

Council Directive 96/93/EC of 17 December 1996 on the certification of animals and animal products
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COUNCIL DIRECTIVE 96/93/EC of 17 December 1996 on the certification of animals and animal products

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Whereas Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market (3) and Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and animal products with a view to the completion of the internal market (4), put the responsibility on the Member State of production or dispatch to ensure that veterinary checks, and where applicable, certification, are carried out in an appropriate manner;

Whereas to ensure the smooth functioning of the internal market in live animals and animal products, Member States should be able to rely completely on the integrity of certification at the places of production and dispatch;

Whereas this objective cannot be achieved by Member States individually; whereas, therefore, common rules should be adopted on the obligations of competent authorities and certifying officers and with respect to the certification of animal and animals products in accordance with Community legislation;

Whereas it is appropriate to ensure that the rules and principles applied by third-country certifying officers provide guarantees which are at least equivalent to those laid down in this Directive;

Whereas effective measures must be taken to prevent misleading or fraudulent certification,
HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive lays down the rules to be observed in issuing the certificates required by veterinary legislation.

Article 2

1. For the purposes of this Directive:

'veterinary legislation' means the legislation listed in Annex A to Directive 89/662/EEC and Annexes A and B to Directive 90/425/EEC;

'certifying officer' means the official veterinarian or - in the cases provided for in veterinary legislation - any other person authorized by the competent authority to sign the certificates required by that legislation.

2. In addition to the definitions in paragraph 1, the definitions contained in Article 2 of Directives 89/662/EEC and 90/425/EEC shall apply *mutatis mutandis*.

Article 3

1. The authority shall ensure that certifying officers have a satisfactory knowledge of the veterinary legislation as regards the animals or products to be certified and, in general, are

informed as to the rules to be followed for drawing up and issuing the certificates and - if necessary - as to the nature and extent of the enquiries, tests or examinations which should be carried out before certification.

2. Certifying officers must not certify data of which they have no personal knowledge or which cannot be ascertained by them.

3. Certifying officers must not sign blank or incomplete certificates, or certificates relating to animals or products which they have not inspected or which have passed out of their control. Where a certificate is signed on the basis of another certificate or attestation, the certifying officer shall be in possession of that document before signing.

4. Nothing in this Article shall prevent an official veterinarian from certifying data which have been:

(a) ascertained on the basis of paragraphs 1 to 3 of this Article by another person so authorized by the competent authority and acting under the control of the official veterinarian, provided that he or she can verify the accuracy of the data, or

(b) obtained, within the context of monitoring programmes, by reference to officially recognized quality assurance schemes or by means of an epidemiological surveillance system where this is authorized under veterinary legislation.

5. Detailed rules for implementing this Article may be adopted in accordance with the procedure laid down in Article 7.

Article 4

1. The competent authorities shall take all necessary steps to ensure the integrity of certification. In particular they shall ensure that certifying officers designated by them:

(a) have a status which ensures their impartiality and have no direct commercial interest in the animals or products being certified or in the holdings or establishments in which they originate;

(b) are fully aware of the significance of the contents of each certificate which they sign.

2. Certificates shall be drawn up at least in a language understood by the certifying officer and at least in one of the official languages of the country of destination as provided for in Community legislation.

3. Each competent authority shall be in a position to link certificates with the relevant certifying officer and ensure that a copy of all certificates issued is available for a period to be determined by it.

Article 5

1. Member States shall introduce such checks and have such control measures taken as are necessary to prevent the issuing of false or misleading certification and the fraudulent production or use of certificates purported to be issued for the purposes of veterinary legislation.

2. Without prejudice to any legal proceedings or penalties, the competent authorities shall carry out investigations or checks and take appropriate measures to penalize any instances of false or misleading certification which are brought to their attention. Such measures may include the temporary suspension of the certifying officers from their duties until the investigation is over.

In particular, if it is found in the course of the checks that:

(a) a certifying officer has knowingly issued a fraudulent certificate, the competent authority shall take all necessary steps to ensure, as far as is possible, that the person concerned cannot repeat the offence;

(b) an individual or an undertaking has made fraudulent use of or has altered an official certificate, the competent authority shall take all necessary measures to ensure, as far as is possible, that the individual or undertaking cannot repeat the offence. Such measures may include a refusal subsequently to issue an official certificate to the person or undertaking concerned.

Article 6

In the context of the inspections provided for by Community veterinary legislation and the audits to be carried out under the equivalence agreements between the Community and third countries, the Commission shall ensure that the rules and principles applied by third-country certifying officers offer guarantees at least equivalent to those laid down in this Directive.

Should it emerge from these inspections and/or audits or from the checks provided for in Directives 90/675/EEC and 91/496/EEC that third-country certifying officers have not complied with these principles, additional guarantees or specific requirements may be decided on in accordance with the procedure provided for in Article 7 of this Directive.

Article 7

Where reference is made to the procedure provided for in this Article, the Standing Veterinary Committee set up by Council Decision 68/361/EEC (5) shall act in accordance with the rules laid down in Article 18 of Directive 89/662/EEC.

Article 8

Before 31 December 1998 the Commission shall submit a report to the Council, accompanied by proposals on the possible use of secure methods of electronic transmission and certification. The Council shall act by qualified majority on those proposals.

Article 9

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 1998. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of domestic law which they adopt in the field governed by this Directive.

Article 10

This Directive is addressed to the Member States.

Done at Brussels, 17 December 1996.

For the Council

The President

I. YATES

(1) OJ No C 373, 29. 12. 1994, p. 16.

(2) OJ No C 56, 6. 3. 1995, p. 165.

(3) OJ No L 395, 30. 12. 1989, p. 13. Directive as last amended by Council Directive 92/118/EEC (OJ No L 62, 15. 3. 1993, p. 49).

(4) OJ No L 224, 18. 8. 1990, p. 29. Directive as last amended by Council Directive 92/118/EEC.

(5) OJ No L 255, 18. 10. 1968, p. 23.

