

N° 3256.

BELGIQUE ET LUXEMBOURG

Echange de notes comportant un arrangement en vue du rapatriement des enfants mineurs qui se sont soustraits à l'autorité paternelle ou tutélaire. Luxembourg, le 31 mai 1933.

BELGIUM AND LUXEMBURG

Exchange of Notes constituting an Agreement regarding the Repatriation of Minors who have evaded the Authority of their Parents or Guardians. Luxemburg, May 31, 1933.

¹ TRADUCTION. — TRANSLATION.

No. 3256. — EXCHANGE OF NOTES² BETWEEN THE BELGIAN AND LUXEMBURG GOVERNMENTS CONSTITUTING AN AGREEMENT REGARDING THE REPATRIATION OF MINORS WHO HAVE EVADED THE AUTHORITY OF THEIR PARENTS OR GUARDIANS. LUXEMBURG, MAY 31, 1933.

French official text communicated by the Belgian Minister for Foreign Affairs. The registration of this Exchange of Notes took place September 4, 1933.

I.

BELGIAN LEGATION.

No. 1350.

LUXEMBURG, May 31, 1933.

YOUR EXCELLENCY,

I have the honour, in accordance with instructions received from His Majesty's Government, to inform your Excellency that it agrees to the terms of the following Arrangement :

“ The Belgian and Luxemburg Governments agree to take the necessary steps to repatriate to their respective countries Luxemburg minors who are in Belgium and Belgian minors who are in the Grand-Duchy of Luxemburg against the will of the persons who are entitled to their custody under their national law, subject to the following conditions :

“ (1) That the right of custody has been merely disregarded and is not disputed This condition shall be deemed to have been fulfilled if the person invested with the right of custody has been appointed by order of the Court.

“ As regards exclusively the repatriation to Belgium of Belgian minors who have taken refuge in the Grand-Duchy, the request shall furthermore be deemed admissible by the Luxemburg authorities if it is supported by the Belgian judicial authority having jurisdiction in the matter.

“ (2) That the request of the persons invested with the paternal authority or the right of custody be addressed to the judicial authority of their place of domicile or residence with a view to the return of the child to the domicile from which he has fled ;

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.

² This Agreement entered into force immediately.

“(3) That repatriation be judged, on the facts of the case, to be consonant with the minor's interest, in accordance with the following procedure :

“ A. In the case of a Luxemburg minor :

“ The President of the competent Luxemburg Court, after examining the request and authorising, if necessary, the return of the minor to his home, shall transmit the papers through the Luxemburg judicial authority to the Belgian judicial authority having jurisdiction in the matter by reason of the temporary residence of the minor.

“ The preliminary investigation of the facts shall be conducted by correspondence between the judicial authorities concerned.

“ The Belgian judicial authority shall summon the child to appear, shall interrogate him as well as the persons with whom he has taken refuge and shall judge whether repatriation is in the minor's interest.

“ B. In the case of a Belgian minor :

“ The Belgian judicial authority, after examining the request and authorising, if necessary, the return of the minor to his home, shall transmit the papers direct to the Luxemburg judicial authority having jurisdiction by reason of the temporary residence of the minor.

“ The preliminary investigation of the facts shall be conducted by direct correspondence between the judicial authorities concerned.

“ The Luxemburg judicial authority shall then refer the matter to the President of the local Court who shall summon the child to appear before him and shall interrogate him as well as the persons with whom he has taken refuge and shall decide whether repatriation is in the minor's interest.

“ The judge shall issue an order setting out his decision regarding the request for the return of the minor.

“ If the repatriation of the Belgian or Luxemburg minor is authorised, the competent judicial authorities shall settle between themselves the time and place of repatriation and shall designate the person or authority to whom the minor shall be handed over.

“ Each country shall defray the travelling and subsistence expenses occasioned in its territory by the conveyance of the minor.”

I should be much obliged if Your Excellency would be good enough to inform me whether the Grand-Ducal Government accepts these proposals. If so, the present communication and the reply which Your Excellency may be good enough to send me will be held to constitute an arrangement for the definite settlement of the question of repatriation of Belgian and Luxemburg minors who are in the Grand-Duchy of Luxemburg or in Belgium against the will of the persons who are entitled to their custody under their national law.

(Signed) NIEUWENHUYS,
Belgian Minister.

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

II.

GOVERNMENT.
FOREIGN AFFAIRS.

14.2.35 a.

LUXEMBURG, *May 31, 1933.*

YOUR EXCELLENCY,

I have the honour to inform you that the Grand-Ducal Government agrees to the terms of the following Arrangement :

“ The Luxemburg and Belgian Governments agree to take the necessary steps to repatriate to their respective countries Luxemburg minors who are in Belgium and Belgian minors who are in the Grand-Duchy of Luxemburg against the will of the persons who are entitled to their custody under their national law, subject to the following conditions :

“ (1) That the right of custody has been merely disregarded and is not disputed. This condition shall be deemed to have been fulfilled if the person invested with the right of custody has been appointed by order of the Court.

“ As regards exclusively the repatriation to Belgium of Belgian minors who have taken refuge in the Grand-Duchy, the request shall furthermore be deemed admissible by the Luxemburg authorities if it is supported by the Belgian judicial authority having jurisdiction in the matter.

“ (2) That the request of the persons invested with the paternal authority or the right of custody be addressed to the judicial authority of their place of domicil or residence with a view to the return of the child to the domicil from which he has fled ;

“ (3) That repatriation be judged, on the facts of the case, to be consonant with the minor's interest, in accordance with the following procedure :

“ A. In the case of a Luxemburg minor :

“ The President of the competent Luxemburg Court, after examining the request and authorising, if necessary, the return of the minor to his home, shall transmit the papers through the Luxemburg judicial authority to the Belgian judicial authority having jurisdiction in the matter by reason of the temporary residence of the minor.

“ The preliminary investigation of the facts shall be conducted by correspondence between the judicial authorities concerned.

“ The Belgian judicial authority shall summon the child to appear, shall interrogate him as well as the persons with whom he has taken refuge and shall judge whether repatriation is in the minor's interest.

“ B. In the case of a Belgian minor :

“ The Belgian judicial authority, after examining the request and authorising, if necessary, the return of the minor to his home, shall transmit the papers direct to the Luxemburg judicial authority having jurisdiction by reason of the temporary residence of the minor.

“ The preliminary investigation of the facts shall be conducted by direct correspondence between the judicial authorities concerned.

“ The Luxemburg judicial authority shall then refer the matter to the President of the local Court who shall summon the child to appear before him and shall interrogate him as well as the persons with whom he has taken refuge and shall decide whether repatriation is in the minor's interest.

“ The judge shall issue an order setting out his decision regarding the request for the return of the minor.

“ If the repatriation of the Belgian or Luxemburg minor is authorised, the competent judicial authorities shall settle between themselves the time and place of repatriation and shall designate the person or authority to whom the minor shall be handed over.

“ Each country shall defray the subsistence and travelling expenses occasioned in its territory by the conveyance of the minor. ”

I should be much obliged if Your Excellency would be good enough to inform me whether the Belgian Government accepts these proposals. If so, the present communication and the reply which Your Excellency may be good enough to send me will be held to constitute an arrangement for the definite settlement of the question of repatriation of Luxemburg and Belgian minors who are in Belgium or the Grand-Duchy of Luxemburg against the will of the persons entitled to their custody under their national laws.

(Signed) BECH.