

Cantonal asylum and the pressure of the powers

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Until 1848 asylum was a cantonal matter. After the Federal Treaty of 1815 had restored the sovereignty of the cantons, the liberal cantons that emerged after 1830 admitted large numbers of refugees from France, Piedmont, Germany and Poland.¹ The great powers answered with threats. The Federal Diet answered with the First and Second *Fremdenkonklusum* (Foreigners Conclusum) of 1823 and 1836. The first, adopted on 14 July 1823 together with a press conclusum, imposed a general censorship, silenced certain editors and provided for the expulsion of refugees convicted of agitation, while the second renewed the restrictive measures against foreign refugees, again including expulsions.² For Ticino these resolutions were a constant source of friction. The canton depended economically on Lombardy, where thousands of its emigrants worked, so that its government could not ignore Austrian complaints. Even the conservative regime had shown how quickly a Ticinese government could yield: in 1822 Quadri suppressed the *Gazzetta di Lugano* at the request of the Austrian government.³

Swiss diplomacy developed a legal answer that lasted. From 1833 onwards, beginning with a revision of the extradition treaty with France of 1828, Switzerland agreed in several bilateral treaties that persons who had fled because of political offences would not be extradited.⁴ The distinction between ordinary crime, for which extradition was due, and political crime, for which it was not, became the core of the Swiss law of asylum. It is still visible in Art. 3 of the Federal Act on International Mutual Assistance in Criminal Matters, discussed in the last section of this chapter. For the exiles in Ticino, it meant that Austria could demand their surveillance or their removal from the frontier, but could not obtain their surrender.

1 A canton dependent on Lombardy

The freedom of action of the cantonal government was limited by an economic fact that every Ticinese politician knew. The canton lived from Lombardy. Building materials, timber and other goods from the Ticinese valleys went to the Lombard markets, and thousands of Ticinese worked in Milan and its region as masons from the Capriasca, kilnmen from the Malcantone, coppersmiths from the Val Colla, stonecutters and marble workers, porters, chestnut sellers, chocolate makers, coffeehouse keepers, milk sellers, cooks and domestic servants, innkeepers, merchants and forwarding agents. Stefania Bianchi's study of Ticinese emigration to Milan traces this presence from the last Sforza dukes to the age of Radetzky and shows how seasonal, periodic and long-term migrants, pedlars and cross-border workers formed a population that depended on the goodwill of the Lombard authorities for its right to stay.⁵ Swiss merchants from other cantons were also numerous in Lombardy. The *Dizionario storico della Svizzera* speaks of several thousand Swiss in Milan and Bergamo around 1848, most of them active in the silk, cotton and wool trades.⁶

This dependence was the lever that Austria used whenever it wanted to discipline the canton. A threat to close the frontier or to expel Ticinese workers from Lombardy weighed more heavily in Bellinzona than any diplomatic note. The radicals who governed the canton after 1839 nevertheless chose to shelter the exiles, partly out of political conviction and partly because their own legitimacy rested on the liberal cause that the exiles represented. The tension between economic dependence on the neighbour and political solidarity with its opponents ran through the whole period. It came to a head in 1853, when Austria expelled the Ticinese from Lombardy, as described later in this chapter, and it explains why the federal authorities, who had to weigh the interests of the whole Confederation, so often pressed the canton to restrain its guests.

2 Notes

1. Walter Kälin, "Asyl", in *Historisches Lexikon der Schweiz (HLS)*, version of 26 November 2002, <https://hls-dhs-dss.ch/de/articles/010374/2002-11-26/> (consulted 4 October 2026). ↩
2. Kälin, "Asyl" (above): "Die Tagsatzung reagierte im Ersten und Zweiten Fremdenkonklausum von 1823 bzw. 1836 mit restriktiven Massnahmen (inklusive Ausweisungen)"; François Genoud, "Presse- und Fremdenkonklausum", in *Historisches Lexikon der Schweiz (HLS)*,

- version of 10 August 2005, <https://hls-dhs-dss.ch/de/articles/017228/2005-08-10/> (consulted 5 October 2026), on the conclusum of 14 July 1823, its censorship provisions and the expulsion of refugees "die der Agitation überführt wurden", and on its repeal in 1829. ↩
3. Archivio di Stato del Cantone Ticino, exhibition text "Tipografie", PDF, <https://m4.ti.ch/fileadmin/DECS/DCSU/ASTI/Documenti/Sb/Mostra/Tipografie.pdf> (consulted 4 October 2026): the Gazzetta di Lugano was suppressed in 1822 by Quadri "su richiesta del governo austriaco". ↩
4. Kälin, "Asyl" (above): "Ab 1833 – in einer Revision des Auslieferungsvertrages mit Frankreich von 1828 – konnte in verschiedenen bilateralen Auslieferungsverträgen die Nichtauslieferung von Flüchtlingen, die wegen politischer Delikte geflohen waren, vereinbart werden." ↩
5. Stefania Bianchi, "Ticinesi a Milano e in Lombardia dagli ultimi Sforza a Radetzky", Studi Emigrazione LVIII, no. 224 (2021), PDF, <https://www.cser.it/wp-content/uploads/2025/04/Ticinesi-a-Milano-e-in-Lombardia-Bianchi-2021.pdf> (consulted 4 October 2026). The trades are named in Bianchi's study ("fornaciai malcantonesi, ramai della val Colla, muratori della Capriasca"; "facchini, brentatori, schiostrari, marronai, cioccolatieri, caffettieri, lattai e lattaie, domestiche, cameriere, cuochi"; "ristoratori, osti e bettolieri"; "commercianti, spedizionieri e imprenditori"), which also speaks of "migrazioni di uomini, ma anche di merci destinate ai mercati lombardi". See also Chapters A.III and A.IV. ↩
6. Marianne Bauer, "Royaume lombard-vénitien", in DHS, version of 24 March 2011, <https://hls-dhs-dss.ch/fr/articles/006630/2011-03-24/> (consulted 4 October 2026). ↩

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