



Operator Briefing: Guiding in Italy, February 2024

This briefing is intended for ETOA members only. It is not legal advice.

Summary

Italy has passed legislation which affects those providing guiding services within its borders. The new regulation ([190/2023](#)) affects both those established in Italy and those from a third country seeking to provide professional services there.

Professionals established in Italy who wish to provide guiding services must exhibit an official identity card issued by the Ministry of Tourism. An annual national *concorso* to obtain a *patentino* is proposed, which will be a welcome development if it takes place.

Overall, given the well-known difficulties of accessing the market for tourist guiding, the impact of this regulation will be to entrench existing protectionism and encourage more operators and consumers to use digital guiding products.

The regulation also affects **professionals resident in other EU/EEA countries and Switzerland** who wish to provide professional services in Italy on a temporary and occasional basis. This is still permitted, albeit subject to more stringent requirements.

Developments include a substantial increase in potential penalties, including a fine of €1,500 to €6,000 for failing to present the mandatory [prior declaration](#) before start of service. These fines are levied locally, so may represent a tempting revenue-raising opportunity.

Acceptance of declaration will be evidenced by inclusion in a list of third country nationals permitted to provide services on a temporary and occasional basis. Therefore, early submission of prior declaration is recommended.

The status of **non-EU/EEA citizens resident outside the area** is unchanged.

- There is no right to provide professional services within the EU. Being a business visitor is legitimate but may be considered incompatible with provision of client services.
- Leisure visitors have no right to carry out paid work and could be found in violation of their immigration status if they do. At time of writing, we have received no reports of any change in enforcement practice. Any developments should be reported to: policy@etoa.org
- Place of contract may be material in the event of dispute, i.e. if individuals offer services or accept contracts in Italy or with Italy-based counterparts.

Impact on EU nationals established outside Italy

The new law aims to regulate nation-wide the access to the profession of local guide (*guida turistica*). The law does not cover tour guides / tour managers (*accompagnatore*) who typically accompany groups on multi-day tours.

Below are some excerpts from the law, informally translated, which focus on the position of EU nationals - not established in Italy - engaged in the temporary and occasional provision of tour guiding services in the country.

Since the law seeks to regulate access to the profession in Italy in a uniform way, primarily for national guides, nothing has so far changed for professionals established elsewhere, in terms of procedure and access to the local market except for the heavier administrative sanctions.

Art. 3 Exercise of the profession of tourist guide [for those established in Italy]

1. Without prejudice to the provisions of article 13, paragraph 1, the exercise of the profession of tourist guide is subject to passing the qualification exam referred to in article 4, or to recognition of the professional qualification obtained abroad pursuant to article 6, and the consequent registration in the national list referred to in article 5.

2. The requirements referred to in paragraph 1 of this article are not required for the exercise of the profession on a temporary and occasional basis pursuant to article 6, paragraph 1, letter a).
(...)

4. To practice the profession of tourist guide, it is necessary to have insurance coverage to guarantee professional civil liability.

Art. 6 Exercise of the profession on the basis of qualifications obtained abroad

1. Citizens of the European Union, of a State belonging to the European Economic Area or of Switzerland authorized to carry out the profession of tourist guide in accordance with the legislation of another Member State of the European Union or of the European Economic Area or of Switzerland have title to carry out their activity in Italy:

2. a) on a temporary and occasional basis, under the freedom to provide services regime, pursuant to article 9 of legislative decree 9 November 2007, n. 206;

(..)

9. The Ministry of Tourism is the competent authority to ascertain the temporary and occasional nature of the service referred to in paragraph 1, letter a), of this article and to rule, pursuant to article 5 of Legislative Decree 9 November 2007, n. 206, on applications for recognition of the professional qualification of tourist guide, obtained abroad.

Art. 11 Obligations of conduct

1. In carrying out his activity, the tourist guide has the obligation to:

2. a) clearly display the identification card referred to in Article 5, paragraph 4, to be shown upon request by local police bodies, public security authorities and any other authorized person;
3. b) provide the user with transparent information on the costs of the professional service.

Art. 12 Prohibitions and sanctions

1. Anyone is prohibited from carrying out or offering the activities inherent to the profession of tourist guide, referred to in Article 2, paragraph 2, in violation of this law and without the relevant registration in the national list, without prejudice to the exceptions provided for in article 3, paragraph 2.

2. Anyone who does not have the qualification of a tour guide is prohibited from using cards or other distinctive signs suitable for identification as a tour guide.

(...)

5. Unless the fact constitutes a crime, for the violation of the prohibitions referred to in paragraphs 1, 2, 3 and 4, the administrative sanction from 3,000 euros to 12,000 euros is applied to subjects

not registered in the national list and from 5,000 euros to 15,000 to the subjects referred to in paragraph 3 and to the managers of the institutes and places of culture open to the public, including those belonging to private entities.

6. In case of violation of the obligations referred to in article 11, an administrative sanction ranging from 500 euros to 1,500 euros is applied.

7. In case of violation of the obligation to submit the prior declaration referred to in article 6, paragraph 7, letter a), an administrative sanction ranging from 1,500 euros to 6,000 euros is applied.

8. The municipalities, through the local police bodies, and any other authorized body, each within their respective competences, are responsible for the control functions, according to the methods to be identified by decree of the Minister of Tourism, to be adopted within thirty days from the date of entry into force of this law. 9. The municipality in whose territory the violation is committed is the competent authority for applying administrative sanctions and confiscates the related proceeds.

9. For anything not provided for by this law for sanctioning procedures, the provisions of law 24 November 1981, n. apply. 689.

EU law and Italy tourism policy

Given the difficulties of accessing the market as a *guida turistica* in Italy (a *concorso* must be passed, and they have been uncommon to date) the regulation may preserve current protectionism, favouring those who have previously obtained a *patentino*. It certainly makes things harder for EU/EEA and Swiss citizens in terms of compliance and risk.

ETOA is in dialogue with the European Commission to highlight the impact of regulation on freedom to provide services, consumer choice and quality. While professional regulation remains a national competence within the EU, we consider the new proposals to be potentially disproportionate in effect, with negative impact on competition and freedom to provide services.

The effect of regulating of both *guida turistica* and *accompagnatore* in Italy appears to be contrary to the interests of product development and diversification which are central to the national tourism strategy. Limiting market access to those with a qualification whose requirement and course content is anachronistic (and access to which is capricious) further prejudices the delivery of an essential component of cultural tourism.

Cultural commentary and group management takes place in a rapidly changing market where technology - including AI - will displace human services unless they can evolve to meet changing demand. This affects both content and delivery which cannot be adequately addressed by conventional historical knowledge-based guiding qualifications, nor the current pool of language skills evident in the domestic market.

For these reasons, we respectfully urge the Ministry of Tourism and ENIT to consider the impact of these proposals on the fruitful development of tourism in Italy. Local guides remain a valued pool of professional whose services are enjoyed by clients from markets worldwide. Their services are in demand, and their prospects would improve with a more competitive environment that answers market needs.

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