

N° 4130.

LUXEMBOURG ET PAYS-BAS

Convention d'établissement et de travail, signée à La Haye, le 1^{er} avril 1933, et échanges de notes y relatifs, La Haye, le 1^{er} avril 1933, et Luxembourg, le 15 avril 1936.

**LUXEMBURG
AND THE NETHERLANDS**

Convention concerning Establishment and Labour, signed at The Hague, April 1st, 1933, and Exchanges of Notes relating thereto, The Hague, April 1st, 1933, and Luxemburg, April 15th, 1936.

¹ TRADUCTION. — TRANSLATION.

No. 4130. — CONVENTION BETWEEN THE GRAND DUCHY OF LUXEMBURG AND THE KINGDOM OF THE NETHERLANDS CONCERNING ESTABLISHMENT AND LABOUR. SIGNED AT THE HAGUE, APRIL 1ST, 1933.

HER MAJESTY THE QUEEN OF THE NETHERLANDS
and

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBURG,

Being desirous of regulating the conditions of establishment and labour for Netherlands nationals in Luxemburg and Luxemburg nationals in the Netherlands, have resolved to conclude a Convention for that purpose and have appointed as their Plenipotentiaries :

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

Jonkheer Frans BEELAERTS VAN BLOKLAND, Her Minister for Foreign Affairs ;

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBURG :

Monsieur Joseph BECH, Minister of State, Her President of the Government ;

Who, having communicated their full powers, found in good and due form, have agreed on the following Articles :

SECTION I.

ESTABLISHMENT.

Article I.

§ 1. Nationals of each of the High Contracting Parties shall have the right to enter the territory of the other Party, to establish themselves, move about, and select a place of residence therein, and to leave the territory, provided they observe the laws and regulations in force in the country, particularly as regards the police supervision of foreigners.

It is agreed that each of the High Contracting Parties reserves the right to withhold permission to enter or reside in its territory from any national of the other Party who may be deemed to be undesirable, either as regards the maintenance of order, public morals, public health or public security, or because he is without means of subsistence.

Furthermore, while sub-paragraph 1 of paragraph 1 exempts nationals of the High Contracting Parties from the provisions of the laws and regulations restricting or prohibiting the right of unhindered departure as such, it shall not stand in the way of the application of ordinary general legislation, the effect of which may be to prevent departure in special cases.

§ 2. If, in conformity with the provisions of the laws and regulations regarding police supervision of foreigners, certain conditions or restrictions are laid down for the entry, stay, activities or establishment of a national of one of the High Contracting Parties within the territory of the

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

other, such restrictions or conditions shall automatically cease to apply should the person concerned continue to reside in this territory, and at latest after he has resided therein for five years without a break.

§ 3. It is agreed that even in the case of persons who benefit by the provisions of paragraph 2 of the present Article, each High Contracting Party shall be entitled to avail itself, in respect of the nationals of the other Party, of the right of expulsion and the right to subject the said nationals to its police regulations, such as those concerning passports, identity cards and declarations required for the purpose of supervising foreigners.

§ 4. The charges payable in connection with the various formalities referred to in paragraph 3 of the present Article shall not exceed the charges payable by foreigners who are nationals of the nation most favoured in this respect.

Article 2.

§ 1. The nationals of each of the High Contracting Parties shall be placed in the territory of the other Party on the same footing in every respect, both in law and in fact, as the nationals of that Party as regards the exercise of all commercial, industrial and financial activities and in general all activities of an economic nature, without any distinction in this respect between undertakings which are independent and undertakings which operate as branches or agencies.

§ 2. The nationals of each of the High Contracting Parties shall be entitled to engage in every trade and occupation not especially mentioned in paragraph 3 of this Article, in the territory of the other Party, provided that they comply with the laws and regulations in force in that country, including those relating to the protection of the national labour market.

It is agreed that the application of the laws and regulations relating to the protection of the national labour market shall not prevent nationals of either of the High Contracting Parties established in the territory of the other Party from engaging such persons as they may choose for posts of management.

§ 3. The provisions of paragraph 1 and paragraph 2 of this Article shall not apply to engagement in the territory of either High Contracting Party in the following occupations, trades, industries and branches of commerce :

- (a) Public functions, offices or employments, including the offices of notary, solicitor and bailiff ;
- (b) The functions of an advocate and the business of a stockbroker ;
- (c) Hawking and itinerant trades ;
- (d) Fishing in inland and territorial waters, the coasting trade, pilotage in general, and interior service in ports.

§ 4. The provisions of this Article shall not affect the legislative provisions in force in the Netherlands respecting the crews of vessels or boats flying the national flag and of aircraft registered in that country.

Article 3.

§ 1. The nationals of each High Contracting Party, whether within the territory of the other Party or not, may undertake any commercial transactions therein and engage in any publicity or advertising to that end in the same conditions as nationals. They shall not be subject, provided such operations are conducted in conformity with the laws and regulations of the country, to any conditions, to the obtaining of a licence or of permission, or to any requirement other or more onerous than those to which nationals of the country are or may hereafter be subject in respect of the same operations.

§ 2. It is agreed that the provisions of paragraph 1 of the present Article shall be subject to any special conditions either High Contracting Party may lay down in respect of public contracts concluded by public services.

§ 3. Should the effect of the legislation of either High Contracting Party be such that the granting in its territory of licences, authorisations or permits to ensure the supervision of imports or exports is subject, in law or in fact, to conditions in respect of establishment, residence or registration applicable to nationals of the country, the same conditions shall also apply to the nationals of the other Party.

Article 4.

The nationals of each High Contracting Party shall not be prevented from participating within the territory of the other Party, and in conformity with the laws and regulations of that Party, as exhibitors, vendors or purchasers, under the same conditions as nationals of the country, in such markets and fairs as are not expressly reserved for nationals of the country or, on account of the nature of the goods exhibited, for nationals of the country or nationals of certain other States.

Article 5.

§ 1. The nationals of each High Contracting Party may, in the territory of the other Party and subject if necessary to the production of an identity card, purchase, either in person or through commercial travellers in their employ, such goods as they trade in from wholesalers, at business premises, or from producers. They may solicit orders from wholesalers and producers who are engaged in trade or who employ in their establishments goods of the same nature as those offered to them. They shall not require a special authorisation for any of these transactions, nor shall they be subject in connection therewith to any charge or special duty not payable by national undertakings and their representatives, provided always that they carry with them samples only and not goods intended for sale.

§ 2. The High Contracting Parties shall comply, as regards the application of the provisions of the present Article, with the provisions of Article 10 of the Geneva Convention of November 3rd, 1923, concerning identity cards for commercial travellers and the rules for the importation of samples.

§ 3. The provisions of the present Article shall not apply to itinerant trading, hawking, canvassing for orders, or purchases from persons not engaged in trade or industry, each High Contracting Party reserving to itself entire freedom to enact such legislation as it thinks fit in this respect.

Article 6.

§ 1. The nationals of each of the High Contracting Parties shall enjoy, in the territory of the other Party, the same treatment as nationals in so far as concerns the right of succession, the right to acquire, possess or rent movable and immovable property and the right to dispose thereof, either by gift or for payment.

§ 2. Each of the High Contracting Parties shall permit the nationals of the other Party to export such movable objects as belong to them, together with the proceeds of the sale of their property, both movable and immovable, in the same conditions as nationals of the country. It is agreed that each of the High Contracting Parties shall have the right to make such export conditional upon the payment beforehand of the taxes or charges to which the property in question is subject. Nevertheless, no special tax may be levied on the said property or the proceeds of the sale thereof on account of its export.

§ 3. It is agreed that in the event of the departure of the owner or the sale of inherited movable or immovable property, no foreign exchange regulations subsequently laid down shall stand in the way of the free exportation of the proceeds of the sale of such property.

§ 4. Notwithstanding the provisions of the present Article, each High Contracting Party reserves the right, in the interests of the safety of the State, to require nationals of the other Party to obtain permission in advance to acquire or occupy immovable property in certain districts.

Persons inheriting immovable property situated in the said districts may be required, on the same ground, to sell it within a reasonable period.

§ 5. In exceptional cases, such in particular as monetary crises, when the acquisition by foreigners of immovable property or transferable securities would lead to the taking over or jeopardising of vital resources of the country, each High Contracting Party shall have the right to prohibit such acquisition. Nevertheless, it shall only avail itself of this right provided the interests of the country cannot be safeguarded effectively by measures placing the nationals of both countries on a footing of equality. This prohibition shall only remain in force for such time as the reasons for which it was imposed continue to exist.

§ 6. Notwithstanding the provisions of the present Article, it is agreed that each of the High Contracting Parties shall have the right to impose such restrictions as it may think fit in respect of the acquisition of ships or boats flying the national flag, or aeroplanes registered in the country, or shares in the ownership of such vessels or aeroplanes.

Article 7.

§ 1. The nationals of each of the High Contracting Parties shall be treated in the territory of the other Party on the same footing as nationals of the country in respect of the legal and judicial protection of their persons, property, rights and interests.

§ 2. Accordingly, they shall have free and unhindered access to the courts, both as plaintiffs and defendants, and shall have the right to go to law in the same conditions as nationals of the country. They shall also have the right to appear before the competent administrative authorities and to have recourse to the said authorities for the safeguarding of their rights and interests in all cases in which nationals of the country enjoy such a right. They may choose, for the defence of their interests before all courts and all judicial and administrative authorities, counsel, attorneys, notaries and other persons authorised by the national laws of the country.

§ 3. Judicial matters settled by special conventions or treaties in force between the High Contracting Parties, in particular by the Hague Convention of July 17th, 1905, on civil procedure, shall continue to be subject solely to these conventions or treaties. It is understood that, even in the event of the denunciation of the said conventions or treaties, the present Convention shall not be applicable in respect of such matters.

§ 4. The right of nationals of each of the High Contracting Parties to appear before the competent administrative authorities of the other Party for the safeguarding of their rights or interests, in conformity with the laws in force in the territory in question, covers the right to appear before the Customs authorities and to proceed in person to clear their goods through the Customs in the same conditions as nationals of the country. In this respect they shall not be subject, as foreigners, to any formalities or regulations other or more onerous than those to which nationals of the country are subject.

Article 8.

§ 1. Nationals of each of the High Contracting Parties shall be exempt, in the territory of the other Party, from all judicial or administrative functions of any kind.

§ 2. Nationals of each High Contracting Party shall, however, be liable to charges in respect of the ownership of landed and movable property, compulsory billeting, and other special military contributions or requisitions to which nationals of the country may be liable, in virtue of legal provisions, as possessors or owners of buildings and landed or movable property. In no case shall any such charges be imposed by either High Contracting Party that would not also be imposed on its nationals.

§ 3. The property of nationals of either High Contracting Party may not be expropriated in the territory of the other Party, nor may they be deprived, even temporarily, of the use of their property except in the public interest and in accordance with the procedure laid down in the domestic legislation applicable to nationals of the country.

§ 4. The treatment accorded by either High Contracting Party to nationals of the other Party in the matter of compensation for such contributions, requisitions, expropriation and temporary

deprivation as are referred to in paragraph 2 and paragraph 3 above shall be not less favourable than that accorded to its own nationals or to nationals of the most-favoured nation.

Article 9.

In the matter of taxes and charges of all kinds, as well as of any other fiscal charges, regardless of the purpose for which they are levied, the nationals of each High Contracting Party shall in all respects enjoy the same treatment and protection at the hands of the fiscal and legal authorities, in the territory of the other Party, as is enjoyed by nationals of the country who are in an identical situation.

Article 10.

§ 1. Joint-stock companies and other non-trading, commercial, industrial or financial companies, including insurance companies, shipping and other transport companies and companies responsible for communications, which are regularly constituted in conformity with the legislation of either High Contracting Party and have their headquarters in the territory of that Party, shall be legally recognised as such in the territory of the other Party, and shall be entitled to appear before the courts of that country, provided that nothing in their constitution or aims is contrary to public order in the latter country.

§ 2. The question whether the companies referred to in paragraph 1 of the present Article, together with their branches and agencies, are legally constituted and are entitled to appear before the courts shall be decided in accordance with the law of the country in which these companies were formed.

§ 3. The activities engaged in by the companies of either High Contracting Party in the territory of the other Party, either direct or through branches or agencies, shall be subject to the laws and regulations in force in the latter country.

§ 4. Should either High Contracting Party require foreign companies to obtain an authorisation in advance to operate in its territory, the granting of such an authorisation to the companies of the other Party may not be subject to rules other than those imposed in similar circumstances on the companies of the most-favoured foreign nation.

§ 5. The companies of either High Contracting Party shall, as regards judicial matters and the possession, acquisition, occupation, renting and alienation of movable or immovable property, enjoy in the territory of the other Party the treatment laid down in Articles 6, 7 and 8 of the present Convention in respect of natural persons. The said companies may acquire such premises or landed property as they require for the purpose of carrying on their operations. Nevertheless, the acquisition of premises or landed property may not constitute the real object of their activities.

§ 6. The companies of either High Contracting Party domiciled for fiscal purposes in the territory of that Party, together with their branches and agencies, shall not be liable, in the territory of the other Party, to higher charges as regards direct taxation than the charges payable, according to cases, by national companies in an identical situation.

§ 7. The companies of each High Contracting Party shall enjoy the same treatment as companies of the most-favoured nation in the territory of the other Party in all matters not covered by the present Article.

SECTION II.

LABOUR.

Article 11.

§ 1. The High Contracting Parties agree not to place any obstacles in the way of the departure of their respective nationals desiring to travel from either of the two countries into the other in

order to take up employment there ; for this purpose they shall give all administrative facilities to such workers and their families.

§ 2. Subject to the conditions laid down in Articles 1 and 2 of Section I of this Convention, workers who are nationals of either of the two countries shall be allowed to take up employment in the territory of the other country.

Article 12.

Each of the High Contracting Parties may take the measures necessary to ensure that immigrant workers shall receive for equal work remuneration equal to that received by its nationals of the same category employed in the same undertaking, or in default of national workers of the same category employed in the same undertaking, the standard wages currently paid to workers of the same category in the same region.

Article 13.

§ 1. The workers of each of the High Contracting Parties shall enjoy in the territory of the other Party the same protection as is granted to its nationals by the laws and customs of the country in respect of conditions of employment and standards of living.

§ 2. All complaints made by the workers of either of the High Contracting Parties respecting the conditions of employment and the standard of living offered to them by employers in the territory of the other Party, or difficulties of any kind which necessitate the intervention of public authorities, shall be addressed or transmitted either direct or through the diplomatic or consular authorities to the competent authorities of the latter Party ; the competent administrative department of the said Party shall proceed to make the requisite enquiries and shall have the sole right to intervene.

Article 14.

§ 1. If the condition of the labour market at certain times, in certain regions and in certain occupations renders it impossible to find employment for emigrants and workers who come separately and on their own initiative to seek employment, the High Contracting Party concerned shall at once notify the other Party through the diplomatic channel in order to enable it to take the necessary steps.

§ 2. If either of the High Contracting Parties deems it necessary to adopt restrictive measures with respect to the workers concerned, it undertakes not to apply such measures to the nationals of the other Party until it has opened negotiations with that Party with a view to limiting as far as possible the prejudicial effects which such measures may entail.

Article 15.

Subject to the reservations laid down in paragraph 4 and paragraph 5 of Article 6 of Section I of the present Convention, the workers of each of the High Contracting Parties shall have in the territory of the other Party the same rights and advantages as nationals of that Party in matters relating to the acquisition, ownership, tenancy and conveyance either by gift or for payment of immovable property, and in particular of small urban and rural holdings. Nevertheless, they shall not be entitled to the bonuses or advantages which are granted in the said territory to builders and purchasers of cheap dwellings.

Article 16.

Nationals of each of the High Contracting Parties shall have the benefit, in the territory of the other Party, of the grants payable to the mutual unemployment benefit societies, of public unemployment relief and of public labour relief organisations under the same conditions as the nationals of that Party.

Article 17.

Nationals of each of the High Contracting Parties, when in the territory of the other Party, shall enjoy equality of treatment with the nationals of that country in all matters relating to the administration of the laws regulating conditions of employment and ensuring the health and safety of workers.

Article 18.

The competent administrative departments of the two countries shall by agreement issue the detailed rules and regulations necessary for the execution of the provisions of this Convention which necessitate the co-operation of their administrative services. They shall likewise specify the cases and conditions in which the services shall communicate direct.

SECTION III.

MISCELLANEOUS PROVISIONS COMMON TO THE FIRST TWO SECTIONS.

Article 19.

The benefit of the advantages already granted or to be granted hereafter by either of the High Contracting Parties to a third country in virtue of an economic union may not be claimed by the other Party in virtue of the present Convention.

Article 20.

As far as the Kingdom of the Netherlands is concerned, the present Convention shall apply only to its European territory.

Article 21.

Any dispute with respect to the interpretation, application or execution of the present Convention which cannot be settled by the High Contracting Parties through the diplomatic channel shall be referred to the Permanent Court of International Justice.

Article 22.

The present Convention is done in the Dutch and French languages, both texts being equally authentic. It shall be ratified and the instruments of ratification shall be exchanged at The Hague as soon as possible.

It shall come into force thirty days after the exchange of the instrument of ratification. It may be denounced at any time subject to one year's notice.

In faith whereof the above-named Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done in duplicate at The Hague, this 1st day of April, 1933.

(L. S.) Beelaerts VAN BLOKLAND.

(L. S.) BECH.

EXCHANGE OF NOTES

I.

THE HAGUE, *April 1st*, 1933.

YOUR EXCELLENCY,

I have the honour to inform Your Excellency that the Netherlands Government agree to exempt Luxemburg nationals in Netherlands territory, both in time of peace and in time of war, from compulsory military service in the Army, the Navy or the Air Force, as well as from compulsory personal services connected either directly or indirectly with national defence. The same shall apply to such contributions in money or in kind as may be substituted for these services.

I avail myself of this opportunity, etc.

BEELAERTS VAN BLOKLAND.

His Excellency Monsieur Joseph Bech,
Minister of State,
President of the Grand Ducal Government.

II.

THE HAGUE, *April 1st*, 1933.

YOUR EXCELLENCY,

I have the honour to inform Your Excellency that there has been no compulsory military service in the Grand Duchy since the Law of February 16th, 1881, suspended the execution of the laws and regulations concerning the militia.

Should the Luxemburg Government, in exceptional circumstances, have to resort to police or other measures, it will confer the same advantages on Netherlands subjects as are enjoyed by its nationals in the Netherlands.

I avail myself of this opportunity, etc.

BECH.

His Excellency
Jonkheer Frans Beelaerts van Blokland,
Minister for Foreign Affairs,
The Hague.

III.

GOVERNMENT DEPARTMENT
FOR FOREIGN AFFAIRS.

LUXEMBURG, *April 15th*, 1936.

MONSIEUR LE MINISTRE,

In order to define the scope of Article 2, paragraph 1, of the Convention between Luxemburg and the Netherlands regarding establishment and labour signed at The Hague on April 1st, 1933, I have the honour to inform you that the Grand Ducal Government will raise no objection to the application to Luxemburg nationals established in the Netherlands of the provisions of the Netherlands legislation governing the exercise of professional and industrial occupations by foreigners on their own account.

Accordingly Luxemburg nationals, like all other foreigners, may be required to obtain previous authorisation in the Netherlands to engage in professional or industrial occupations on their own account.

I would add that the Grand Ducal Government considers that by way of reciprocity Netherlands nationals established in the Grand Duchy may be subjected in the same circumstances to any provisions which may be enacted by Luxemburg with a view to regulating the conditions in which foreigners who are nationals of countries with which the Grand Duchy is not bound by a treaty of economic union may engage in the Grand Duchy in a professional or industrial occupation on their own account.

I have the honour to be, etc.

BECH.

His Excellency
Jonkheer Tjarda van Starckenborgh Stachouwer,
Envoy Extraordinary and
Minister Plenipotentiary
of the Netherlands, Luxemburg.

IV.

NETHERLANDS LEGATION.
No. 1540.

LUXEMBURG, *April 15th*, 1936.

YOUR EXCELLENCY,

I have the honour to acknowledge receipt of Your Excellency's letter of to-day's date in which you state that the Grand Ducal Government would raise no objection to the application to Luxemburg nationals established in the Netherlands of the provisions of the Netherlands legislation governing the exercise of professional and industrial occupations by foreigners on their own account.

Accordingly Luxemburg nationals, like all other foreigners, may be required to obtain a previous authorisation in the Netherlands to engage in professional or industrial occupations on their own account.

I would add that my Government concurs in the Grand Ducal Government's view that by way of reciprocity Netherlands nationals established in Luxemburg may be subjected in the same circumstances to any provisions which may be enacted by the Grand Duchy with a view to regulating the conditions in which foreigners who are nationals of countries with which the Grand Duchy is not bound by a treaty of economic union may engage in the Grand Duchy in a professional or industrial occupation on their own account.

I avail myself of this opportunity, etc.

A. W. L. Tjarda VAN STARKENBORGH.

His Excellency Monsieur Joseph Bech,
Minister of State,
President of the Grand Ducal Government,
Luxemburg.