

The Netherlands: outstanding place to set up your equine business

All you need is a residence permit

In this issue of Horse International's Legal and Business Journal we would like to focus on the Netherlands as an outstanding place to set up your equine business or to start your equestrian sport career. In order to make this possible a foreigner needs to obtain a residence permit in the Netherlands. For this reason we shall zoom in on the application process and the existing requirements.

Introduction

Not that long ago, following the Presidential election of Donald J. Trump, the Dutch TV personality Arjen Lubach went viral on internet with his video 'America first, the Netherlands second'. This video was made to introduce his home country to the President Elect. When it comes to the equestrian sport and equine business the Netherlands does not need such an introduction. It would not be an overstatement to say that the Netherlands belong to the leading equestrian countries. Since the ancient times the Dutch (or back then: the Batavians) have been highly regarded for their excellent horsemanship. The Roman historian, Tacitus, was already reportedly impressed by the Batavian horsemanship and mentioned the Batavian men and horses could cross the Rhine without losing formation. This must have been indeed a useful skill considering their homeland was surrounded by two major rivers, with many smaller streams and subject to seasonal flooding.

Modern days

In modern days, Dutch horses are more popular than ever before. Therefore it is not by accident that the Netherlands is still called a 'horse country'. After Great Britain and the United States, the Netherlands is the largest export country for dressage and jumping horses. Quite an achievement considering the

size and population of the Netherlands. Most of the horses exported out of the Netherlands are going to America, with an export volume reaching \$220 million in 2015. The popularity of Dutch horses can be explained by the fact the Dutch horses are very successful at international competitions such as the Olympic Games. Furthermore the Dutch trade spirit will probably play an important role here as well.

Competition environment

The fact that Dutch horses are very popular combined with the fact that the competition environment in the Netherlands is very good; small distances between various regions in the country, many important international competitions and a large number of domestic and foreign competitors; makes it attractive for foreign riders and/or horse owners to move their businesses to the Netherlands. With reference to the foregoing we notice an increasing demand for advice from clients all over the world in order to obtain a residence permit in the Netherlands.

Residence permit the Netherlands

The requirements in order to qualify for a residence permit in the Netherlands depend on the nationality of the applicant. Below we will set out the requirements along the division line: EU nationals and non-EU nationals. Nationals of a country that belongs to the European Union (EU), the European Economic Area (EEA) or Switzerland do not need a residence permit to live in the Netherlands. Freedom of movement and residence for persons in the EU is the cornerstone of Union citizenship, established by the Treaty of Maastricht in 1992. Following the implementation of Directive 2004/38/EC the EU citizens have been granted the right to move and reside freely with their family within the EU. The passport (or ID card) of the country of the nationality is proof that they are lawfully residing in the Netherlands. This is the result of the EU Citizenship Directive governing the free movement and residing of EU citizens and their family members within the territory of the Member States.





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Nationals from outside the EU, the EEA and Switzerland

For foreigners from outside the EU, the EEA and Switzerland it is possible to obtain a residence permit in the Netherlands, but this process is more complicated when compared to the EU nationals as the EU nationals, as stated above, enjoy the status of EU citizens and have been granted the right to move and reside freely within the EU. Foreigners from outside the EU, the EEA and Switzerland will need to manifest to the Dutch Authorities that their presence serves a real Dutch economic interest. In practice for many applicant this has proven to be difficult as it requires the submission a lot of documentation (and therefore extra expenses) for these applicants. Furthermore these application procedures generally tend to take up much time.

Treaties

Independent of the EU laws adopted by the European Union, the Netherlands entered into various bilateral treaties with different countries around the globe. Some of these treaties like in case of the United States of America are called 'friendship treaties' and are basically designed and adopted to make mutual contacts, investments and trade between the nationals of both countries a lot easier. For the illustration of such possibilities we would like to zoom in on the bilateral trade treaty between the Netherlands and Japan (1912). This treaty enables Japanese nationals to obtain a residence permit fairly easily. As a result of this bilateral trade treaty, it has become significantly easier for Japanese nationals to get a residence permit as an entrepreneur. Let us imagine a Japanese rider wishes to settle and train in the Netherlands with the view of preparation for the Olympic Games in Tokyo 2020. What does he have to do? Unlike applicants (entrepreneurs) from other countries, for Japanese nationals there are just a few conditions for obtaining a residence permit. The main conditions are:

- Entry in the commercial register of the Chamber of Commerce.
- Investment of a substantial capital amounting to €4,500 in their own company.
- Opening balance and if it is not present, any statement or forecast, prepared by an approved auditor or an authorized financial adviser.

Japanese treaty

Even though there are relatively few admission requirements required for filling with the Dutch

authorities under the bilateral trade treaty between the Netherlands and Japan, the daily practice has proven that it is quite difficult for many applicants to meet all the requirements requested for a quick and efficient approval. An issue may for instance be the required registration in the municipal registry. For such a registration a legalized and apostilled copy of the excerpt from the Japanese Family Registers is required along with a sworn translation into Dutch. Such a registration is for instance mandatory before the applicant can open a bank account in the Netherlands. Due to all these steps the application process may seem complicated and very formalistic. Therefore, many applicants appreciate professional legal help during the application process. The municipality may sometimes require a physical address in the Netherlands which may sound pretty awkward because the applicant does not have a residence permit yet. There are possibilities to mitigate this risk though, and a lawyer in the Netherlands can help you with this. It is important to think about the way in which you structure your investment in the Netherlands because even though on paper it all may look easy, there are some practical obstacles and roadblocks that have to be put aside too. However, once the residence permit has been granted, you may enjoy the Netherlands and flourish your business and sport career here. The initial permit is valid for two years. Afterwards you will have to prove that your investment in the Netherlands has not diminished and remained on the same level as prescribed by the treaty.

Nationals from America

The Dutch-American Friendship Treaty (1956) aims to facilitate trade between the two parties more easier. Under the Treaty, residence can be obtained for the purposes of trading or running a business in which a substantial capital is invested. The Dutch Immigration and Naturalisation Service (IND) summarizes the investments requirements both for Japanese and American citizens as follows differentiating on the corporate structure (<https://ind.nl/en/work/Pages/Self-employed-person.aspx>):

- Sole proprietorship (eenmanszaak): a capital with which the self-employed person can exploit the company. The IND considers each situation individually, but a minimum of €4,500 applies.
- General partnership (vennootschap onder firma): a capital of at least 25% of the company's capital with a minimum of

€4,500.

- Limited partnership (commanditaire vennootschap): to the managing partner (beherend venoot) applies the same as for a vennootschap onder firma. The silent partner does not execute a company and therefore the treaty does not apply to the silent partner.
- Limited Liability Company (besloten vennootschap): a capital of at least 25% of the paid-in capital with a minimum of €4,500.
- Public Limited Liability Company (naamloze vennootschap): at least 25% of the paid-in capital. The paid-in capital in the Netherlands is at least €45,000, which makes the significant capital at least €11,250.

For more information, please do not hesitate to contact us. In case you would like to obtain a residence permit in the Netherlands or you would like to know whether a residence permit is required, please do not hesitate to contact us. <



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If you have any questions and/or comments after reading this article, we would be happy to hear from you. You can also contact us for all equine-law related questions or matters. Please contact us via info@europeanequinelawyers.com or by telephone +31-(0)135114420.

