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### 1 Under what circumstances may a parent lawfully remove the child to another state without the other parent's consent?

As a general rule a parent does not require the consent of the other parent to remove a child to another state temporarily. If the parents have joint parental authority, either of them can travel with the child without the express consent of the other. If by way of exception one parent has sole parental authority, the presumed or express consent of the other parent is not necessary.

If a parent does not hold parental authority but has rights of access and can have the child to stay, that parent does not need the consent of the other parent to remove the child for temporary visits to another state during periods of access and when they are having the child to stay. The other parent's consent is not required for short-term temporary removals (for instance crossing the border to go shopping) or longer temporary removals (for instance for holidays) provided that the child is removed during periods when the removing parent is exercising rights of access and can have the child to stay.

The identity or other documents that need to be taken for temporary removals vary depending on the legal requirements of the country to which the child is being taken.

### 2 Under what circumstances is the other parent's consent necessary for the child's removal to another state?

If they have joint parental authority, both parents must consent to any permanent removal of the child and to any **temporary** removal of the child **for serious reasons** (for instance for major medical treatment). A transfer of address (*domicile*) or habitual residence (*résidence*) is considered to be a permanent removal and requires the consent of both parents. If one parent has sole parental authority, the other parent's agreement is not required. However, at the request of the other parent, the right of access may be adapted.

For reasons of proof, the parents' consent must be in writing. The document may be drawn up by the parents. If the host state so requires, the parents may ask a court to put their consent on record.

### 3 If the other parent does not consent to the child's removal to another state, though it is necessary, how can the child be removed lawfully to another state?

If one parent refuses to consent to a child's removal to another state, an application for permission to take the child abroad will have to be made to the judge specialising in family matters (the *juge aux affaires familiales*) at the district court (*tribunal d'arrondissement*).

### 4 Do the same rules apply to temporary removal (e.g. holiday, healthcare etc.) and permanent removal? If applicable, please provide relevant consent forms.

As mentioned under sections 1 to 3, the provisions differ depending on whether the child is to be removed temporarily or permanently.

A minor travelling abroad who is not accompanied by a parent must have authorisation to leave the country (given in the form of a document by which a parent authorises their child to leave Luxembourg).

Parents can obtain an authorisation form from their municipal offices (the offices of the *commune*). Most municipalities ask for payment of a fee to cover the administrative costs of issuing these forms. The amount of the fee varies from one municipality to another.

Although the forms are not mandatory, many foreign authorities require them if a child is to be admitted into their territory.

Even if the child is accompanied by one parent, it is nevertheless worth bringing an authorisation given by the other parent, as some countries may require it.

#### Links

<http://www.legilux.lu/>

<https://justice.public.lu/fr.html>

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