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BELGIUM

HAGUE CONVENTION ON INTERNATIONAL CHILD ABDUCTION

Introduction

The Hague Convention on the Civil Aspects of International Child Abduction of October 25, 1980, was signed by Belgium on January 11, 1982. It was ratified on February 9, 1999, and entered in force for Belgium on May 1, 1999.¹

I. Domestic Laws and Regulations Implementing the Hague Convention

In accordance with article 6, paragraph 1, Belgium has designated as Central Authority the Ministère de la Justice, Direction générale de la Législation civile et des Cultes, Service Entraide judiciaire internationale, Boulevard de Waterloo 115, 1000 Bruxelles, Belgium.

According to the Constitution of Belgium,² the Convention became part of the legal system of Belgium upon its approval by Parliament, its ratification, and its publication. The courts will apply it whenever called upon to do so.

II. Domestic Laws Regarding Child Abduction and Parental Visitation

A. Child Abduction

For a decision relating to the wrongful removal and retention of a child, the competent court is the District court (Tribunal de première instance) where the child resides, and this court is also competent in proceedings under the Hague Convention. The proceedings are governed by the provisions of the Judiciary Code (Code judiciaire).³

Criminal prosecution of parents for child abduction under articles 368-371 of the Criminal Code was abolished and the articles were repealed.⁴

B. Parental Visitation

For a decision relating to parental visitation, the competent court is the District court where the child resides. This court is also competent in proceedings under the Hague Convention. The proceedings are governed by provisions of the Judiciary Code.⁵

¹ Law of Aug. 10, 1998, on the Approval of the Convention, Moniteur Belge (MB), Apr. 24, 1999.

² Constitution of Belgium of Feb. 17, 1994, MB, Feb. 17, 1994, as amended, art.167, VI A, Les Codes Larcier, 2003.

³ Judiciary Code, arts. 1322bis - 1322octies, 1034bis-1034quinquies, I, Les Codes Larcier, 2003.

⁴ Law of Nov. 28, 2000, on the Criminal Protection of Minors, MB, Mar. 17, 2001, art 52.

⁵ *Supra* note 3.

III. Court System and Structure – Courts Handling the Hague Convention

General trial courts in civil matters are the District courts (Tribunaux de premiere instance), one in each territorial district. Appeal against their decisions goes to the Courts of appeal (Cours d'appel), which also have specified trial jurisdiction. Decisions of the Courts of appeal, as well as those of the District courts, are subject to annulment by the Court of Cassation (Cour de cassation) for breach of law. Trial courts in child-return proceedings, visitation, and enforcement of related orders under domestic Belgian law, as well under the Hague Convention, are the District courts.⁶

IV. Law Enforcement System

The District courts enforce their decisions. Decisions not subject to further remedy are immediately enforceable. This is done by court bailiffs and the police.

V. Legal Assistance Programs

The Ministry of Justice, Direction-General of Civil Legislation and Cults, Office of International Legal Aid, is entrusted with legal assistance under the Hague Convention. Further assistance can be obtained from the court in legal proceedings.⁷

VI. Conclusion

Belgium is in full compliance with the Hague Convention. The powers under the Convention are exercised by the Central Authority - the Ministry of Justice, as stated above, and the pertinent courts.

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⁶ *Id.*

⁷ *Id.* arts. 86 and 105.