

Italy

The information provided below refers to legal provisions adopted or modified pursuant to the implementation of the Services Directive as well as to legal provisions which Member States have indicated as being applicable to service providers in the areas covered by the directive. The information has been provided by Italy in the context of the implementation of the Services Directive and of the mutual evaluation process. It does not represent a legal analysis or a position of the European Commission in respect of compliance with EU law in general or with the Services Directive in particular. National legal provisions might have suffered amendments during the mutual evaluation process so interested parties are invited to check national legislation in force.

In Italy, in addition to the State, regions also have important legislative powers concerning service activities, in particular in relation to commerce, crafts and tourism. The regulated professions are governed by national rules and by codes of ethics issued by the Council or College of the respective professional order.

Main changes to Italian legislation

Italy adopted a Legislative Decree (Legislative Decree 26 march 2010, n.59)¹ implementing the Services Directive which includes, in a single measure, general provisions and sector-specific amendments to existing legislation. The general rules of the Legislative Decree are valid throughout the country and, therefore, are also compulsory for any regional legislation. Regional measures have also been adopted to modify regional legislation and bring it in compliance with the Directive.²

Examples of authorisation schemes imposed on service providers established in Italy

The Legislative Decree lays down that, where not otherwise specified, access to service activities should not be subject to an authorisation scheme but to a "commencement of business activity" declaration with immediate effect,³ which allows the service to be started from the date of submission of the application to the competent authority (this procedure applies, according to state legislation and to the majority of regional laws to activities such as small-scale retailers, vending machines sales, mail orders, telemarketing, door to door sales, hairdressing, beauticians, laundries, etc).⁴

Authorisation schemes apply to several service activities.

In some cases, authorisations take the form of a procedure called 'commencement of business activity' declaration with delayed effect (to be distinguished from the above mentioned declaration with immediate effect: under this procedure the application is considered to have

¹ Published in Gazzetta Ufficiale 94 of 23 April 2010 - Supplemento Ordinario n.75. Text available at <http://www.camera.it/parlam/leggi/deleghe/testi/10059dl.htm>.

² See for example Abruzzo, Law n.5 of 18/2/2010; Emilia Romagna, Law n.4 of 12 /2/2010, Piemonte, Law 38 of 30/12/2009, Umbria Law n.15 of 16/2/2010, Province of Trento, Decree n.30 of 24/12/2009, Marche Law 27 10/11/2009.

³ Article 10 of Legislative Decree 59/2010 and Article 19, 2, second phrase of Law 7-8-1990, n.241.

⁴ Articles 65 to 69 and Articles 77 to 79 of Legislative Decree 59/2010. Different procedures for the access to these activities may exist in some regional legislation.

been granted if the authorities do not rule otherwise within 30 days of its submission).⁵ This covers activities such as commercial and business brokers, maritime brokers, hotels, etc.⁶ Other forms of authorisation procedures apply to services such as the opening of bars and restaurants, to large scale retailers, etc.⁷

Examples of other types of requirements imposed on service providers established in Italy

Italy abolished quantitative and territorial restrictions which existed in national and/or regional legislation (at least in some regions) in respect of outlets serving food and beverages,⁸ petrol stations,⁹ beauticians¹⁰ and travel agencies.¹¹ Such restrictions still apply to the establishment of newspaper shops.¹²

Obligations imposed on service providers to take a specific legal form and requirements relating to the shareholding of companies have been maintained by Italy in particular in the area of regulated professions ("liberal" professions such as architects, engineers, accountants, lawyers, etc., can be exercised only by natural persons or by partnerships fully owned by professionals).¹³ Minimum and fixed tariffs have been abolished in a cross-cutting way in the area of regulated professions¹⁴ while maximum tariffs still apply to services provided by lawyers¹⁵ and, in some regions at least, to tourist and mountain guides and ski instructors.¹⁶

Requirements imposing a minimum number of employees¹⁷ and prohibitions to have more than one establishment¹⁸ apply to ski schools in some regions. Finally, as regards obligations imposed on service providers to supply other services jointly with their service, some Italian regions have abolished obligations that were imposed on petrol stations to sell also "non-oil" products.¹⁹

Examples of requirements on multidisciplinary activities of the regulated professions or in the area of certification, accreditation, technical monitoring and testing services

In Italy requirements on multidisciplinary activities exist in particular in the area of regulated professions.

Specific incompatibility rules apply, for example, to accountants,²⁰ lawyers,²¹ employment consultants²² which cannot exercise a number of other activities in addition to their

⁵ Article 17 of Legislative Decree 59/2010 and Article 19, 2, first phrase of Law 7-8-1990, n.241.

⁶ See Articles 73 to 76 and Article 83 of Legislative Decree 59 of 26/3/2010. Different procedures may apply to these activities in some Region.

⁷ See for example Article 64 of Legislative Decree 59 of 26/3/2010 (bar and restaurants) and Legislative Decree n.114 of 31/3/1998 (commerce).

⁸ Articles 64 of Legislative Decree of Legislative Decree 59 of 26/3/2010.

⁹ Law n.133 of 6/8/2008.

¹⁰ See, for example, Umbria, articles 3 and 4 of Law n. 15 del 16/02/2010.

¹¹ See, for example, Piemonte, Law 38 of 30/12/2009.

¹² Article 6 of Legislative Decree n.170 of 24/4/2001.

¹³ Article 2, 1, c) of Decree Law n.233 of 4/7/2006 (as modified by law 248 of 4/8/2006).

¹⁴ Article 2, 1, a) of Decree Law n.223 of 4/7/2006 mentioned above.

¹⁵ Article 57 of Royal Law Decree n.1578 of 27/11/1933.

¹⁶ See for example Lazio, Law 50/1985 and Article 29 of Law 21/1996 art.29; Abruzzo Articles 29 and 33 of Law n.86/1998 and Articles 16 and 19 of Law 94/1996.

¹⁷ Toscana, Article 150 of Law n.42 of 23/3/2000.

¹⁸ For example, Province of Bolzano, Law n.5 of 19/2/2001.

¹⁹ Umbria, Article 109 of Law n.15 of 16/2/2010, Abruzzo, Article 7 of Law n.20/2009.

²⁰ Article 4 of Legislative Decree n.139 of 28/6/2005.

profession. Multidisciplinary partnerships having as exclusive objective the provision of professional services are only allowed between members of "liberal professions" and insofar as more specific incompatibility rules do not apply.²³

Examples of requirements which apply to service providers established in other Member States and providing services in Italy

The Legislative Decree implementing the Directive in Italy contains a horizontal provision according to which - subject to exception set out in the same Decree - service providers established in other Member States and providing services in Italy can be made subject to requirements set out in Italian legislation only in cases justified by reasons of public order, public security, public health and protection of the environment and in application of the principles of non-discrimination and proportionality.²⁴

21 Article 3 of Royal Law Decree n.1578 of 27/11/1933.

22 Article 4 of Law n.12 of 11/1/1979.

²³ Article 2, 1, c) of Decree Law n.233 of 4/7/2006 mentioned above.

24 Article 20 of Legislative Decree n.59 of 26/3/2010.