EXPULSION OF REFUGEES
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I

Among the important provisions of the Convention Relating to the Status of Refugees of 28 July 1951 are those contained in Articles 32 and 33.

According to Art. 32 para 1, the Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

Paras 2 and 3 of the same Article contain procedural regulations, with which we shall not concern ourselves in the present study.

Art 33 para 1 lays down the rule that no Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

Para 2 sets out the exceptions to this rule: The benefit of the present provision may not be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime constitutes a danger to the community of that country.

II

Let us first take a look at the provision contained in Art 32 para 1. This article deals with expulsion. Extradition or refusal to extend the validity of a residence permit are not covered by this term.

The Article only applies to persons lawfully in the territory of the Contracting State in question. A refugee who has entered the territory illegally may be expelled without being able to invoke Art 32. The same applies to a refugee whose residence permit has expired, provided that the State in whose territory he lives is not under an obligation to renew it.
The general rule is that a refugee lawfully in the territory of a Contracting State cannot be expelled.

There are, however, two exceptions to this rule. A refugee may be expelled on grounds of national security, and he may be expelled on grounds of public order, or "ordre public" as it is expressed in the French text.

The meaning of the words "national security" is rather clear. If a refugee is spying against his country of residence, he is threatening the national security of that country, and he may consequently be expelled. The same applies if he is engaged in activities, directed at the overthrow by force or other illegal means of the Government of his country of residence, or in activities which are directed against a foreign Government, which as a result threatens the Government of the country of residence with intervention of a serious nature.

Generally speaking, the words "national security" cover acts of a rather serious nature threatening directly or indirectly the Government, the integrity or the independence of the country in whose territory a refugee stays.

III

The words "public order", on the other hand, are open to a wide range of interpretations.

It should be noted that "ordre public" in the French text, "public order" in the English text, have nothing to do with the term "ordre public" — or its English equivalent "public policy" — in private international law.

The words "raisons de sécurité nationale ou d'ordre public" in the French text of the 1951 Convention were originally used in Art 3 para 1 of the Convention Relating to the International Status of Refugees of 28 October 1933. The same words were used in Art 5 para 2 of the Convention Relating to the Status of Refugees From Germany of 10 February 1938.

The travaux préparatoires for the 1933 Convention do not give much lead as to the correct interpretation of the words "ordre public" or "public order". The expression was, however, not unknown in public international law at the time.

Professor M. Bluntschli in his "Le Droit International Codifié" (Translated from the German by M. C. Lardy, 2nd ed., Paris 1874, p 226) states: "Art 385. Chaque état est autorisé à expulser, pour motifs d'ordre public, les étrangers qui résident temporairement sur son territoire. S'ils y ont établi un domicile fixe, ils ont droit à la protection des lois du même titre que les nationaux."