

N° 3147.

ALLEMAGNE ET AUTRICHE

Echange de notes comportant un accord relatif à la réglementation de l'expulsion des sujets indésirables. Berlin, le 7 décembre 1932.

GERMANY AND AUSTRIA

Exchange of Notes constituting an Agreement regulating the Expulsion of Undesirable Persons. Berlin, December 7, 1932.

¹ TRANSLATION.

No. 3147. — EXCHANGE OF NOTES BETWEEN THE GERMAN AND AUSTRIAN GOVERNMENTS CONSTITUTING AN AGREEMENT REGULATING THE EXPULSION OF UNDESIRABLE PERSONS. BERLIN, DECEMBER 7, 1932.

I.

Zu Z. 248.536 - 15.
Z. 8370/Res.

BERLIN, December 7, 1932.

YOUR EXCELLENCY,

With reference to the negotiations conducted between the Austrian Legation at Berlin and the German Ministry of Foreign Affairs concerning the regulation of repatriation questions between the Austrian Republic and the German Reich, I am instructed by my Government to notify Your Excellency that the Federal Government of the Austrian Republic agrees to the following provisions :

Article 1.

1. Each of the two Parties undertakes to receive at all times its own nationals who have been deported by the other Party or for other reasons have to leave that country.
2. The obligation laid down in paragraph 1 shall also apply to persons who formerly possessed the nationality of either Party but have lost it on the grounds of domestic legislation, provided they have not become nationals of the other Party or of a third State.
3. The Austrian Republic shall further receive stateless persons who were former Austrian or Hungarian nationals, provided that, immediately before becoming stateless, they belonged to one of the communes forming part of the Austrian Republic. Germany shall similarly receive stateless persons who formerly possessed German nationality, provided they were born in the present territory of the Reich of parents who were domiciled there at the time of their birth.
4. The Contracting Parties shall, in addition, receive all persons who have been stateless since birth and are the descendants of any of the persons referred to in paragraphs 1, 2 and 3.
5. The deported or repatriated person's legitimate wife, and his own or his wife's children under sixteen years of age shall, provided they reside with him in the same place and, are not nationals of the other Party, be admitted simultaneously.

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

Article 2.

1. Persons to be deported shall be handed over on the basis of a direct exchange of correspondence between the authorities ordering deportation and the national authority competent to acknowledge their nationality.

2. When the obligation to receive the persons in question has been admitted and due notice given, the persons to be deported shall be taken over by the competent frontier authorities of the country of origin on presentation of the original or a certified copy of the document acknowledging the obligation to receive them.

Article 3.

1. No previous correspondence shall be required if the person to be deported is the holder of valid papers to be more specifically defined by agreement between the two Parties. In such case the frontier authorities shall receive the persons to be deported without further formality.

2. The provisions of paragraph 1 shall not apply to persons in need of assistance by reason of youth, infirmity or sickness or of unsupported women with children. In such cases the provisions of Article 2 shall apply.

Article 4.

Diplomatic mediation shall be resorted to in cases where the authorities of the two Parties fail to agree on the obligation to receive repatriated persons or when a request has had to be lodged for a person handed over to the authorities of one Contracting Party in virtue of Articles 2 and 3 to be taken back, because it has only subsequently been discovered that the conditions for admission as laid down in Article 1 were not fulfilled.

Article 5.

The two Parties shall make a special agreement as to the rules to be observed on reception and, in particular, as to the frontier points where the reception is to take place.

Article 6.

1. Both Parties undertake to instruct their authorities to deal as promptly as possible with all requests for reception submitted.

2. Reception may not be postponed or refused because the authorities of the country of origin are uncertain which of them is responsible for maintenance.

Article 7.

The cost of conveying persons to be deported or repatriated to the place of reception shall be borne by the deporting Party.

Article 8.

Each Party shall be entitled without applying the procedure laid down in Articles 2 and 3, to send back immediately to the territory of the other Party nationals of the latter Party or persons not nationals of either Party who have previously been subjected to, deportation or repatriation, or fulfil the conditions therefor if they have passed direct from the territory of the other Party into the territory of the deporting Party within three days of being discovered (e. g. foreign gipsies).

Article 9.

Each of the Parties undertakes at the request of the other Party to transport across its territory to their native country nationals or former nationals of a third State who are staying in the territory of the other Party and are to be deported therefrom, provided it is proved that the third State is prepared to receive the deported person and that any countries through which they have to pass agree to the person being transported through their territory. Furthermore, the application shall state explicitly that the Party permitting the transport will not thereby be involved in any expense. The application shall give the reason for rapatriation of deportation and a description of the person concerned ; it shall be forwarded direct by the competent authority of the one Party to the competent authority of the other Party. If a third country should refuse to receive the deportees or if through transport should be refused by any of the countries to be crossed, the other Party shall be bound to take back the deported persons and to refund the cost of the return journey.

Article 10.

This Agreement shall come into force on January 1st, 1933, and shall remain in force until denounced by one of the two Parties. In such case it shall remain in force for three months after the day on which the notification to that effect has been received by the other Party.

I have the honour on behalf of the Austrian Government to communicate the following additions to Articles 2, 3, 5 and 9 of the above Agreement :

1. *Ad Article 2.* — The Austrian authorities responsible for deciding nationality shall be the *Landesregierungen* of the various provinces and the Municipality of the Federal Capital of Vienna as the administrative authority of the Vienna *Landesregierung*.

2. *Ad Article 3, paragraph 1.* — The following shall be regarded as valid identity documents establishing the obligation to admit deported persons without previous exchange of correspondence in the case of Austrian nationals ; passports describing the holder as an Austrian subject or giving as the commune or origin a commune situated in Austria ; certificates of origin (*Heimatscheine*) which shall not as a rule be more than five years old and must in any case have been issued since the creation of the Republic, and, lastly, provincial nationalisation certificates or certificates of option, as well as certificates of nationality of a province or of the Confederation (nationality papers) issued in virtue of the Federal Chancellor's Decree of October 1st, 1925 (*Bundesgesetzblatt* No. 378).

3. *Ad Article 5.* — The following shall be regarded as the Austrian frontier authorities or points for the reception of persons to be deported : in the Vorarlberg, the Bregenz *Bezirkshauptmannschaft* and as frontier point the town of Bregenz ; in the Tyrol, the Kufstein *Bezirkshauptmannschaft* and as frontier point the town of Kufstein ; in Salzburg, the Police Commissariat at Salzburg railway station and as frontier point the town of Salzburg ; in Upper Austria, the *Bezirkshauptmannschaften* of Braunau-am-Inn and Schärding and as frontier points the towns of Braunau-am-Inn and Schärding.

It shall be the duty of the competent frontier authorities to agree upon any other rules to be observed in receiving repatriated persons, particularly as regards the hours to be fixed for reception and transfer.

4. *Ad Article 9.* — The provision of the necessary escort for the journey across Austria may be requested only in the case of the transport of prisoners but not in that of the classes of persons mentioned in Article 3, paragraph 2 ; in the latter cases, unless Austria declares beforehand that she is prepared to provide the requisite escort, Germany must make the necessary arrangements.

Requesting Your Excellency to be good enough to send me a note of similar tenor to the present note as a formal confirmation of these Agreements.

I have the honour, etc.

MEINDL, *m. p.*
Austrian Chargé d'Affaires.

To His Excellency
Baron von Neurath,
Reich Minister for Foreign Affairs,
Berlin.

II.

MINISTRY
OF FOREIGN AFFAIRS,
V. 15. 292.

BERLIN, *December 7 1932.*

SIR,

I have the honour to acknowledge receipt of your note of December 7 — Z.8370/Res. — and to inform you that the German Government accepts the following Agreement for the regulation of repatriation questions between the German Reich and the Austrian Republic :

Article 1.

1. Each of the two Parties undertakes to receive at all times its own nationals who have been deported by the other Party or for other reasons have to leave that country.

2. The obligation laid down in paragraph 1 shall also apply to persons who formerly possessed the nationality of either Party but have lost it on the grounds of domestic legislation, provided they have not become nationals of the other Party or of a third State.

3. The Austrian Republic shall further receive stateless persons who were former Austrian or Hungarian nationals, provided that, immediately before becoming stateless, they belonged to one of the communes forming part of the Austrian Republic. Germany shall similarly receive stateless persons who formerly possessed German nationality, provided they were born in the present territory of the Reich of parents who were domiciled there at the time of their birth.

4. The Contracting Parties shall, in addition, receive all persons who have been stateless since birth and are the descendants of any of the persons referred to in paragraphs 1, 2 and 3.

5. The deported or repatriated person's legitimate wife, and his own or his wife's children under sixteen years of age shall, provided they reside with him in the same place and are not nationals of the other Party, be admitted simultaneously.

Article 2.

1. Persons to be deported shall be handed over on the basis of a direct exchange of correspondence between the authorities ordering deportation and the national authority competent to acknowledge their nationality.

2. When the obligation to receive the persons in question has been admitted and due notice given, the persons to be deported shall be taken over by the competent frontier authorities of the country of origin on presentation of the original or a certified copy of the document acknowledging the obligation to receive them.

Article 3.

1. No previous correspondence shall be required if the person to be deported is the holder of valid papers to be more specifically defined by agreement between the two Parties. In such case the frontier authorities shall receive the persons to be deported without further formality.

2. The provisions of paragraph 1 shall not apply to persons in need of assistance by reason of youth, infirmity or sickness or of unsupported women with children. In such cases the provisions of Article 2 shall apply.

Article 4.

Diplomatic mediation shall be resorted to in cases where the authorities of the two Parties fail to agree on the obligation to receive repatriated persons or when a request has had to be lodged for a person handed over to the authorities of one Contracting Party in virtue of Articles 2 and 3 to be taken back, because it has only subsequently been discovered that the conditions for admission laid down in Article 1 were not fulfilled.

Article 5.

The two Parties shall make a special agreement as to the rules to be observed on reception and, in particular, as to the frontier points where the reception is to take place.

Article 6.

1. Both Parties undertake to instruct their authorities to deal as promptly as possible with all requests for reception submitted.

2. Reception may not be postponed or refused because the authorities of the country of origin are uncertain which of them is responsible for maintenance.

Article 7.

The cost of conveying persons to be deported or repatriated to the point of reception shall be borne by the deporting Party.

Article 8.

Each Party shall be entitled without applying the procedure laid down in Articles 2 and 3, to send back immediately to the territory of the other Party nationals of the latter Party or persons not nationals of either Party who have previously been subjected to deportation or repatriation, or

fulfil the conditions therefor if they have passed direct from the territory of the other Party into the territory of the deporting Party within three days of being discovered (e. g. foreign gipsies).

Article 9.

Each of the Parties undertakes at the request of the other Party to transport across its territory to their native country nationals or former nationals of a third State who are staying in the territory of the other Party and are to be deported therefrom, provided it is proved that the third State is prepared to receive the deported person and that any countries through which they have to pass agree to the person being transported through their territory. Furthermore, the application shall state explicitly that the Party permitting the transport will not thereby be involved in any expense. The application shall give the reason for repatriation or deportation and a description of the person concerned ; it shall be forwarded direct by the competent authority of the one Party to the competent authority of the other Party. If a third State should refuse to receive the deportees or if through transport should be refused by any of the countries to be crossed, the other Party shall be bound to take back the deported persons and to refund the cost of the return journey.

Article 10.

This Agreement shall come into force on January 1st, 1933, and shall remain in force until denounced by one of the two Parties. In such case it shall remain in force for three months after the day on which the notification to that effect has been received by the other Party.

I have the honour on behalf of the German Government to communicate the following additions to Articles 2, 3, 5 and 9 of the above Agreement :

Ad Article 2. — The following shall be the competent authorities in Germany for deciding nationality :

Prussia : the *Regierungspräsidenten* ; in the case of Berlin and also, until further notice, of Altona, Frankfort-on-Main, Hanover, Cassel, Kiel, Cologne, Königsberg, Stettin and Wiesbaden, the *Polizeipräsidenten*.

Bavaria : the *Bezirksämter* and the Municipal Councils of the towns forming separate *Bezirke* and also the Police Headquarters (*Polizeidirektionen*) at Munich, Nürnberg and Fürth.

Saxony : the *Amtshauptmannschaften* and the Municipal Councils in towns invested with the powers of subordinate State administrative authorities.

Württemberg : the *Oberämter* and the Stuttgart *Polizeipräsidium*.

Baden : the *Bezirksämter*.

Thuringia : the *Kreisämter* ; the mayors of rural divisions (*Landkreise*) and independent communes.

Hesse : the *Kreisämter*.

Hamburg : the police authorities.

Mecklenburg : The Ministry of the Interior at Schwerin.

Brunswick : the *Kreisdirektionen* and the Brunswick *Polizeipräsidium*.

Oldenburg : the *Stadt—ämter* and Municipal Councils of towns of the first category, the *Regierung* at Eutin, and the Town Council of that place, the *Regierung* at Birkenfeld.

Anhalt : the *Regierung*, Department of the Interior, Dessau.

Bremen : the Bremen Police Headquarters (for the Port of Bremerhaven, the *Stadtamt*).

Lippe : the Lippe *Regierung* at Detmold.

Lübeck : the *Stadtamt* and *Landamt* at Lubeck.

Mecklenburg-Strelitz : the *Ministerium* at Neu-Strelitz, Department of the Interior.

Schaumburg-Lippe : the *Landesregierung* at Bückeberg.

Ad Article 3. — The following shall be regarded in Germany as valid identity documents establishing the obligation to receive deported persons without previous exchange of correspondence :

A valid certificate of origin,

A valid passport (national passport, not foreign passport).

Ad Article 5. — The frontier points for the reception of persons to be deported shall be in Germany :

(a) On the German-Austrian frontier :

(1) Lindau (*Bezirksamt* Lindau, Frontier police station, Lindau).

(2) Kufstein (*Bezirksamt* Rosenheim, Frontier police station, Kufstein).

(3) Salzburg (*Bezirksamt* Laufen, Frontier police station, Salzburg).

(4) Passau (*Bezirksamt* Passau, Frontier police station, Passau).

(5) Mittenwald (*Bezirksamt* Garmisch, *Gendarmerie* station, Mittenwald).

(6) Simbach (*Bezirksamt* Pfarrkirchen, *Gendarmerie* station, Simbach).

—The last two points being only for the reception of persons repatriated within the frontier zone ;

(b) On the German-Czechoslovak frontier :

(1) Bodenbach-Tetschen (*Gendarmerie* frontier commissariat, Bodenbach-Tetschen)

(2) Ratibor (*Polizeiverwaltung*, Ratibor).

It shall be the duty of the competent authorities of both Parties to agree upon the remaining rules to be observed in receiving repatriated persons, particularly as regards the hours to be fixed for reception and transfer.

Ad Article 9. — The provision of an escort for the journey across Germany may only be demanded for police custody purposes and not for purposes of individual attention (cf. the categories of persons mentioned in Article 3, paragraph 2). In the latter case, and unless the German authorities declare beforehand their readiness to provide the requisite escort, the Austrian authorities must make the necessary arrangements.

I have the honour, etc.

VON BÜLOW.

M. Meindl,
Counsellor of Legation,
Austrian Chargé d'Affaires.