A successful long-distance relationship: How the Higher Judiciary consolidated the *Sûreté Publique*'s 'absolute' powers over foreigners in Belgium (1830-1914)

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Résumé :

NL. De dienst Openbare Veiligheid (O.V.) controleerde vreemdelingen en zette ongewensten het land uit. Hiervoor rekende het op verschillende actoren, waaronder de rechterlijke macht. Dit artikel bespreekt de verhoudingen tussen beide instellingen op twee niveaus. Ten eerste, hoe hingen ze onderling van elkaar af op vlak van informatieverstrekking? Het toont aan dat correctionele rechtbanken, via informatiebulletins over vervolgde of veroordeelde vreemdelingen, een essentiële schakel vormden voor de O.V. om repressief op te treden. Omgekeerd rekenden rechtbanken niet op de O.V. om antecedenten te controleren of veroordeelden bij verstek te localiseren. Ten tweede bespreekt het artikel hoe de rechterlijke macht de bevoegdheid van de O.V. over vreemdelingen beïnvloedde. Het machtsmonopolie van de O.V. over uitwijzingen werd door lagere rechtbanken verschillende keren betwist. Deze vonnissen werden echter telkens aangevochten en uiteindelijk herroepen door het Hof van Cassatie. De analyse van de verhoudingen bewijst dat het concept « crimmigration » diepgeworteld zit in het bureaucratisch apparaat van moderne natiestaten.

FR. Au cours du 19e siècle, la Sûreté Publique (S.P.) contrôlait les étrangers et expulsait les « indésirables ». Pour ce faire, elle s'appuyait sur différents acteurs, dont le système judiciaire. Cet article analyse deux aspects de la relation entre ces deux institutions. Premièrement, leur interdépendance quant à l'échange d'informations pour leur bon fonctionnement respectif. D'une part, grâce au bulletin de poursuite ou de condamnation à charge de l'étranger, les tribunaux correctionnels représentaient une source d'information clef pour la S.P., lui permettant d'agir de façon répressive. D'autre part, les tribunaux ne comptaient pas sur la S.P. pour s'informer sur les antécédents des étrangers ou de localiser des condamnés par défaut. Deuxièmement, l'article analyse à quel point le système judiciaire a influencé l'autorité de la S.P., en particulier son monopole sur les expulsions. Divers tribunaux ont contesté ce monopole, mais leurs verdicts ont été contestés à chaque fois et finalement révoqués par la Cour de cassation. L'étude de cette relation démontre que le concept de « *crimmigration* » est fermement enraciné dans l'apparat bureaucratique de l'État-nation moderne.

Mots-clés : Migration, criminal justice system, expulsion, discrimination, crimmigration.

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1. Introduction

How welcoming has Belgium been towards foreigners?1 This is a keenly debated question ever since Anne Morelli debunked the myth of Belgium as a safe haven by analysing the admission and rejection of political refugees. Subsequent research uncovered the legal and institutional framework that enabled Belgian authorities to draft and implement migration policies. Scholars have continued to unravel the myth, some by deconstructing it even further, while others have started restoring it.2 Yet as Coppens and Debackere pointed out, the analysis has been focusing one-sidedly on the legislative framework and the intentions of the central authorities, based on laws, parliamentary debates and files of the *Sûreté Publique* (S.P.), which was responsible for enforcing policy. They convincingly argued for an expansion toward other institutional actors involved in the process in order to improve our understanding about these institutions' interest in migration policies, how they coincide with those of national institutions, and their impact on the stay of foreigners.3 In doing so, Coppens and Debackere refute many a bold statement by showing that it was in fact based on little empirical evidence. For instance, scholars claimed that local authorities had diverging interest and showed little concern to enforce national guidelines, which was an important weakness of the central administration.4 Conversely, Coppens and Debackere showed that local administrations of Brussels and Antwerp collaborated closely with the S.P. Further research confirmed that rural areas were less proficient than urban centres, but that they nonetheless monitored foreigners closely. This shows that the lack of communication by smaller towns was compensated by more reliable actors, in this case city authorities and the gendarmerie. It suggests that the S.P. turned an alleged weakness, having to rely on other actors to carry out its policies, into one of its strengths. In addition to local authorities, the S.P. leaned on customs agents, maritime police, the gendarmerie, prison wardens, hospital directors and courts as principal state actors. Preliminary results of how the S.P. incorporated these various actors to monitor foreigners indicate that this multitude of actors increased the number of loopholes in the monitoring system, but, more importantly, also greatly improved the S.P.'s efficiency in closing them. The involvement of various actors ensured that neglects, errors and even dysfunctional actors often stood corrected by functional ones, and that these various sources of information allowed the S.P. to close in on undesirable subjects.5

Much research still needs to be done on these various actors to attain the same level of analysis that uncovered the close relationship between local administrations and the S.P. This article is a first step in unravelling the collaboration between the S.P. and the judiciary. It does so from the biased perspective of the S.P., using some general files on the issue, but also individual files of migrants. The latter were opened by the S.P. for every reported foreigner who stayed longer than fifteen days in one community since 1839.6 In doing so, it aims to redress the view that the judiciary limited the administrative power over aliens by restricting the scope of immigration policy7: it shows that the Court of Cassation repeatedly confirmed the absolute power of the executive, and thereby the S.P., over expulsion. This sidelined the judiciary for an essential part of migration policy and seemed to have discouraged lower courts from weighing in on the matter at all. To corroborate this hypothesis and other insights presented in this article, we need further research based on the perspective of the judiciary. So far Belgian migration historiography has overlooked the potential of sources produced by the judiciary (e.g. court reports, la *Belgique Judiciaire*, etc.) to test whether

foreigners were treated differently before the courts and, to what extent their decisions abided by or questioned national polices. Peter King has done exactly this for the case of London, and showed that the criminal justice system had a serious tendency to discriminate against migrants.8 Yet his analysis does not capture how expulsion, a critical tool to regulate migration flows in nineteenth century Europe, strengthened this discrimination.9 Scholars looking at the intersection of immigration law and criminal law, coined as 'crimmigration', highlight that aliens are denied privileges that citizens enjoy, spurring their criminalization and deportation.10 This article confirms the discriminatory bias towards aliens for Belgium on an institutional level by discussing first how the S.P. operated in general, before zooming in on how it integrated the judiciary to monitor and repress foreigners. It shows that the S.P. successfully imposed a special administrative treatment for foreigners, highlighting their otherness during judicial proceedings. Secondly, the article also details how the S.P. fended off any attempt by the judiciary to intervene in its quasi-exclusive powers on expulsion procedures.

2. The place of the judiciary in the S.P.'s monitoring system

The S.P. was established in the wake of the Belgian independence to safeguard public order and control foreign insurgents. Its authority was based on a narrow and ambiguous legal framework, consisting of some decrees from the French period and the 1835 Foreign Resident Law. These provided the S.P. with a lot of leeway to monitor and expel undesirables. Its staff was, however, limited to about twenty agents due to budget constraints.11 Nonetheless, during the 1840's, administrator Hody turned the S.P. into a well-oiled administrative machine. He expanded its powers from monitoring aliens who raised political concerns to controlling all foreigners on Belgian soil. Hody developed a multi-layered monitoring system which still persists to this day. The first layer consisted of customs agents and maritime police commissioners who composed lists of people entering the country at the border. The second and most essential source of information were local authorities, who were required to provide guest lists of foreigners who stayed for less than two weeks and an extensive *bulletin de renseignements* of anyone staying longer. The latter contained information on the identity, mobility, resources and behaviour of the foreigner. Any subsequent change in civil status or departure had to be reported. Next, the S.P. also checked the identity and antecedents of immigrants with state officials from their place of birth or last place of residence.12 Based on this information, the S.P. decided whether the foreigner was allowed to stay or ordered to leave the country. This can be considered the preventive line of information, which was seconded by a repressive one.13

This is where the judiciary stepped in as the fourth prominent actor. It informed the S.P. about the deviant behaviour of foreigners via the *bulletin de poursuite ou de condamnation à charge de l'étranger*. The bulletin contained a standard set of about twenty questions on the identity, civil status, profession, behaviour, previous convictions, charges and final verdict of the prosecuted foreigner. To limit the dataflow, only severe offences appearing before misdemeanour courts were to be reported. Petty crimes treated by police courts would have overflown the S.P. Vagrancy, however, was one important exception within this category. Representing no less than 77% of all expellees, the repression of foreign vagrants was entrusted to the S.P.'s most reliable partner, the gendarmerie. It was responsible for road and border security, and was therefore asked by the S.P. to interrogate suspicious subjects and screen lodging houses on the countryside to prevent foreigners from penetrating the country. Since the gendarmerie was also responsible for escorting expellees to the border, the S.P. transferred its power to expel foreign vagrants to the gendarmes to expedite

the process. As we will see, the S.P. was extremely protective of its powers. Hence, the fact that they delegated it to the gendarmes emphasizes the excellent working relation between these two institutions. The latter sent specific reports on foreign arrestees containing information on the arrest, the identity and mobility of the foreigner, allowing the S.P. to monitor recidivism. Directors of hospitals were also obligated to report the admission of foreigners, yet individual files indicate that this sixth source of information was the least reliable one. Conversely, prison wardens, the seventh systematic information provider, were much more meticulous in sending reports of admission of each foreign inmate and trimestral lists of those coming up for release. The latter allowed the S.P. to arrange expulsion when deemed necessary.14

However, these seven layers: border patrol, local authorities, foreign state officials, the judiciary, the gendarmerie, hospitals and prison wardens were not the S.P.'s only informants. Civilians for instance also played an important role, both in denouncing foreigners to provoke expulsions as in defending their rights to stay, yet in a much more ad hoc way. Combined, these various flows made it more difficult for foreigners to remain under the radar. They also exposed oversights and dysfunctional actors in the system, allowing the S.P. to summon them to more administrative discipline. For instance, certain people who had not been reported by local administrations came to the fore via court bulletins. This allowed the S.P. to inquire about this neglect and demand a *bulletin de renseignements* to instil administrative discipline. For example, Michel Charlemagne remained unknown to the S.P. until the prosecutor of Charleroi sent a bulletin about his conviction. This French mine worker had lived in various Belgian communities for two years, including Carnières, but had never been reported by local administrations. The prosecutor's report enabled the S.P. to expel him, ask the mayor of Carnières to keep an eye out for a potential return, and remind him of his duties to report foreigners.15 From their part, prison wardens sometimes brought inmates to light for whom no *bulletin de poursuite ou de condamnation* had been sent. Here as well, the S.P. reminded the prosecutor about the guidelines to complete its records.16 The files indicate that the courts often took the title of the bulletin literally and sent a bulletin at the beginning or the end of the proceedings, but not always both. For instance, the prosecutor of Charleroi only sent a bulletin on Michel Charlemagne in early March, while his case for obstructing the access to a workplace had opened on January 26 and his sentence to eight months by default followed two weeks later.17 The S.P. also sometimes did not receive a follow-up on the outcome of the proceedings, which was essential to arrange a possible expulsion. The case of Joseph Guillot illustrates that, time and time again, the S.P. needed to contact the courts for information. On one occasion, the prosecutor of Brussels left five different requests for information on Joseph's sentence for violating his expulsion order unanswered over a time span of eight months. The S.P. turned to prison wardens to find out that he had been convicted to a ten-year sentence by the *cour d'assises* in Ghent. It reprimanded the prosecutor and demanded a bulletin from which it learned that Guillot had also unsuccessfully taken his case to the Court of Cassation. A month later, the prosecutor of Brussels finally answered that the case for violating his expulsion order never reached a verdict because of his transfer to Ghent.18 Other than reiterating requests, the S.P. had no means to compel or penalize such neglects, putting it in a weak position.

However, in general, communication with the judiciary was more consistent than with local authorities, as courts had a more rigorous and uniform administrative discipline. The fact that several administrators of the S.P. had been recruited from the judiciary facilitated collaboration between the institutions. But even then, communication remained unbalanced. The S.P. relied heavily on prosecutors as a source of information to repress foreign criminals, but the converse

was not the case. The individual files indicate that prosecutors considered themselves as suppliers of information to the S.P., but did not valorize the latter as a source of information on foreigners' legal antecedents or as a means to help track down people convicted by default. Bulletins sent after the sentence, such as Michel Charlemagne, highlight the fact that the S.P. was not seen as a possible source on the defendant to help build a case. In fact, letters requesting such information to the S.P. are very rare. In some cases, prosecutors even inquired about legal antecedents abroad directly through foreign colleagues, and did not bother sharing their new-found knowledge with the S.P.19

From its part, the S.P. tried to convert this one-sided flow into a consistent exchange of information. When receiving a bulletin, it notified the prosecutor on mistakes and completed missing information, including legal antecedents. When a foreigner convicted by default reappeared on its radar in another judicial district, the S.P. notified prosecutors to enable them to impose the sentence. For instance, when Gerrit Jan Groeneijk was suspected of theft on November 11, 1876, the S.P. immediately received a bulletin on the misdemeanour from the court of Brussels, signed by a police officer, not the prosecutor. The police officer had no knowledge of any legal antecedents in Belgium or abroad, and had recorded nothing unfavourable against Gerrit since his arrival eight months earlier. Nearly four months later, another bulletin followed, this time by the prosecutor, announcing a three-month sentence by default on the day of the verdict. The S.P. inquired with the local administrations of Schaarbeek, who had reported his arrival shortly after the theft had occurred, whether Groeneijk still resided there, and if not, when he had left and whereto. They replied that he was still registered at 20 rue Gaucheret. This illustrates that the S.P. followed up on incoming information to closely monitor foreigners in preparation of a probable expulsion. The S.P. seemingly waited for a bulletin from a prison warden, confirming Groeneijk's sentence and arrest, to decide about his expulsion. Yet after waiting four months, the S.P. asked the prosecutor whether the verdict had been finalized and if so, whether it had been imposed. No further appeals were possible, but they had not been able to locate Groeneijk.20 The case shows that the judiciary did not rely on the S.P. in order to do so. Undoubtedly, the prosecutor also had access to information on the convict's last address via local administrations. Nevertheless, this double work questions the administrative efficiency of this process, and leads to the question why the prosecutor did not rely more on a police force that was specialized in monitoring foreigners.

However, the S.P. did not give up that easily. Four years later, the administrative commission of hospitals in Namur reported that Joseph Gérard Groeneijk had been admitted, referring to a *bulletin de renseignements* of the local authorities for more details. Yet, this bulletin had not been sent and was only composed on the S.P.'s request. It confirmed that the patient was indeed Gerrit Jan Groeneijk. Referring to their previous correspondence, the S.P. immediately notified the prosecutor of his current address. It took another three weeks before the S.P. received a bulletin of the prison warden confirming his arrest to sit out his three-month sentence.21 The case illustrates once more how the various sources of information covered for each other. It also highlights the relentless zeal of the S.P. to demonstrate its usefulness for the prosecutor to pursue foreigners. Nevertheless, this was to little avail, as the judiciary failed to introduce automatic preprinted requests to document antecedents or track foreign convicts by default via the S.P. The prosecutors welcomed any information coming in, but hardly ever demanded any, nor did they follow up on an eventual expulsion, which pertained to the exclusive authority of the S.P.

The case of Groeneijk also exemplifies that, at times, it spared no effort to collect information before coming to a decision. As soon as he was detained, the S.P. asked the prosecutor to send the entire

file on his case and a copy of his wedding certificate from the local authorities of Schaarbeek. The latter confirmed his wedding to a Belgian woman on December 16, 1876. The case file revealed that the theft concerned bed sheets and a blanket. Groeneijk sent several letters from prison in which he expressed his regret for this act. He confessed to having moved to Paris with his wife to avoid detention. They had returned to be with her family now that they had a child. Having deserted from the Dutch army, he considered Belgium his new adoptive country. The S.P. gained extra information on his behaviour in Rotterdam and Paris. Groeneijk had not returned to the Netherlands since his desertion and had a clean record before that. The Paris police prefect found no legal file on him, and inquiries in areas where he had stayed revealed nothing unfavourable. Although according to the Foreign Resident Law, nothing prevented the S.P. from expelling him by royal decree, the administrator granted him a second chance by exception.22 Between 1835 and 1913, the decision fell the other way in 340,000 cases. With some annual peaks of 10,000 expellees, this exceeded major immigration countries such as France and the United States, while Belgium's emigration still exceeded its immigration. These staggering numbers are in part linked to the absolute power of the S.P. over the expulsion process, which was twofold: by royal decree and by administrative procedure.23

Residents could only be expelled by royal decree when they had committed certain crimes or disturbed public order. The procedure implied a motivation of the S.P.'s decision to the King and the minister of Justice, pending on their approval. This practice indicates that this was generally a mere formality. Occasional concerns in parliament about the S.P.'s discretionary powers over expulsions by royal decree imposed that these needed approval from the Council of Ministers (1865) and were to be summarized in yearly reports before parliament (1871).24 However, in practice, these measures only applied to the small minority of political refugees, adding very little supervision on how the S.P operated.25 Nonetheless, the finalized decision needed to be made known officially through a process server. Local authorities supervised whether the person followed the order and called upon the gendarmerie for removal by force when needed. Expelling by royal decree formalized, extended and increased the costs of the process. However, the main advantage of this procedure was that it carried sanctions of 15 days to 6 months' imprisonment when the expellee returned to Belgium. This is the last important part for which the S.P. relied on the judiciary. The S.P. notified the prosecutors of such cases and send them the documents required to charge foreigners with '*rupture de ban*'.26 Prosecutors treated these as a mere formality, imposing short sentences on the first offence and gradually increasing them for recidivists. The fact that, eventually, only 15,428 foreigners were expelled by royal decree, less than five percent, highlights two issues.

The first is that only a fraction of residents was expelled, especially when considering that the procedure by royal decree also applied to non-resident criminals like Guillot or against recidivist vagrants. Foreigners arrested for vagrancy lost all residency claims, which meant that the S.P. had no legal obligation to use the extensive procedure. Still, the S.P. applied it on vagrants who continuously returned to Belgium in order to criminalize their reentry and impose prison sentences to dissuade them. With the reform of vagrancy laws of 1891, the obligation to expel foreign vagrants upon arrest disappeared. Parliamentary debates motivated this decision by stating that it was inhumane in some cases and practically unfeasible in others. The S.P. usurped this clause to send the keenest recidivists to beggar workhouses for various months to add an additional dissuasive tool in addition to prison sentences. Beggar workhouses quickly complained about being overflowed, and the S.P. scaled down the practice after a few years, but still retained the option for certain cases.

Secondly, the low figure does not mean that the Foreign Resident Law offered residents good protection against expulsion. Conversely, as residency was not legally defined, the S.P. usurped its powers and the Foreign Resident Law to only attribute this status to a very limited number of foreigners.27 The fewer people were given this status, the more freely the S.P. could remove them via the administrative procedure. The latter occurred fully at its own discretion and was more expedient. The procedure by royal decree took several weeks, while the administrative procedure allowed same-day expulsions. Most occurred under the escort of the gendarmerie, which provided a guarantee that the expellee actually did leave the country. Such orders did not have to be sanctioned by anyone else. The administrative character of the procedure implied that it was not a punishment, impeding any penalties on returnees. This inconvenience did not outweigh the benefits, explaining why the overwhelming majority of expellees, 324,522, were removed via this procedure. It shows that the S.P. keenly cherished its discretion.

3. Keeping the judiciary out of the S.P.'s expulsion system

The law was not only ambiguous about residency, it also did not define what a threat to public order was exactly. Legislators repeatedly complained about the lack of a clear categorization of acts that should be considered as such, mainly because it granted the government too broad discretionary powers to dispose of undesirable foreigners.28 Touching upon its core task, safeguarding public order, the S.P. keenly countered these protests and defended its discretion. It used documentation of previous parliamentary debates, yearly reports on expulsions, views of former ministers of justice and its own archives, especially the individual files, to corroborate precedents based on a broad interpretation. The S.P. used the individual files to create its own jurisprudence. Its opponents had much less access to such information, which undermined their position and efforts to delimit 'threats to public order'. The S.P. gained support by pressing the rhetoric that a narrow interpretation limiting the procedure to political activists and criminals committing offences justifying an extradition would allow a broad range of foreign undesirables to remain, such as vagrants, pimps, bookmakers and courtesan women.29 It also risked reducing the S.P. to a repressive agency, while its whole purpose was to act preventively and remove people who by their mere presence represented a threat to public order.30

The subject of defining threats to public order was linked to the most crucial and recurrent question dominating parliamentary debates: whether or not to implicate the judiciary to check the far-reaching powers of the executive, especially on expulsions. As the analysis of these debates has shown, a minority of legislators advocating the rights of foreigners and demanding the judiciary to be involved, were always successfully countered by the ministers of justice and a majority of legislators who considered the rights of foreigners as completely subordinate to the interests of Belgians and its institutions. They defended their stance by pointing out that involving the judiciary was a violation of the strict separation of powers. Only the government had access to all the necessary information to decide how to manage foreigners in function of the common good. Interventions of the judiciary would slow down the S.P. and obstruct prejudicate its operations, which often required immediate action to face threats. The judiciary could only act on concrete cases and would require a much more detailed legal framework to operate, including a detailed description of 'a threat to public order'. Yet this had already proved to be against the interest of state security, as the S.P. sometimes needed the leeway to expel people even if they had not committed a violation against the penal code, something the judiciary was incapable of doing. In the end, if foreigners needed to signal abuses, they could turn to the press instead of the judiciary.

In short, the foreigner as a political threat persisted in parliamentary debates, even when Belgian independence was well established. This rhetoric of the majority of legislators served to justify the extended control the executive power retained over foreigners.31 Expulsion was an administrative measure belonging to the executive and not a punishment which courts could impose as part of a sentence. The judiciary could not intervene to judge on the grounds of individual expulsion cases or procedures in general. Belgian authorities copied this practice from France, and so did Switzerland and Italy.32 However, Belgium took it one step further: as advocated time and again by the executive, expelling foreigners was its undisputable and superior right, inherent to state sovereignty.33

This had certain practical implications for the foreigner. Other than a court order, the administrative decision to expel (1) did not have to be motivated to the expellee, (2) nor could it be appealed outside the S.P. Furthermore, foreigners (3) could be expelled without a prior conviction in courts. Coppens observed that the lack of legal provisions to motivate or appeal expulsion, stripped foreigners of all rights.34 The Belgian constitution protected its citizens' civil rights by detailing the organization of the judiciary and its procedures, including the fact that hearings were public (art. 96) and sentences needed to be motivated (art. 97).35 Yet this did not apply to foreigners when being expelled. In addition to this, contemporaries such as the police of Sint-Joost-ten-Noode perceived the procedures as a violation of civil rights. When being reprimanded for revealing the reason of expulsion to the foreigner, the local police officer apologized but also defended himself. He pointed out that in any situation infringing on individual freedom, it was customary to hand over a copy of the order with the motivation. The S.P. made it clear that foreigners fell under a rule of exception and to direct anyone inquiring about the motives to their offices.36 People requesting motives in writing received the same advice. The general guideline was not to give any written explanations at all. Officially, the S.P. fended off such correspondence for being endless and too time consuming compared to discussing matters in person.37 Officiously, however, the files show that failing to motivate the decision prevented the S.P. from creating written records delimiting the reason to expel, and hence creating legal precedents which could potentially restrict its discretion. Moreover, it made it much more difficult for foreigners to appeal the decision. For instance, Felix Vidal, who was also left guessing about the reason of his expulsion, justified his desertion from the French army and his delay to register with local authorities, hoping to redress the decision. He did not defend his legal antecedents in France, which were the cause of his expulsion. Felix was probably unaware that the S.P. ran background checks abroad. The case highlights the difficulties of fighting an expulsion without knowing the reason. His request for clarification remained unanswered, just like that of Gustave Moulin and many others.38 Only by the turn of the century did the S.P. loosen its policy somewhat. It started communicating the motives when these were irrefutable, for instance for foreigners with legal antecedents. Yet this occurred only on request, and the S.P. continued to avoid disclosing more debatable decisions.39

Lawyer Van Caster protested against the confidential nature of the proceedings in the press, the lack of motivation and the fact that most expellees could not appeal the decision. Only the happy few could hire a lawyer to defend their case with the S.P.40 The example of a well-connected Russian renter, Vladimir Wiskovatoff, illustrates that hiring a lawyer helped to be heard by the S.P. However, this did not mean that the S.P. would reopen its investigation or reverse its decision. The individual files show that people with modest revenues could in some cases enjoy legal representation, as sometimes lawyers also represented lower classes, such as servants.41 Van Caster also overlooks the agency of the foreigners themselves and other actors aside from the lawyers, that they

mobilized to intervene on their behalf. It was not uncommon for people to plead against their expulsion in writing to the S.P., the minister of justice or the King. As the Groeneijk-case showed, this also happened as an attempt to influence the S.P.'s initial decision. The S.P. considered all the requests more or less equally, showing that foreigners from modest backgrounds also found ways to be heard and get a second opinion. Sometimes new elements caused the S.P. to revise the case and, exceptionally, reconsider its decision.

In addition to lawyers, a broad range of other actors intervened on behalf of expellees. Spouses, children or parents often appealed on humanitarian and economic grounds, to prevent family separation. Employers at times supported the appeal of the expellee arguing that they were about to lose a valuable worker.42 Sometimes local mayors wrote in favour of a member of their community.43 The higher the social status of the expellee, the more likely prominent people within the social network intervened. These varied from business relations and bankers, to notaries, priests, representatives of philanthropic organizations, etc. Especially (former) members of parliament were often asked to plead on their behalf.44 Officials of foreign nations, not in the least diplomats, also acted as challengers.45 All these actors underline the agency of the foreigners to stay or reverse the decision to expel. After hearing such appeals, the S.P. sometimes granted limited delays, especially for business purposes, but reversals were rare. Only people who visited the offices of the S.P. heard a motivation. Those pleading in writing only received a notice of acceptance or rejection. Generally speaking, the evidence attributes more agency to migrants and their network than Van Caster did.

There are various reasons for this low success rate: (1) most expellees did not know the motives that needed to be disproved, (2) the unclear definition of a threat to public order allowed the S.P. to expel people on mere suspicion of committing future undisclosed acts, some even outside the penal code, (3) unless serving a sentence, expellees only received several days to a few weeks to file their appeal, forcing some to do so from abroad post-factum to obtain the permission of return, which weakened their position, (4) the majority of vagrants expelled immediately on police orders never even received this opportunity beforehand, (5) most did not contract legal representation, and finally (6) the appeal was heard by the same people who took the initial decision. Reversing an expulsion could be interpreted as admitting a poor initial judgment, which weakened the authority of the S.P. Moreover, the institution thanked its existence to the expulsion of undesirable migrants, and thereby saw its self-importance reaffirmed with each successful removal, and dented by each reversal. These elements back Van Caster's claim that foreigners had no proper means of appeal, and needed protection from the judiciary.46

The S.P. relentlessly opposed such intervention to protect its powers. An in-depth comparison of expulsion practices in other countries can shed some more light on the level of the usurpation of the S.P.'s powers over the judiciary. The growing literature on the Netherlands and France indicates that the judiciary was more involved in neighbouring countries. Dutch judges ruled on the expulsion orders of all foreigners, before the Foreigners Law of 1849 categorized vagrants as exceptions in order to expedite their removal. Henceforth, Dutch law enforcers decided on the expulsion of foreign paupers who did not receive permission to travel at the border or to sojourn in a community. They did so without consulting a central police force like the S.P., which was only established in the Netherlands during the *interbellum*. Courts retained their power of decision on non-vagrants, including locally registered foreigners who had run out of resources. For those threatening public order, the King took the decision with consent of the parliament. The only measure that restricted the role of the judiciary somewhat was an order by the Dutch minister of justice to restrain the

issuance of sojourn permits for some categories of undesirables, such as itinerant musicians, fair keepers, etc. Further research is needed to establish the true impact of this policy on sidelining the judiciary for these cases. Nonetheless, in the Dutch institutional framework, registered migrants heard the motives of their expulsion publicly in court and had many more opportunities to defend and appeal their case. Final decisions were published in the '*Algemeen Politieblad*', a weekly official journal issued by the minister of justice since 1852. While aiming to fight recidivists, it also highlights the transparency of the system. Expulsion from the Netherlands occurred with much greater involvement of the judiciary, transparency, and respect for the individual rights, compared to Belgium.47

France also passed a new law regulating foreign mobility in 1849. Only expulsions for political motives were withdrawn from the judiciary and placed under the exclusive power of the executive. All others appeared before courts, even foreigners expelled for vagrancy. Regional analysis of expellees shows that less than 4% of the expellees were removed without a court conviction before WWI. This does not mean that a conviction automatically led to an expulsion. At the turn of the century, only about 25% of foreign convicts were eventually removed from interior departments, and just under 40% from border departments. Convictions for vagrancy especially were likely to lead to expulsion, with rates of around 60%. In theory, the decision to expel, taken by the prefecture, needed to be based on an investigation of the antecedents, employment and social network. In reality the prefecture admitted that it did not have the resources for this. They founded their decisions on: (1) the motives of prosecution, (2) whether the judge held the person in preventive custody during the trial, which the prefecture interpreted as an extra motion of distrust and (3) the final verdict. This explains why about 80% of expulsion orders were issued in prison. The other 20% were issued to people without a social network and employment, with high risks of becoming a public charge. Length of stay, military duties or patriotic sentiments mattered very little in the decision of the prefect, which in general the minister merely confirmed.48 Hence, the French judiciary played an even bigger role in expulsions than in the Netherlands.

Belgium went much further to expedite the expulsion of foreigners by excluding the judiciary. Contrary to France, most vagrants did not appear before police courts, and pleas to copy the French model were dismissed by the minister of justice Bara in parliament in the early 1880s. Integrating the judiciary in expulsion procedures had been discussed many times, but always led to the same negative conclusion, according to Bara. He argued that letting vagrants appear before the police court did not change the need to get rid of them. Magistrates had enough on their hands already, and did not need the extra charge of expellees. Moreover, their involvement brought the big issue that judges could only base their decisions on clear facts and laws, making it far less competent to decide on the matter than the S.P., which incorporated many other parameters.49 The lack of need for a conviction for foreigners to be expelled was extended to other categories than vagrants. The S.P. advocated a hard line to prevent Belgium from becoming a safe haven for people dodging prosecutions. For instance, people who were merely prosecuted abroad while present in Belgium could be expelled before the final decision. The S.P. argued that, as only a minority were acquitted, it was preferable for both the foreigner and the authorities to get rid of such people right away, rather than after some months. Who was allowed to stay to face trial was left to the discretion of the S.P. Its decision depended on the charges and the means of existence of the foreigner. The same logic was applied to people for whom the antecedent research had revealed that they were facing trial abroad. Even an acquittal did not necessarily mean that the person was not removable, as during the prosecution new information independent of the ongoing case may have come to

light.[50] For these reasons, judges transferred the decision on releasing foreigners to the S.P.[51] The whole premise of expelling people based on their mere presence, not their acts, went back to the passport laws during the French period. These stipulated that foreigners could be summoned to leave the country if their presence disturbed public order. Even after repealing the passport laws in 1861, this principle remained in effect.[52] The sidelining of the judiciary is also exemplified by the fact that, when expellees by royal decree returned to Belgium, prosecutors could not even pursue them as long as the S.P. had not ordered them to do so.[53] Judges decided about the length of the sentence for violating the expulsion order, but nothing else.[54] The judiciary had no power of decision over expulsion and the highest Belgian court, the Court of Cassation, repeatedly confirmed the full discretion of the executive power over the issue. During parliamentary debates, the ministers of justice, such as Bara and Tesch, repeatedly referred to decisions of the Court of Cassation as a sweeping legitimization of the ongoing procedures.[55]

Still, the fact that some expulsion cases made it to the Court of Cassation, indicates that courts sometimes accepted to hear foreigners who challenged a decision. Legally, courts could only accept cases if the plaintiff challenged the expulsion for being a citizen or to claim the status of exception attributed by the Foreign Resident Law.[56] A broader screening of the individual files in connection with general files and *La Belgique Judiciaire* is needed to reconstruct a complete overview of the jurisprudence about this topic. Sporadic evidence suggests that various aspects of the procedure were challenged in court. The S.P. consequently appealed any interference of lower courts up to the Court of Cassation, which judged on conflicts of authority between the judiciary and the executive powers. It did not judge about the facts of the case, but about the legality of court decisions, which it confirmed or annulled. The S.P. always fended with the argument that courts could not interfere with the executive powers' decisions to expel, a crucial principle upon which the S.P. vested its powers and functioning.

The most notorious case, the only one that historians have discussed, is that of an English servant, Marguerite Jones. She arrived from England with her employers, the Griffith family in March 1845. The Griffiths moved on to Germany, but Marguerite did not follow them. By June, the local authorities found her without means and received the S.P.'s approval to order her to leave the country. Refusing to do so, she was arrested to be removed by force. Miss Jones challenged her expulsion in court by claiming residency, and therefore being only eligible for expulsion by a royal decree. The judge accepted to hear her case, preventing her forced removal by the gendarmerie. He ruled in her favour based on the constitutional rights of individuals on Belgian territory, and denounced the excessive arbitrary powers of the S.P. Seven months later the decision was reversed in the first instance court that considered the complaint of Jones as unfounded. However, she successfully defended her case in the Court of Appeals in Brussels, and the S.P. was sentenced to 300 Belgian Francs of damages.[57] Many elements of the case remain unknown, not least where a servant got the knowledge to appeal her expulsion based on procedural errors. Scholars have focused on the court rulings about residency in this case and on which legal text regarding expulsions were considered and hence confirmed by the courts. However, they have overlooked the key part of the ruling issued by the Court of Cassation.[58]

The S.P. successfully took the case to the higher judiciary, which nullified the previous verdicts on the following grounds: firstly, the Court of Cassation established that, if courts were deemed incompetent to rule on the actions of ministers, this principle should always be extended to high officials to whom they transferred part of their responsibilities, such as the administrator of the S.P.

By sanctioning the S.P. for hypothetical illegal actions, the Brussels Court of Appeals went against its own doctrine in previous rulings, and violated articles of the constitution and the civil code. For the same reasons, the gendarmes could also not be pursued for trying to escort her to the border by force, as they acted on executive orders. Secondly, the Court also voiced its opinion about the legal framework that applied to foreigners. Although the civil and penal codes did give foreigners the constitutional protection given to persons and their belongings, these were subordinate to laws that policed foreigners and secured state security by imposing conditions of entry and stay. Local authorities and the judiciary had no authority on these conditions, which fell exclusively under the responsibility of the government. The 1830 decree had granted great discretion to the executive powers regarding the expulsion of foreign travellers and residents. It was not abrogated by the Foreign Resident Law of 1835, and thereby given a permanent character. The Court distinguished 1) foreigners who arrived and could be accepted or denied entry under the passport laws, 2) foreigners without means, who could be expelled under the 1830 decree and 3) foreigners with means who resided in Belgium, falling under the 1835 law. All legal texts prior to 1835, including those from the French rule, still applied, but since the new law, residents with means could only be expelled by royal decree. The Court ruled that Jones could not be considered a resident because she never reported herself to the local authorities, remained clandestinely and failed to obtain permission to sojourn from the S.P. It referred to an 1835 court ruling stating that a person can only be considered a resident when she establishes herself somewhere and manifests her will to sojourn. The latter always needed approval from the S.P. Failing to register, lack of identity papers and means of existence were all independent valid arguments to expel Miss Jones via administrative procedure.59

This crucial ruling confirmed that the constitutional rights attributed to foreigners were subordinate to the laws that policed their entry and stay. It also upheld the legality of the ambiguous legal texts upon which the S.P. justified its practices of monitoring and expelling foreigners. The Court of Cassation further consolidated the strict separation of powers, confirming the S.P.'s exclusive authority over expulsions, and sidelining the judiciary completely. The ruling expressed an inclusive interpretation of residency, yet the S.P. used its discretion to apply a much stricter one. Subsequent cases, which the S.P. consequently appealed to the Court of Cassation, only confirmed this legal and institutional framework. In 1853 for instance, a court decision absolved the French political refugee Baronnet for travelling under an American passport and using a false name, because he never officially registered under that name. Therefore, the refugee could not be expelled on the premise of false identity. The Court of Cassation sided with the S.P. by nullifying the verdict on the basis that it fell outside the judiciary's authority.60 A general file collecting court decisions of interest for the S.P. all confirm its monopoly over expulsion. These included examples where lower courts dismissed cases for falling outside of their jurisdiction. For instance, innkeeper Jules Taxer challenged the legality of his arrest and expulsion order in 1887 for (1) being based on old legal texts of provisional nature no longer in vigour and (2) for violating the constitution, which attributed equal rights to foreigners and Belgians. However, the lower courts in Antwerp immediately dismissed the case for falling outside their jurisdiction.61

Other cases still made it to the Court of Cassation. In 1902, Pierre Paffenholz challenged the legality of his expulsion by royal decree because it had not been discussed by the Council of Ministers. He expressed this claim when being prosecuted for violating his expulsion order by the misdemeanour court of Liège. The judge ruled in his favour and dropped the charges due to procedural errors. In preparation of appealing the ruling, the S.P. listed all statements justifying its procedures and

challenging the interference of the judiciary since 1864. It also dug up similar cases that reached the highest court to strengthen its argument. The Court of Cassation again decided in favour of the S.P. and distributed a summary of the decision to the members of the magistrate stating that: "*Expulsion orders by royal decree do not have to be motivated. The judiciary, who can't investigate the motives, cannot refuse to carry out the order even when it does not mention that it has been deliberated by the Council of Ministers*." The full argumentation contains several citations on the interpretation and implementation of the laws drawn from parliamentary debates collected by the S.P. Some date back to 1835, such as one regarding the unsuccessful amendment pleading to include a reason for expelling in the Foreign Resident Law. The then minister of justice d'Hoffschmidt argued against it because sometimes it was in the interest of the expellee not to make the motive public. If an expellee insisted, a complaint through their diplomatic representatives automatically obligated the minister of justice to motivate the expulsion openly. Renewed attempts to insert such amendment in 1865, 1871 and 1897 met similar opposition.62 This practice shows that expellees very rarely filed a petition via diplomatic channels, and even if they did, the motive was not necessarily revealed. The S.P. only very exceptionally motivated its decision. The Paffenholz-ruling confirmed that, according to parliamentary debates, only expulsions for political motives had to appear before the Council of Ministers. And even for these political cases, the judiciary had no authority to judge on the legal grounds of the motives. It confirmed a previous ruling of 1894 already establishing that to protect the principle of the strict separation of powers, the judiciary had no authority to investigate whether a foreigner posed a threat to public order, or to inquire about motives of expulsion.63

4. Conclusion

A systematic analysis of court rulings at all levels should shed more light from the perspective of the judiciary, and could present an overview of the actual number of cases challenging the authority of the executive and how the S.P.'s powers affected court rulings on foreigners over time. If, and to what extent foreigners were approached differently by nineteenth-century courts, still awaits analysis. Were they sentenced more severely because of the negative bias of the foreigner as a threat, or more leniently to expedite expulsions? Despite being a mere administrative measure, judges may have factored in the probability of an expulsion when sentencing foreigners.

This study has shown that the executive, legislative and judicial powers repeatedly reaffirmed the exclusive authority of the S.P. over expulsion. This was especially the case for the Court of Cassation, which constantly sidelined the lower courts. It left the S.P. to act as the judge, jury and executioner over foreigners' privilege of staying, most of whom could be expelled at any time without motivation and real possibility of appeal. The constitutional separation of powers to protect individuals from authoritarian state rule did not apply to foreigners. Based on the verdicts of lower courts, Caestecker concluded (too hastily) that the judiciary limited the administrative power over aliens by restricting the scope of immigration policy.64 The higher judiciary nullified these limitations, empowering the S.P. to set up an elaborate bureaucratic machine to monitor foreigners and remove undesirables with increasing proficiency at will. The judiciary was an important provider in a multi-layered information system. Its flaws were compensated by other suppliers of information, while at the same time the judiciary closed loopholes created by others. Conversely, the judiciary did not rely on the S.P. as a source of information. To fully uncover why and what specific information channels the judiciary used when dealing with foreigners, we would need research from a prosecutor's perspective. This will add to our understanding of how much the

parallel administration to monitor foreigners created by the S.P., contributed to stigmatize them as a threat and to the institutional discrimination of foreigners by modern nation states. To fully comprehend how this bureaucratic machine worked, we need more analyses on the relationship between the various actors involved in the process and the connections between them. The fact that the key position in this network was taken by the S.P., whose *raison d'être* depended on viewing the foreigner as a threat, exposes the deep structural roots of crimmigration within the bureaucratic apparatus. This contribution has shown that the S.P. integrated the judiciary relatively successfully in its information network, but kept it at bay from its expulsion procedures. This long-distance relationship seemed convenient for both parties, but placed migrants in the sole custody of the S.P., which turned them into easily disposable beings.

Notes

1 The author wishes to thank the reviewers and members of the 'Tolerant migrant cities?'-project for their valuable comments, the organizers of the fourth day of Belgian migration history and editors of the CRHiDI for providing the forum that led to this contribution and the members of the IMMIBEL-project for enabling this research.

2 For studies deconstructing the myth see for instance: A. Morelli, *Belgique, terre d'accueil? Rejet et accueil des exilés politiques en Belgique de 1830 à nos jours*, in *L'émigration politique en Europe aux XIXe et XXe siècles*, Rome, École Française de Rome, 1991, p. 117-28, A. Morelli (ed.), *Histoire des étrangers et de l'immigration en Belgique de la préhistoire à nos jours*, Bruxelles, Editions Vie Ouvrière, 2004 ; N. Coupain, *L'expulsion des étrangers en Belgique (1830–1914)*, MA thesis in history, Bruxelles, Université Libre de Bruxelles, 2000. For publications claiming this revision to be too radical and to diversify the analysis to more facets: I. Goddeeris *'Belgique – Terre d'Accueil'. Perceptie en attractiviteit van België als gastland bij Poolse politieke migranten (1831-1846)*, in *Belgisch tijdschrift voor nieuwste geschiedenis*, 29, 1999, n° 3-4, p. 261-314; F. Caestecker, *Alien policy in Belgium, 1840-1940. The creation of guest workers, refugees and illegal aliens*, New York, Berghahn Books, 2000; L. Vandersteene, *De mythe van het gastvrije België. Belgisch nationalisme en herinneringen aan een gastvrij verleden in de negentiende eeuw en vandaag*, in *Handelingen van de Koninklijke Zuid-Nederlandse Maatschappij voor Taal- en Letterkunde en geschiedenis*, 54, 2000, p. 315-344; I. Goddeeris, *Van favoritisme naar legaliteit. Belgische tolerantiedrempel voor politieke activiteiten van ballingen, 1830-1914*, *Belgisch tijdschrift voor nieuwste geschiedenis*, 40, 2010, n° 3, p. 313-344.

3 A. Coppens, *Tussen beleid en administratieve praktijk: De implementatie van het Belgische migratiebelied in het negentiende eeuwse Brussel*, PhD dissertation in history, Brussel, Vrije Universiteit Brussel, 2017; E. Debackere, *Welkom in Antwerpen? Het Antwerpse vreemdelingenbeleid tussen 1830–1880*, Leuven, Leuven University Press, 2020.

4 L. Keunings, *Des polices si tranquilles : Une histoire de l'appareil policier belge au XIX^e siècle*, coll. Histoire, justice, sociétés, Louvain-la-Neuve, Presses universitaires de Louvain, 2009, p. 21.

5 T. Feys, *La mainmise du pouvoir central? Le contrôle et l'expulsion des étrangers dans les campagnes belges de 1830-1914* in Jonas Campion (ed.) *La police locale en Belgique, Les Cahiers du GEPS,* 4, Brussel, Politea, 2020, p. 35-54; T. Feys, *Riding the rails of removal: The impact of railroads on border controls and expulsion practices*, in *Journal of transport history*, 40, 2019, n°

2, p. 189-210.

6 For more details on the source see F. Caestecker and L. Luyckx, *Het individuele vreemdelingendossier: een unieke bron over migratie en migranten?*, in A. Tailler (ed.) *Grensgevallen. De vreemdelingenadministratie in België*, Brussel, Algemeen Rijksarchief, 2009, p. 15-28; S. Heynssens, *Mapping foreign migration to belgium. The digitization of the index cards of the Belgian Aliens' Police (1832-1889)*, in *TSEG - The Low Countries journal of social and economic history,* 17, 2020, n° 2, p. 83-94.

7 F. Caestecker, *Alien policy*, 9.

8 This lacuna exists in general. Only Peter King's work on London and the ongoing research project of Manon Van der Heijden '*Tolerant migrant cities? The case of Holland 1600-1900*' are notable exceptions adopting such perspective. See P. King, *Immigrant communities, the police and the courts in late eighteenth and early nineteenth-century London,* in *Crime, history & societies,* 20, 2016, n° 1, p. 39-68.

9 P-A. Rosental, *Migrations, souveraineté, droits sociaux. Protéger et expulser les étrangers en Europe du XIXe siècle à nos jours*, in *Annales Histoire, Sciences Sociales*, 66, 2011, n° 2, p. 335-373.

10 J. Stumpf, *The crimmigration crisis: Immigrants, crime and sovereign power*, in *American University Law Review*, 56, 2006, n° 2, p. 367-419; M. Van Der Woude, J. Van Der Leun and J. Nijland, *Crimmigration in the Netherlands*, in *Law & Social Inquiry*, 39, 2014, n° 3. 560-579

11 M. Cools et al. (eds.), *De Staatsveiligheid : essays over 175 jaar veiligheid van de staat*, Bruxelles, Politeia, 2005; E. Debackere, *Tussen stad en staat. Het lokale beleid ten aanzien van buitenlanders in Antwerpen, 1830-1880*, PhD dissertation in history, Antwerp, Universiteit Antwerpen, 2016, 93–96; F. Caestecker, *Alien policy*, p. 1-19; A. Coppens, *Tussen beleid,* p. 92-102; N. Coupain, *L'Expulsion*, p. 24-40; L. Keunings, *Des polices*, p. 15-29.

12 When exactly this was systematically applied still needs to be uncovered yet the individual files of the 1860s and especially beyond indicate that the S.P. inquired abroad.

13 T. Feys, *The control of human mobility at the Franco-Belgian Border after the inauguration of international railroad lines*, in *Diasporas* vol. 33, 2019, n° 1, p. 35-54; A. Coppens, *Tussen beleid*, passim, E. Debackere, *Welkom*, passim.

14 N. Coupain, *L'Expulsion*, p. 66-9, 132; T. Feys, *La mainmise,* p. 48-49.

15 State Archives of Belgium (hereafter SAB), F1649, S.P., Individual files 1835–1912, 301523 Michel Charlemagne.

16 See for instance Hoffman who had mistakenly been considered as Belgian, SAB, F1649, S.P., Individual files 1835–1912, 203211 Nicolas Hoffman.

17 SAB, F1649, S.P., Individual files 1835–1912, 301523 Michel Charlemagne; 300400 Louise Challand.

18 SAB, F1649, S.P., Individual files 1835–1912, 300953 Joseph Guillot.

19 SAB, F1649, S.P., Individual files 1835–1912, 300286 Johan Van Elck; 300400 Louise Challand.

20 SAB, F1649, S.P., Individual files 1835–1912, 302185 Groeneijk.

21 Ibid.

22 Ibid.

23 N. Coupain, *L'Expulsion*, p. 132-4; T. Feys, *Riding*, p. 194.

24 N. Coupain, *L'Expulsion*, p. 173; M. Van de Vyve, *De vreemdeling tussen uitersten: De representaties van vreemdelingen in parlementaire debatten in België, 1845-1875*, MA thesis in history, Leuven, KU Leuven, 2017, p. 64-66.

25 SAB, F1649, S.P., Individual files 1835–1912, 300953, Joseph Guillot; 234284 Anna Courtioux; SAB, I160, S.P., General files, 872, Note April 22 1874; 932 Report to minister of justice January 22 1872; May 8 1875.

26 N. Coupain, *L'Expulsion*, p. 68-69, 89-90.

27 R. Vercammen and V. Vanruysseveldt, *Van centraal beleid naar lokale praktijk. Het 'probleem' van landloperij en bedelarij in België (1890-1910*), in *Revue Belge d'Histoire contemporaine*, 45, 2015, n° 1, p. 136-38; T. Feys, *Par terre ou par mer? L'expulsion des citoyens venus d'outre-Atlantique depuis la Belgique vers 1900*, in *Revue d'histoire maritime,* 33, 2023; T. Feys, *La Mainmise*, p. 50. The issue of residency will be discussed in depth in a forthcoming publication.

28 L. Vandersteene, *De mythe*, p. 50-51, 62-63; M. Van de Vyve, *De vreemdeling*, p. 40, 89-90; A. Coppens, *Tussen beleid*, p. 95, 118.

29 SAB, I160, S.P., General files, 860, Report of the chamber of parliament December 22 1881; 864 Reports to minister of justice January 23 1899; 932 Report to minister of justice January 22 1872.

30 M. Van de Vyve, *De vreemdeling*, p. 20, 89-90; N. Coupain, *L'Expulsion*, p. 173.

31 M. Van de Vyve, *De vreemdeling*, p. 36-39, 44, 51, 71; N. Coupain, *L'Expulsion*, p. 14.

32 D. Diaz and H. Vermeren, *Introduction: L'Expulsion comme mesure administrative et outil de contrôle migratoire*, in *Diasporas*, 33, 2019, n° 1, p. 9.

33 SAB, I160, S.P., General files, 476 Report on Paul Desreunaux January 22 1907.

34 A. Coppens, *Tussen beleid,* p. 94-95.

35 A. Hendrick and F. Muller, *La magistrature belge de 1830 à nos jours*, in M. De Koster, D. Heirbaut and X. Rousseaux (eds) *Tweehonderd jaar justitie: Historische encyclopedie van de Belgische Justitie*, Brugge, Die Keure, 2015, p. 305.

36 SAB, I160, S.P., General files, 964, Letter police Sint-Joost-ten-Noode February 12 1902.

37 SAB, I160, S.P., General files, 884, Note Berg-case 1906, Letters January 14, April 8 1891 and Siegers-case letter minister of justice February 14 1890.

38 SAB, F1649, S.P., Individual files 1835–1912, 373274 Vidal Felix; 498544 Moulin Gustave.

39 SAB, I160, S.P., 884, General files, Note Berg-case 1906.

40 SAB, I160, S.P., General files, 860, Letter to minister of justice regarding article 'Les Expulsions' *La Chronique* December 1 1893.

41 SAB, F1649, S.P., Individual files 1835–1912, 200868 Caroline Volleberg; 430926 Vladmir Wiskovatoff; 206662 Leonard Dantrelepont and see also Jones-case below.

42 SAB, F1649, S.P., Individual files 1835–1912, 373274 Felix Vidal; 200 868 Caroline Volleberg.

43 SAB, F1649, S.P., Individual files 1835–1912, 429306 Jean Graff.

44 SAB, F1649, S.P., Individual files 1835–1912, 430926 Vladmir Wiskovatoff; 334783 Georges Froissard.

45 SAB, I160, S.P., General files, 874, Bremond-case letters April 9, June 29, July 2 1877.

46 SAB, I160, S.P., General files, 860 Letter S.P. to minister of justice regarding article 'Les Expulsions' *La Chronique* December 1 1893.

47 Estimates indicate that about 75% of the expellees were pushed back shortly after their arrival for lack of means, while the other 25% managed to establish themselves before being expelled. Most of the latter appeared in the Algemeen Politieblad, 90% were single male or travelling alone, 2% with family and 8% women. C. VAN EIJL, *Al te goed is buurmans gek. Het Nederlandse vreemdelingenbeleid 1840-1940*, Amsterdam, Aksant, 2005, p. 17, 35, 57-9; M. LEENDERS, *Ongenode gasten. Van traditioneel asielrecht naar immigratiebleid, 1815-1983*, Hilversum,Verloren, 1993 p. 39; C. VAN EIJL and M. SCHROVER, *Inleiding*, in M. SCHROVER (ed.) *Bronnencommentaar 5*, Den Haag, Instituut voor Nederlandse Geschiedenis, 2002, p. 15, 24; C. VAN EIJL, *Registratie van vreemdelingen in het Algemeen Politieblad*, in M. SCHROVER (ed.) *Bronnencommentaar 5*, Den Haag, Instituut voor Nederlandse Geschiedenis, 2002, p. 71-92; M. SCHROVER, *Een kolonie van Duitsers*: *Groepsvorming onder Duitse migranten in Utrecht in de negentiende eeuw*, Amsterdam, Aksant, 2002 p. 30.

48 E-B. LOYER, *Expulser les indésirables: Un aspect de la gestion des population immigrées sous la Troisième République*, in *Diasporas*, 33, 2019, n° 1, p. 56-63; P-A. ROSENTAL, *Migrations*, p. 335-373; D. DIAZ and H. VERMEREN, *Introduction*, p. 15.

49 SAB, I160, S.P., General files, 860, Report of the chamber of parliament December 22 1881.

50 SAB, I160, S.P., General files, 891 Report to the King April 12 1869, Letters to minister of justice July 7 1870, June 12 1871; Note of 1862 referring to fifteen cases under various ministers between 1847 and 1862.

51 SAB, 160, S.P., General files, 466, Circular S.P. to prosecutors May 19 1841.

52 « qui pourra retirer leurs passeports, et leur enjoindre de sortir du territoire français, s'il juge leur présence susceptible de troubler l'ordre et la tranquillité publique » as cited in Van Vyve, 2017, 20 (Law 28 vendémiaire year VI, Pasinomie, 2, 1797, p. 80).

53 SAB, 160, S.P., General files, 912 Circular to prosecutors January 9 1892.

54 SAB, I160, S.P., General files, 861 Circular to prosecutors September 10 1842.

55 SAB, I160, S.P., General files, 860, Report of the chamber of parliament December 22 1881.

56 SAB, I160, S.P., General files, 872, Report on Paffenholz and ruling January 13 1902.

57 SAB, I160, S.P., General files, 466, *La Belgique Judiciaire*, Tome VI, n^{o} 7, January 23 1848.

58 A. Coppens, *Tussen beleid,* p. 213; F. Caestecker, *Alien policy,* p. 10-11.

59 Ibid.

60 SAB, I160, S.P., General files, 116, article s.t., Observateur Belge 23 November 1853.

61 SAB, I160, S.P., General files, 871, Report on Taxer 1887.

62 SAB, I160, S.P., General files, 872, Circular January 13 1902, « L'arrêté royal ordonnant l'expulsion d'un étranger, ne doit pas être motivé. Le pouvoir judiciaire, qui ne peut en rechercher les motifs, ne peut se refuser à l'appliquer lorsqu'il ne mentionne pas qu'il a été délibéré en conseil des ministres »; 871, Report Paffenholz-case 1902; Report Taxer-case 1887; SAB, F1649, S.P., Individual files 1835–1912, 600399 Pierre Paffenholz; 485243 Marie Mayne.

63 SAB, I160, S.P., General files, 872, Paffenholz ruling, January 13 1902; Mayne ruling March 12 1894.

64 F. Caestecker, *Alien policy*, 9.