11 Independent Commission of Experts Switzerland – Second World War, 134.
- 12 Wulff Bickenbach, *Gerechtigkeit für Paul Grüninger: Verurteilung und Rehabilitierung eines Schweizer Fluchthelfers (1938 – 1998)* (Böhlau, 2009), 55.
- 13 Independent Commission of Experts Switzerland – Second World War, 79.
- 14 Meinrad Pichler, *Nationalsozialismus in Vorarlberg: Opfer. Täter. Gegner* (StudienVerlag, 2014), 275 – 276.
- 15 Independent Commission of Experts Switzerland – Second World War, 147.
- 16 Seiler und Wacker, *Fast täglich kamen Flüchtlinge*, 78.
- 17 Independent Commission of Experts Switzerland – Second World War, 53.
- 18 Bickenbach, *Gerechtigkeit für Paul Grüninger*, 54.
- 19 Independent Commission of Experts Switzerland – Second World War, 93.
- 20 Georg Kreis, *Die Schweiz im Zweiten Weltkrieg* (Haymon, 2016), 136.
- 21 Seiler und Wacker, *Fast täglich kamen Flüchtlinge*, 47.
- 22 Seiler und Wacker, 14.
- 23 Seiler und Wacker, 128.
- 24 Claudia Hoerschelmann, *Exilland Schweiz: Lebensbedingungen und Schicksale österreichischer Flüchtlinge 1938 bis 1945: mit ca. 250 Einzelbiographien* (Studien-Verlag, 1997), 88.
- 25 Independent Commission of Experts Switzerland – Second World War, 128.
- 26 Independent Commission of Experts Switzerland – Second World War, 133.
- 27 Jörg Krummenacher, *Flüchtiges Glück* (Limmat Verlag, 2005), 240. For a further discussion of Swiss historians to this question: »Schweiz wies mehr Flüchtlinge ab als angenommen« von Jörg Krummenacher, NZZ (9. Juni 2017). <https://www.nzz.ch/schweiz/fluechtlingpolitik-im-zweiten-weltkrieg-schweiz-wies-mehr-fluechtlinge-ab-als-angenommen-ld.1299971>.
- 28 Stefan Keller, *Grüningers Fall: Geschichten von Flucht und Hilfe* (Rotpunktverlag, 2014), 162.
- 29 Independent Commission of Experts Switzerland – Second World War, 47.