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FINAL REPORT BY THE EXPERT

Advice case: Animal health law exemptions between Netherlands and Germany

Advised entity: Maas-Swalm-Nette cross-border nature park

Experts contracted for the advice case:

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¹ Please quote the place and date of publication of the legal texts. For reference, see the [*b-solutions: Solving Border Obstacles. A Compendium 2020-2021, p 160 – 175*](#)

I. Executive summary

The Maas-Swalm-Nette Nature Park is located on the border of the German federal state North Rhine-Westphalia and the Dutch province Limburg. The Nature Park is attractive for recreational horse-riding.

The German district “Kreis Viersen”, the “Routebureau Noord- en Midden-Limburg”, Limburg Marketing and the “Grenspark Maas-Swalm-Nette” have launched a project to create a common bridleway network. These stakeholders are working to identify and remove all obstacles to cross-border horseback riding. They found that one of the obstacles is the European Animal Health Law.²

Under that law, it is required to carry a health certificate for the horse when crossing the border. Therefore, the health certificate must be requested from the national competent authority where the horse resides in before crossing the border. In the Netherlands, the application for the health certificate must be made at the Dutch Food and Goods Authority (*Nederlandse Voedsel en Warenautoriteit* or “NVWA”). In Germany, the application for the health certificate has to be made at the competent veterinary office. Due to the effort and planning that is needed to get the health certificate and also the costs, the requirement of the health certificate makes crossing the border on a horseback less attractive. This is a problem for the Nature Park, as it is located in the border region, where crossing the border on a horse-back is precisely one of the main attractions.

Regulation (EU) 2016/429 lays down rules on animal diseases that are transmissible to animals or to humans, including requirements for official animal health certification for various movements of terrestrial animals and their products. Based on article 143 of Regulation (EU) 2016/429, a health certificate is required for ungulates, which basically are animals with hooves. Since equines are ungulates, a health certificate is required for horses.

We found two possible solutions that, at least partially, eliminate the problem of the health certificate requirement.

The first solution lies within article 139 of the Regulation (EU) 2016/429. In that article, a derogation from the animal health or certification requirements is provided. According to article 139, the competent authorities can grant a derogation from the health certificate requirement for movements that are for “*recreational use near borders*”. Germany already has concluded agreements with Denmark and France about the use of the derogation stipulated in Article 139(1) of Regulation 2016/429 regarding movement of equine animals between certain near border territories. Therefore, it is possible that Germany and the Netherlands conclude an agreement similar to the agreements between Germany and Denmark and Germany and France. The already existing agreements can be used as an example or template.

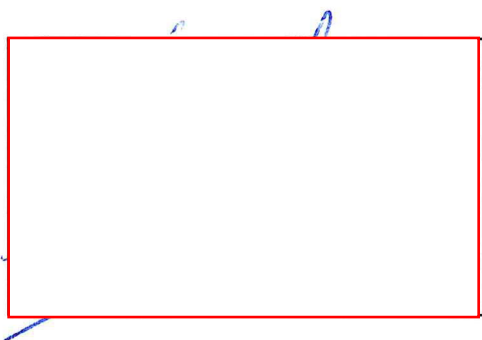
² Another obstacle is that the horse needs a licence plate with a valid sticker when riding in the open countryside in North-Rhine Westphalia (Germany). This obstacle is addressed by us separately in our Expert report “*Horse-riding fee*” dated 5th of April 2024.

The second possible solution is a more practical solution and lies within the fact that visitors of the Nature Park could rent/borrow a horse with a valid health certificate. Then the horse stable would have to arrange the health certificate, instead of the visiting horse rider. If there would be an agreement between Germany and the Netherlands (as mentioned in solution 1), the horse stable would then probably also be covered by that agreement, so that the requirement of a health certificate would not apply to them.

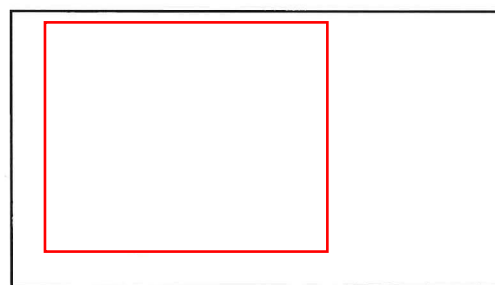
Besides those first two solutions that would, at least partially, eliminate the problem, there is a third very important aspect: the provision of information. If there is going to be an agreement between Germany and the Netherlands as mentioned above under solution 1, it should be made clear to horse riders when and whether they are covered by it. It should also be clear whether there is an alternative for them (for example one such as presented under solution 2).

During the planning and construction of the bridleways, it should be taken into account that, even in case of an agreement between the Netherlands and Germany (solution 1), there will still be horse riders who would have to require an animal health certificate when crossing the border on their own horse, because their horse is not normally kept in a stable located within the territories defined in the agreement (i.e. outside the specific border region).

It is therefore suggested by us, next to giving ample information, that the bridleway network in the Nature Park also has routes that are situated on just one side of the border. In that way, horse riders are not forced to ride across the border, but have the option to stay in their own country. In addition to this, they should also be informed about the possibility of renting/borrowing a horse (solution 2).



Anton H.M. Bouwmeister



Lotte D. Braakhuis

II. Description of the obstacle with indication of the legal/administrative provisions causing the obstacle

Description of the obstacle

The Maas-Swalm-Nette Nature Park is located on the border of the German federal state North Rhine-Westphalia and the Dutch province Limburg. The Nature Park is attractive for recreational horse-riding.

The German district “Kreis Viersen”, the “Routebureau Noord- en Midden-Limburg”, Limburg Marketing and the “Grenspark Maas-Swalm-Nette” have launched a project to create a common bridleway network. These stakeholders are working to identify and remove all obstacles to cross-border horseback riding. They found that one of the obstacles is the European Animal Health Law.

Under that law, it is required to carry a health certificate for the horse issued in the country where the horse resides in immediately prior to crossing the border. The general rule is that the certificate is valid for 10 days. However, in the case of horses accompanied by their single lifetime identification document (passport) with a valid validation mark or a valid licence, for which an individual animal health certificate on a model EQUI-INTRA-IND is issued, the validity of the animal health certificate required for movement to another Member State may be extended to 30 days. A certificate with a 30-day validity period allows multiple entries into other Member States and the return of the animal to the establishment of its departure.³ The “normal” certificate, that is valid for 10 days, does not allow the return of the animal to the establishment of its departure. Therefore, another health certificate will often be required to return to the establishment of departure.

Due to the effort and planning that is needed to get the health certificate and due to the costs, the requirement of the health certificate makes crossing the border on a horseback less attractive. This is a problem for the Nature Park, as it is located in the border region, where crossing the border on a horse-back is precisely one of the main attractions.

Indication of the legal/administrative provisions causing the obstacle Regulation (EU) 2016/429 (“Animal Health Law”)

Regulation (EU) 2016/429 lays down rules on animal diseases that are transmissible to animals or to humans, including requirements for official animal health certification for various movements of terrestrial animals and their products.

Article 2 of Regulation (EU) 2016/429 defines animals of the equine species or equine animals as animals of species of solipeds belonging to the genus *Equus*. Thus, this includes horses. Therefore, Regulation (EU) 2016/429 is applicable to horses.

According to Regulation (EU) 2016/429, animals of species which present a health risk or which are of greater economic importance, need to be accompanied by an animal

³ Legal base: [Article 91\(3\)](#) and [Article 92\(2\)](#) and (3) of Commission Delegated Regulation (EU) 2020/688.

health certificate. In cases where there is no requirement for an animal health certificate to be issued by a competent authority, an operator who moves animals to another Member State should issue a self-declaration document which confirms that the animals meet the movement requirements laid down in this Regulation.

Based on article 143 of Regulation (EU) 2016/429, a health certificate is required for ungulates, which basically are animals with hooves. Since equines are ungulates, a health certificate is required for horses.

In the Netherlands, the application for the health certificate must be made at the Dutch Food and Goods Authority (*Nederlandse Voedsel en Warenautoriteit* or “NVWA”). Inquiries with the NVWA revealed that the costs are about 250 EUR / 300 EUR. The veterinarian examines the horse and, if all is well, immediately signs the certificate, which is valid for ten days. Inquiries with the NVWA also revealed that getting the certificate does not take much time. If the application for the examination is done on Monday morning before 8am, usually the examination takes place the next day. Sometimes it takes a little longer, depending on the availability of the veterinarians and the necessary travel distance. However, the process rarely takes longer than 2 days.

In Germany, the application for the health certificate can be done at the competent veterinary office. The veterinary office in the district (“Kreis”) where the horse is located is authorised. The costs are based on the General Administrative Fee Schedule for the State of North Rhine-Westphalia and will be about 100 EUR. An additional travelling allowance can be charged.

The animal health conditions governing the movement of equidae (equine animals) between the EU Member States, including the United Kingdom in respect of Northern Ireland, are laid down in Commission Delegated Regulation (EU) 2020/688. Besides that, there are model animal health certificates that are laid down in Commission Implementing Regulation (EU) 2021/403, in particular pages 82 to 95.

III. Description of possible solution(s)

1. Possible solution 1: Derogation from the animal health or certification requirements

Article 126 of Regulation (EU) 2016/429 lays down the general requirements for movements of horses between Member States. The relevant requirements provided for in Sections 3 to 8 (Articles 130 to 154) need to be fulfilled. Section 7 is about the animal health certification. Article 143 states that operators shall only move specific species and categories if the animals in questions are accompanied by an animal health certificate.

Regulation (EU) 2016/429 provides for a derogation from the animal health or certification requirements:

Article 139 of the Animal Health Law

Article 139

Derogations concerning recreational use, sporting and cultural events, work near borders and grazing

1. The competent authority of the place of destination may grant derogations from the requirements of Sections 2 to 5 (Articles 126 to 136), with the exception of points (a),(b) and (c) of Article 126(1) and Articles 127 and 128, for intra-Union movements of kept terrestrial animals between Member States where such movements are for:

- (a) recreational use near borders;
- (b) exhibitions, and sporting, cultural and similar events, organised near borders;
- (c) grazing of kept terrestrial animals in grazing areas shared between Member States;
or
- (d) work done by kept terrestrial animals near borders of Member States.

2. Derogations by the competent authority of the place of destination for movements of kept terrestrial animals for the purposes provided for in paragraph 1 shall be agreed on between the Member States of origin and destination and appropriate risk-mitigation measures shall be taken to ensure that such movements do not pose a significant risk.

3. The Member States referred to in paragraph 2 shall inform the Commission of the granting of derogations as provided for in paragraph 1.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 264 concerning rules for the granting of derogations by the competent authority of the place of destination, supplementing those provided for in paragraph 1 of this Article.

There is no definition of the term “near borders” within the Animal Health Law. However the term “border area” is defined by the European Commission as “*An area that extends no more than 30 kilometres from the border.*”⁴

Examples of derogations

Derogations between Germany-Denmark and Germany-France

Germany has concluded agreements with Denmark and France about the use of the derogation stipulated in Article 139(1) of Regulation 2016/429 regarding movement of equine animals between certain near border territories.

The agreements stipulate that the health certification requirements provided for in Article 143 (1), Article 148 and Article 152 of Regulation 2016/429 shall not apply to the movements of equines between the territories defined in the agreement, for the purposes and time periods mentioned in the agreement and if the conditions that are laid down in the agreement are met. The horses must be accompanied by their single lifetime identification document complemented by a self-declaration signed by the

⁴ https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/border-area_en

operators of the place of origin. This self-declaration is annexed to the agreement or can be found on the website of the Federal Ministry of food and agriculture in Germany. Both agreements are signed by the Head of the German Veterinary Services, Dr. Dietrich Rassow.

It is important to emphasise that the derogation agreed upon in this agreement only applies to equines that are habitually kept on establishments geographically located within the territories as defined in the agreement.

Agreement between Germany and France

The agreement between Germany and France applies in Rhineland-Palatinate, Saarland, Baden-Württemberg (in the administrative districts of Karlsruhe and Freiburg) in Germany and in the Départements de la Moselle, du Haut-Rhin et du Bas-Rhin in France. The agreement can be found on the website of the Federal Ministry of food and agriculture in Germany. Unfortunately, there is only a German version of the agreement on the internet.⁵

There is a German information sheet about the agreement that can be found on the internet on the website of the Ministry for climate protection, environment, energy and mobility of Rhineland-Palatinate.⁶

The agreement between Germany and France is in force since the 13th of March 2023.

Agreement between Germany and Denmark

The agreement between Germany and Denmark applies in Schleswig-Holstein in Germany, and in various “Kommunes” (municipalities) in Denmark.⁷

The agreement is in force since the 30th of June 2022 and can be found on the website of the Federal Ministry of food and agriculture.⁸

Possibility of an agreement between Germany and the Netherlands

Based on the above, it is possible that Germany and the Netherlands conclude an agreement similar to the agreements between Germany and Denmark and Germany and France. The already existing agreements can be used as an example or template.

⁵ Vereinbarung über Ausnahmeregelung hinsichtlich des Verbringens von Equiden in Grenznähe zwischen Frankreich und Deutschland, 13. März 2023, https://www.bmel.de/SharedDocs/Downloads/DE/Tiere/equiden-de-fr-3.pdf?__blob=publicationFile&v=2

⁶ Informationen über die Vereinbarung über Ausnahmeregelungen hinsichtlich des Verbringens von Equiden in Grenznähe zwischen Frankreich und Deutschland, https://mkuem.rlp.de/fileadmin/14/Themen/Tiere_und_Tierwohl/PDF/2023.03.24_INFO_grenznaehes_Verbring_n_Equiden_FR_und_DE_abgestimmt_SL_RP_BW.pdf

⁷ Assens Kommune, Billund Kommune, Esbjerg Kommune, Fanø Kommune, Fredericia Kommune, Faaborg-Midtfyn Kommune, Guldborgsund Kommune, Haderslev Kommune, Kerteminde Kommune, Kolding Kommune, Langeland Kommune, Lolland Kommune, Middelfart Kommune, Nordfyns Kommune, Nyborg Kommune, Odense Kommune, Svendborg Kommune, Sønderborg 1 Scope Page 2 of 8 Kommune, Tønder Kommune, Varde Kommune, Vejen Kommune, Vejle Kommune, Vordingborg Kommune, Ærø Kommune, and Aabenraa Kommune.

⁸ Agreement for derogations concerning movements of equine animal (equines) near borders between Denmark and Germany dated 30th of June 2022, https://www.bmel.de/SharedDocs/Downloads/DE/Tiere/signed-agreement-nearborders-equines.pdf?__blob=publicationFile&v=4

It should be noted that even though the European Commission defines “border area” as “*An area that extends no more than 30 kilometres from the border*”, the concluded agreements as mentioned above involve a region that is larger than 30km from the border. They involve the specific regions, that are bordering the other country.

The applicant argued that such an agreement should apply to the whole of the Netherlands and at least to two German federal states, namely North Rhine-Westphalia and Lower Saxony. Given the stated definition by the European Commission of the term “border area” and the scope of the other agreements, it should be possible to conclude it for the two German states, but not for the whole of the Netherlands. Not all Dutch provinces are border regions to Germany. If the agreement would apply on border regions, it could include the following Dutch provinces: Groningen, Drenthe, Overijssel, Gelderland and Limburg.

Cross-border transport

The applicant raised the question if such an agreement between Germany and the Netherlands could also apply if the person is not crossing the border on a horseback, but is driving a car with the horse in a trailer across the border. After all, it is possible that a Dutch person who wants to visit the Nature Park drives to the German side of the border first, before entering the Nature Park on a horseback. For example because of the distance from the horse stable to the Nature Park.

Regulation (EU) 2016/429 is about “*movements*” of animals. The derogation provided for in article 139 of the Regulation also speaks of “*movement for recreational use near borders*”. Therefore, there is no indication that the derogation is only possible if the person is sitting on a horseback. Nor do the existing agreements between Germany and France and between Germany and Denmark state that they are only applicable if the border is crossed on a horseback.

The agreement would therefore probably also be applicable if the border is crossed while the horse is in a trailer. However, this of course depends on the final wordings of a (future) agreement between Germany and the Netherlands.

In this regard, we would like to note that there might be additional requirements to the transport of horses (in addition to the health certificate) that need to be taken into account when crossing the border in a car with the horse in a trailer. Besides the requirement of the health certificate that is based on the Animal Health Law, there is another European Regulation (EU) No 1/2005 (Transport-Regulation) that lists requirements for the transport of live animals across the border. The rules in that Regulation vary for different animal species and for different travel distances. Since the applicants questions are specifically about the health certificate (and therefore the Animal Health Law), an exposition of the additional requirements for transporting horses in general is beyond the scope of the Report. However, for the sake of completeness, we did want to make a remark about this.

2. Possible solution 2: rent/borrow a horse

Anyone who wants to cross the border on a horseback, must make sure they carry the necessary health certificate with them. The health certificate is linked to the horse which means that a health certificate is mandatory for every horse that crosses the border.

Cooperation with horse stable in border region

One practical solution to avoid the obligation of the health certificate is to cooperate with a horse stable in the border region. A visitor of the Nature Park could rent/borrow a horse that is accompanied by the necessary health certificate. This would mean that the horse stable would be responsible for issuing the health certificates for the horses, instead of the horse rider. The horse stable could be reimbursed for costs for the health certificate by either the horse riders themselves (through the charges) or by other stakeholders.

If there were an agreement between Germany and the Netherlands as mentioned under 1., it could even be the case that horses in the border region at the cooperating horse stable no longer would need a health certificate.

3. Provision of information

In any case, even when one of the two aforementioned solutions is applied, the provision of information on the requirement to horse riders in the Nature Park is very important.

For example, if there were an agreement between Germany and the Netherlands as mentioned under solution 1, it should still be made clear to horse riders when and whether they are covered by it. It should also be clear whether there is an alternative for them (for example such as solution 2).

By informing horse riders, they are prevented from knowingly or unknowingly breaking the law. Perhaps the Nature Park could work with a step-by-step plan on their website. With a few clicks, it could then be clear to horse riders which options are available for them in their specific case. Finding out what their options are could also be done in the park, for example by using signs/information boards with a QR-code.

During the planning and construction of the bridleways in the Nature Park, it should be taken into account that even in case of an agreement between the Netherlands and Germany, there will still be horse riders who do not qualify for solution 1, because their horse is not habitually kept on an establishments geographically located within the territories defined in the agreement (i.e. outside the specific border region).

It is therefore suggested by us, in addition to the mentioned aspect about the provision of information, that the bridleway network in the Nature Park also has routes that are situated on just one side of the border, meaning horse riders have the option of riding on a bridleway on either the German or the Dutch side. In that way, horse riders are

not forced to ride across the border, but have the option to stay in their own country. They should also be informed about the possibility of renting/borrowing a horse (solution 2).

Perhaps signs could be used that say:

Stay in the Netherlands? Go left and only follow orange paths.

Ride to Germany? Go right, but note: health certificate required! Check out our horse-rental options with health certificate on website/QR code.

IV. A full list of all legal provisions relevant to the case with the correct citation⁹ both in original language and in English

- Regulation (EU) 2016/429 (“Animal Health Law”) Of 9th of March 2016, Brussels.

Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (‘Animal Health Law’), OJ L 84, 31.3.2016, p. 1–20

- Commission Delegated Regulation (EU) 2020/688 Of 17th of December 2019, Brussels.

Commission Delegated Regulation (EU) 2020/688 of 17 December 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council, as regards animal health requirements for movements within the Union of terrestrial animals and hatching eggs, OJ L 174, 3.6.2020, p. 140–210

- Commission Implementing Regulation (EU) 2021/403 Of 24th March 2021, Brussels.

Commission Implementing Regulation (EU) 2021/403 of 24 March 2021 laying down rules for the application of Regulations (EU) 2016/429 and (EU) 2017/625 of the European Parliament and of the Council as regards model animal health certificates and model animal health/official certificates, for the entry into the Union and movements between Member States of consignments of certain categories of terrestrial animals and germinal products thereof, official certification regarding such certificates and repealing Decision 2010/470/EU, OJ L 113, 31.3.2021, p. 1–935

⁹ Please quote the place and date of publication of the legal texts. For reference, see the [b-solutions: Solving Border Obstacles. A Compendium 2020-2021, p 160 – 175](#)

V. Legal references

- Agreement for derogations concerning movements of equine animals (equines) near borders between Denmark and Germany (entered into force 30th of June 2022, published on the 4th of July 2022 on the website of the German Federal Ministry of Food and Agriculture (BMEL)).

<https://www.bmel.de/SharedDocs/Downloads/DE/Tiere/signed-agreement-nearborders-equines.pdf?blob=publicationFile&v=4>

In German: Vereinbarung über Ausnahmeregelung hinsichtlich des Verbringens von Equiden in Grenznähe zwischen Dänemark und Deutschland (in Kraft seit 30.06.2022, veröffentlicht am 4.07.2022 auf der Website des deutschen Bundesministeriums für Ernährung und Landwirtschaft.

- Agreement for derogations concerning movements of equine animals (equines) near borders between France and Germany (entered into force 13th of March 2023, published on the 31st of March 2023 on the website of the German Federal Ministry of Food and Agriculture (BMEL)).

<https://www.bmel.de/SharedDocs/Downloads/DE/Tiere/equiden-de-fr-3.pdf?blob=publicationFile&v=2>

In German: Vereinbarung über Ausnahmeregelung hinsichtlich des Verbringens von Equiden in Grenznähe zwischen Frankreich und Deutschland (in Kraft seit 13.03.2023, veröffentlicht am 31.03.2023 auf der Website des deutschen Bundesministeriums für Ernährung und Landwirtschaft.