



IT legislation for a popup restaurant start up

Pop up restaurant legislation in Italy

In Italy, the bill about the pop up restaurant is cold. The law passed to the chamber in January 2016 and then stopped due to numerous protests and indignation and the Senate. This is a law that equates the popup restaurants to public establishments, imposing obligations and restrictions that certainly do not follow the commission's invitation to apply laws and regulations proportionally to the activity carried out. In addition to a law not passed, Italy has the resolution of the Ministry of economic development that tried to regulate the phenomenon and finally the opinion of the guarantor of competition and the market on the law on popup restaurant.

DDL n. S.2647 in the field of home restaurant. Main points.	AGCM considerations (AGCM = Authority responsible for competition and the market)
	<p>The European Commission has invited Member States to encourage the development of the sharing economy, able to create new opportunities both for consumers, who can benefit from an expansion of the offer of services and lower prices and for new operators, facilitated by flexible forms of work and new sources of income. At the same time, with a view to encouraging its development, the Commission pointed out that restrictions in terms of market access can be foreseen, according to European law, only if they are non-discriminatory, justified by a well-defined "overriding reason of general interest". pursuant to art. 4, point 8, of the Services Directive (Directive 2006 / J 23 / EC), proportionate and necessary. Furthermore, the regulation of the activities carried out in the framework of the collaborative economy, taking into account the specific features of the innovative service offered, must not "favor a business model at the expense of others"</p>

<p>"Home restaurant": the occasional activity aimed at sharing wine and food events organised by a person within their housing units, through digital platforms that put users in contact free of charge, and with preparation of meals within the same facilities. They are considered as administering activities.</p> <p>All information relating to the activities of users must be registered on the digital home restaurant platforms, tracked and stored, in compliance with the current provisions on the processing of personal data. The activities of the home restaurant must be entered in the digital platform at least thirty minutes before the beginning of the food and wine event and must remain stored in the event of any cancellation or failure to complete it before its use.</p>	<p>By configuring the use of digital platforms as the only way to conduct the activity of home restaurant, the DDL in question excludes any possibility of direct relationship between the user chef and the final user outside these platforms. On the demand side, this reduces the offer of catering services for customers less accustomed to the use of digital/electronic purchasing systems; from the point of view of the offer, it creates a discrimination with the traditional restaurateurs, who, besides being able to promote their business and receive bookings through websites, maintain the possibility of having direct contact with the customers.</p>
<p><u>PAYMENTS</u></p> <p>Money transactions are operated through digital platforms and are carried out exclusively through electronic payment systems.</p>	<p><u>PAYMENTS</u></p> <p>similar considerations apply to the de facto obligation to pay the before having benefited from the service, to the extent envisaged by art. 3, paragraph 3, that transactions take place exclusively through digital platforms. Moreover, this provision prevents or makes it more costly for the customer to avail himself, for example, of the possibility of canceling a service on the spot and the operator to take full responsibility for the risk of the no show.</p>

LIMITS

The activity of home restaurant cannot exceed the limit of 500 seats per calendar year. This limit of seats applies to the user chef and to the residential property unit where the home restaurant activities take place. The chef operator user cannot receive annual income of more than 5,000 euros.

LIMITS

The consequent legislative quantification of the maximum number of seats that can be set up and the annual income that the activity in question can generate is completely unjustified. These forecasts are rather in clear contrast besides the principles of liberalization provided for by Legislative Decree no. 59/20 I O, which implements the Services Directive, and subsequent decrees of liberalization, also with the constitutional dictate of free economic initiative and protection of competition

TAX FRAMEWORK

The occasional exercise of an occasional activity cannot be configured as a business under the Civil Code. The limit of 5,000 euros per year, in fact, makes the tax classification just like occasional. Therefore, it is not necessary to open a VAT number or an inps (Istituto nazionale per la previdenza sociale – National Social Security Institute) position.

Facilities requirements

The use of the property for home restaurant activities does not involve changing the intended use of the property itself.

The activity of home restaurant cannot be practiced in the residential units for residential use in which tourism-accommodation activities are carried out (B&B) in a non-entrepreneurial form or rental activity for periods of less than thirty days

The exclusion of B&B and holiday accommodation in a non-entrepreneurial form and of the lease from the possibility of expanding the offer of extra-hotel services with that of the home restaurant service is equally unjustified and unjustifiably restrictive.

The Authority hopes that, in order to overcome the discriminatory and restrictive profiles outlined above, the findings made above are taken into due consideration during the continuation of the legislative procedure on the DDL in question as well as on the issue of the Ministerial Decree which will define the methods for controlling the activities of the operators.

Vat Registration

According to the law, with the limits imposed, the opening of a VAT is not absolutely necessary. It should however be stressed that exceeding the 5000 euros limitations the obligation lies in the opening of an INPS position, registration in the CCIAA register and the opening of VAT.

RULES FOR HYGIENE

Naturally also for the home restaurant the HACCP rules must be followed. Find all the details at this link

http://www.salute.gov.it/portale/temi/p2_6.jsp?id=1225&area=sicurezzaAlimentare&menu=igiene

INSURANCE

Both the cook and the premises must be insured with a policy that guarantees civil liability towards third parties.

BIBLIOGRAPHY

Official text of the law

<http://www.camera.it/dati/leg17/lavori/stampati/pdf/17PDL0046160.pdf>

Simplified text of the law <https://www.homerestaurant.com/docs/LeggeHR-CameraSenato2017.pdf>

Resolution of the Ministry of Economic Development:

<http://www.sviluppoeconomico.gov.it/images/stories/impresa/consumatori/332573homerestaurant.pdf>

Authority for the Competition and Market opinion on the Home Restaurant Law

<https://drive.google.com/file/d/0BwmVZkFpKV9LeDM4ampUQig3QkpWYzVpWjVoRE5kRm5Gd0R3/view>

European communication on share economy:

<https://ec.europa.eu/transparency/regdoc/rep/1/2016/IT/1-2016-356-IT-F1-1.PDF>

USEFUL BOOKS

Michele Diodati, Home restaurant e dintorni, Ed Maggioli, 2017