

## Farm products' direct sale in accordance with national and EC Regulations

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### Abstract

Primary production has always been considered the weak link in the entire food production chain (*from farm to fork*) and, due also to the grave health and food emergencies that have taken place over the years (BSE, dioxin, avian flu etc.), greater attention has been focused on the production stage, together with the need to regain the consumers' faith. To preserve and support small farms in a local setting and, consistent with the aims of flexibility and respecting the main requisites contained in the EC Regulations (No. 852/2004; No. 853/2004) (European Commission, 2004; 2004a), production is allowed for tasting-administration on the premises and the processing and sales of agricultural products produced exclusively on the farm, such as: fresh meat from poultry and rabbits and small farmed wild animals; processed meats obtained from animals raised on the farm and from hunting; fishing and aquaculture products; raw milk for direct human consumption and dairy products; eggs, honey, fruit and vegetables, woodland products; jams and preserved fruit, flours, vegetable preserves, wild above ground and underground mushrooms; dried fruits, fruit juices, cereals, syrups; oil, wine, bread and baked products. This possibility is reserved for individual farmers or co-operatives, registered in the company register according to Article 8 of the Law 29th December 1993 No. 580 (Italian Republic, 1993); who may sell directly inside and outside farm, products coming mainly from the respective farms, observing the current regulations regarding health and hygiene. All this should provide an instrument for rural and competitive development for the entire European agricultural production chain strongly influenced by the marketing conditions imposed by the mass retailing groups on their own suppliers. Not least is

the possibility of creating work and occupation and adequately counteracting the phenomenon of the depopulation of the countryside, encouraging the return to agricultural activities on the part of young people; and, consequently, a form of safeguarding the environment by reducing the costs linked to hydro-geological instability and soil maintenance. This trend, together with the national directions, may represent a support even for small local farms which, taking advantage of simplified procedures consistent with the objectives of flexibility of the community Regulations (EC) (No. 852/2004; No. 853/2004) (European Commission, 2004; 2004a), may take part in the promotion of agricultural markets managed directly by the farmers as sales points for local products (*farmers' markets*), so as to guarantee a fairer price and consolidate the territorial link between production and consumption (short distribution chain or short circuit). Without, of course, renouncing the necessary prerequisites for placing any food on the market: health-hygiene; traceability; health and well-being of the animals; safeguarding of the environment and the plants.

### Introduction

With reference to the hygiene and health, primary production, as defined by Article (Art.) 3 of the Regulation (EC) No. 178/2002, includes all the stages of the production, rearing or growing of primary products including harvesting, milking and farmed animal production prior to slaughter and also includes hunting and fishing and the harvesting of the wild products (European Commission, 2002).

Primary production is subject to notification (notification start certified reporting) according to Art. 6 of the Regulation (EC) No. 852/2004, and consequently registration by the competent Authority.

Departing from the requirements laid down by the Regulation (EC) No. 852/2004, there is "the direct supply, by the producer, of small quantities of primary products to the final consumer or to local retail establishments directly supplying the final consumer" (European Commission, 2004).

In this context the direct supply retail activities carried out by holiday farms are included and for these the market regulations are those laid down by the regulations in the sector (State-Region Agreement (SRA) No. 59/CSR of 29/4/2010) (Italian Republic, 2010). The same Agreement lays down what is meant by "direct supply", "retail marketing", "Local level" and "small

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quantities". The farm activities set down in Art. 2135 of the Civil Code are carried out by the professional farmer (Legislative Decree No. 99/2004, Art. 1) (Italian Republic, 2004) which includes both individual persons and companies made up of people, co-operatives and capital, if the statute allows that subject the exclusive right to agricultural activities as well as other special conditions.

As well, there is the small agricultural farmer or direct producer, understood as the person who cultivates the farm with his own work and that of his family, given that this work force makes up at least a third of that necessary for the normal cultivation of the land (Law No. 353/1949, Art. 1, paragraph 3 (p); Law No. 203/1982, Art. 6) (Italian Republic, 1949; 1982).

Personal participation is essential to the definition of farmer in farming work together with the right to the management of the land production.

The operations associated with agriculture are those "concerning handling, preservation, processing, marketing and promotion which regard products obtained principally from land cultivation or in woods or animal rearing; as well as activities concerning supply of goods and services mainly using equipment or resources of the company normally used in the agricultural activity carried out, including the activities of rural, forest and territorial heritage promotion, that is reception and hospitality as defined by the law" (Legislative Decree

18 May 2001, No. 228) (Italian Republic, 2001). The production and direct marketing of processed agricultural products of animal origin (secondary milk products, meat based products etc.) departing from the Regulation (EC) No. 853/2004 “*when the supply of foodstuffs of animal origin is carried out only by a laboratory connected to the retail establishment to another premises connected to the retail outlet and, according to national legislative provisions, this supply represents a marginal, localized and restricted activity*” (Regulation (EC) No. 853/2004, Art. 1, p 5, point b, ii.) (European Commission, 2004b). The SRA of 17/12/2009 makes the field of application clear regarding the Art. above (No. 253/CSR) (Italian Republic, 2009).

### Aim of the paper

The purpose of this paper is to provide a general overview of European and national legislation on the marketing of primary production foodstuffs.

## Production and marketing

### Meat from poultry and lagomorphs (rabbits, hares and rodents)

The Regulation (EC) No. 853/2004 (Art. 1, p 3, letter d) allows, making an exception, the “*direct supply, by the producer, of small quantities of meat from poultry and lagomorphs slaughtered on the farm to the final consumer or to local retail establishments directly supplying such meat to the final consumer as fresh meat*” (European Commission, 2004b).

The small quantity of meat coming from and the poultry and the number of lagomorphs slaughtered on the producer's farm are laid down by the SRA 17/12/2009 as a maximum of 50 UBE/ year made up of poultry, lagomorphs and small farmed game (1 UBE-Unit Bovine Equivalent = 200 hens or 125 rabbits) with respect to the requisites referred to in attachment II, Chapter 1, 2 and 5 point 1 of the Regulation (EC) No. 852/2004, for supplying on the part of the producer, directly: i) to the final consumer; ii) to the laboratories attached to the retail or administration companies that supply directly to the final consumer these meats as fresh meats, found in the environment of the territory of the Province where the farm is set up or in the territory of neighboring Provinces.

This activity, however, falls within the field of application of the Regulation (EC) No. 852/2004 and is subject to compulsory notification to the official authorities for registration (European Commission, 2004).

The Regions and Autonomous

Provinces, with their own regulations, can set down the maximum, most restrictive limit on the number of poultry and lagomorphs slaughtered on farms in their territory, as well as the methods of supplying to the final consumer, only by occasional and immediate direct request of small quantities of poultry and lagomorph meat slaughtered on the producer's farm, up to an overall maximum of 500 animals/year made up of poultry, lagomorphs and small farmed wild animals.

### Milk and dairy products

The use of raw milk produced on the farm is allowed, for food purposes, as long as the requirements for food milk composition (Regulation (EC) No. 2597/1997) (European Commission, 1997) and the health-hygiene measures for marketing set down by the SRA 25/01/2007 are observed (direct sales or through vending machines outside of the farm) (Italian Republic, 2007); as well, mandatory information and measures must be provided to safeguard the consumer of raw milk or cream: “*Product to be used after boiling*” (Health Ministry Decree of 12/12/2012) (Italian Republic, 2012). Animals used for food milk production must also hold the health requirements set down by the Regulation (EC) No. 853/2004, section IX, chapter 1 point 4. The sale of raw milk is also allowed for the production of milk-based products respecting the criteria of the above-mentioned Regulation (European Commission, 2004b).

### Eggs

Eggs produced on a farm may be sold at the place of production as long as they are not packaged or classified Council Regulation (EEC) No. 1907/90 as amended by Regulation (EC) No. 1272/2008, Regulation (EU) No. 1308/2013 repealed Council Regulation (EC) No. 1234/2007 (code and farming system printed on the shell) is permitted (European Commission, 2008; 2013). As well, if they are sold directly from the producer to the final consumer at the place of production or near the production area in a local public market or door to door sales, the eggs need not be classified on the basis of quality and weight. The Decree (Ministerial Decree for Forest and Agricultural Food Policies of 11/12/2009) specifies that only eggs sold in a public market place must, however, be marked with the producer's code with the exception of those coming from producers who have up to 50 egg-laying hens and on the condition that the name and address of the producer are shown at the sales point (sign) or communicated to the customer in the case of door to door sales (Italian

Republic, 2009). Lastly, regarding the sale of bulk unclassified eggs, the date of minimum durability must be written and this must not be more than 28 days after laying.

### Honey and other food products from bee-keeping

Bee-keeping activities (raising bees, even at a distance from the bee-keeper's premises, the collection of honey, its centrifugation and the wrapping and/or packaging of the honey) carried out in the bee-keeper's premises is considered as primary production. Other operations outside the bee-keeper's premises (e.g. the centrifugation and/or wrapping/packaging of honey or its processing) cannot be considered as primary production, including those carried out on behalf of bee-keepers by collective establishments (e.g. Cooperatives) or their processing.

For the production of honey and other bee-keeping products (Royal jelly or honey, propolis, beeswax, pollen) every bee-keeper who is not already registered at the official veterinary service is obliged to declare the beginning of the bee-keeping activity and to ask for the assignment of an identifying code, valid for the whole national territory, and which will be assigned by the veterinary service of the Local Health Unit (LHU), on the basis of the legal premises of the bee-keeper (Law No. 313/2004; Ministry of Health Decree of 11/08/2014) (Italian Republic, 2004; 2014). Honey put on sale must comply with the requirements laid down by the Legislative Decree No. 179/2004 and be pre-packaged at the place of origin in hermetically sealed containers (“Guidance document on the implementation of certain provisions of Regulation (EC) No. 852/2004 on the hygiene of foodstuffs EUROPEAN COMMISSION HEALTH & CONSUMERS DIRECTORATE GENERAL, Brussels, 18 June 2012”) (Italian Republic, 2004).

### Fish and aquaculture products

The Legislative Decree No. 226/2001 defined the fish farmer, which is equivalent to an agricultural farmer although fishing activities take precedence. He is the person who carries out an activity aimed at capturing or harvesting aquatic organisms in seawater, salt-water or fresh water as well as the activities linked to this (Italian Republic, 2001). Among the activities linked to this, as in the case of agricultural farmers, hospitality and catering etc. are envisaged; and similarly, to holiday farms, there are recreational fishery farms. The Legislative Decree No. 226/2001 defined fish farmers as on a par with agricultural farmers. They carry out activities aimed at capturing or

harvesting aquatic organisms in fresh, salty or sea water environments as well as the activities linked to this (Italian Republic, 2001). To improve his production, the fish farmer may also supply fish directly to the consumer in a local area with no intermediation. This is part of the normal activities according to Art. 2 of the Legislative Decree No. 4/2012 (Italian Republic, 2012). These sales as a special exemption to the Regulation (EC) No. 852/2004 and No. 853/2004 regulated by the SRA of the 05/11/2015 which fixes the “small quantities” of the direct supply as a maximum of 100 kg per daily boat-load both for the final consumer and for the workshops annexed to the retail sales or administration companies which in their turn supply directly to the final consumer (Italian Republic, 2015). The territorial authorities (Town Council, Regional Maritime Domain, Port Authorities) may regulate at a local level the methods of direct supply of the primary product.

### **Jams, fruit juices, fruit preserves, syrups, pickles, flours, vegetable preserves, mushrooms and dried fruits and vegetables**

These are products obtained by cultivation and processing fruit, cereal, mushroom and vegetable products or harvested by the primary producers themselves (Legislative Decree No. 77/1993). Currently for the marketing denomination for jams and preserves, the Legislative Decree No. 50/2004 must be referred to (Italian Republic, 1993; 2004).

### **Mushrooms and woodland fruit products**

Apart from aboveground mushrooms and underground mushrooms (truffles) whose harvesting is controlled by special regional regulations, strawberries, raspberries, blueberries and juniper berries are considered as woodland fruit products. The regions have regulated in their own territories both the harvesting of wild aboveground mushrooms and truffles by granting special authorization for harvesting or collecting (license card). Special concessions are given to citizens who have the use of woods and for farmers who, even if they are owners of private harvesting or cultivation areas, must however, notify the SUAP (Unique Productive Activities Office) of their respective towns. The sale of the product must always be accompanied by the traceability document (Regulation (EC) No. 178/2002, Art. 18) (European Commission, 2002). The harvesting of wild mushrooms not carried out in a forestry area is not considered to be an agricultural activity; as

well, for either direct sales or to caterers, the harvest must be certified by a trained mycologist from the Local Sanitary Authority (Mycology Office).

### **Marketing of aboveground mushrooms**

For the marketing of fresh wild mushrooms and/or dry, loose porcini mushrooms (*Boletus edulis* and related group), the Food Business Operator (FBO) must present a certified notice of commencement of the activity (Notification start certified reporting) to the Mayor of the town where the activity has its head office. The Notification start certified reporting, even when limited to the marketing of a single species, is presented by persons approved as eligible by the Department of Public Health of the LHU and responsible for identifying the species of mushroom marketed so that an adequate knowledge of the risks connected to this activity can be established. The Region, with this act, sets down the methods used to recognize the eligibility. For the retail of fresh wild mushrooms responsible staff who possess the appropriate eligibility may be used as needed.

### **Marketing of fresh truffles**

Fresh truffles must belong to the species indicated in the attachment of Art. 2 of the Law No. 752/1985 and subsequent amendments and supplements (Italian Republic, 1985). In the Annex I of the same law, the botanical and organoleptic characteristics are also set down for the various species. When marketed, truffles must be classified by species and variety, be healthy and free from earth or other impurities; as well they must be kept separate from broken truffles (Pieces of truffles larger than 0.5 cm in diameter are considered to be “pieces”). The scientific name and the geographical area of provenance must be written on special signs both for whole fresh truffles and pieces.

### **Olive oils and pomace olive oils**

Many farms feature growing olives for the production of olive oil. The product generally undergoes milling operations to obtain the oil at the oil mill. The places used as mills, whether or not they are part of the farm, must be registered according to Art. 6 of Regulation (EC) No. 852/2004 (European Commission, 2004). The Regulation (EC) No. 1531/2001 sets down the descriptions and definitions of the olive oils obtained directly from olives and by mechanical means (European Commission, 2001).

The sale of bulk oil from the mill or from the farmer is banned. The Ministry of Industry, with its own Circular No.

165/2000, points out that it is set down in Art. 7 of the Law No 35/68: “Olive oils destined for the consumer must be placed on sale exclusively wrapped in hermetically sealed containers” (Ministry of Industry, Circular No. 165/2000) (Italian Republic, 2000).

The oil mills, that is, the companies that carry out the milling of the olives, the companies that do the packaging, the bulk oil sellers, the refineries and lastly the contractors – those who carry out the production, processing and/or the deposit of oils for third parties – and olive residue treatment factories, all are obliged to keep the Nutrition and Food Hygiene Service Telematic “Provisional Registry”. This is made available to all the users of the oil production chain to fulfil the requirements set down in the Decree of 23/12/2013 No. 16059 of the Ministry of Agricultural, Food and Forestry Policy (Regulation (EC) No. 1019/2002) (European Commission, 2002).

This obligation is those who keep exclusively oils, for example: a) used as ingredients in food products different from mixtures of oils treated in Art. 6, p 1, of the Regulation (EU) No. 29/2012 (for example, preserves under oil, sweets or baked products etc.) (European Commission, 2012); b) not destined for use in food (for example for the cosmetic industry, production of energy etc.) destined for their own consumption.

Vegetable oils, since they are processed products, cannot benefit from the exemption of having the nutritional table on the label (Regulation (EU) No. 1069/2011) (European Commission, 2011).

### **Bread and bakery products, flours and pastries**

For bread the reference regulation is set down by the Law No. 580/1967 and subsequent amendments and supplements (Italian Republic, 1967). The term “bread” means the product by the total or partial cooking of a correctly leavened dough, prepared with grain flours, water and yeast, with or without the addition of common salt. Many types of bread can be offered for sale: “unbleached bread” produced with wheat flour; “0 type bread” with wheat flour type 0; “wholemeal bread” made with wholemeal flour; “bran bread” and “granulated bran bread” respectively made with semolina or granulated semolina from durum wheat. Bread must be made in places registered according to Regulation (EC) No. 852/2004 (European Commission, 2004). In the retail points the various types of bread must be placed in separate compartments, bearing a sign showing the type of bread and its price. For the various types of products the specific

reference regulations are fresh bread, preserved bread or long-life bread (Law No. 248/2006) (Italian Republic, 2006); flours and food dough (Italian Decree No. 187/2001) (Italian Republic, 2001); production and marketing of bread (Decree No. 502/1998; Decree 22/07/2005 as well as the modification by the Ministerial Decree 14/06/2017) (Italian Republic, 1998; 2005; 2017); The sale of bulk bread is allowed in public areas (Order by the Health Ministry of 03/04/2002) in buildings and in mobile shops only when there are display counters which have suitable health and hygiene characteristics (Italian Republic, 2002). For bread that is not pre-packaged or generally sold after slicing for immediate sale, a special sign must be present on the container or displayed in the compartments where it is on sale. The following information must be shown on the sign: i) the marketing classification; ii) the list of ingredients except for those exempt; iii) the production company.

### Wine and wine products

The current Regulations on this subject are set down by provisions from the community and by the national regulations (Italian Decree No. 162/1965; Law No. 164/1992) (Italian Republic, 1965; 1992). As well as wine we have various wine products: piquette (light wine), fortified wine, sparkling wine, grape musts, grapes juices etc. (Law No. 238/2016; Regulation (EU) No. 251/2014; Regulation (EC) No. 110/2008; Regulation (EEC) No. 822/87) (European Commission, 1987; 2008; 2014; Italian Republic, 2016). For table wines produced outside the guidelines no information is required regarding the vine but only stating if it is white or red in color (Law No. 164/1992) (Italian Republic, 1992). Direct sales of wine, if admitted by the production guideline regulations, may be sold in bulk using containers belonging to the buyer. The parties concerned must inform the control structure about the quantities of wine coming from Protected Geographical Indications which are sold directly to the final consumer. The communications must be made by the fifth day of the month following the sales. The provisions and the tariff table are the responsibility of the seller. If the name or the address of the bottler, producer, importer or marketer contains or is made up of a protected origin name or a protected geographical indication, that name or address is displayed on the label (Regulation (EC) No. 607/2009, Art. 56) (European Commission, 2009). Wines and similar beverages are exempt from displaying the Minimum Durability and the use by date.

### Snails and Frogs' legs

Both represent primary products destined for human consumption. They are harvest animals and can be farmed, in particular snails, but also frogs whose growth is favored in rice growing and fish farming areas. For both species the slaughter for the following handling and processing is governed by the requirements set down in Attachment III, Section XI of the Regulation (EC) No. 853/2004 (European Commission, 2004b).

On this subject, it is useful to remember that the Regulation (EC) No. 1099/2009, regarding the protection of animals during slaughtering, in specifying that by "animals" is meant "*Any vertebrate animal, excluding reptiles and amphibians*" excludes both frogs and snails from its field of application (European Commission, 2009).

Regarding snail farming, a manual of good working practices exists approved by the Ministry of Health of 15/02/2016; while the Ministry for Forest and Agricultural Food Policies has issued the "National Regulations for ecological snail farming recognized according to Art. 42 of the Regulation (EC) No. 834/2007 and subsequent amendments and supplements" (European Commission, 2007; Italian Republic, 2016).

### Direct supply methods

The national standards for organic snail farming have always allowed direct retail selling of agricultural products on the part of farmer-producers, unless there are regulations on the subject of health and hygiene. These regulations are also applied in the case of sales of secondary products obtained following handling or processing activities of the agricultural products and products of animal origin, aimed at complete exploitation of the production cycle of the farm (Legislative Decree No. 228/2001, Art. 4, p 5) (Italian Republic, 2001).

Regarding the most recent simplification in agriculture "in the area of direct sales the immediate consumption of the products being sold is allowed, using the premises and equipment available to the farmer, with the exclusion of assisted administration service and by observing the general regulations of a health-hygiene nature" (Legislative Decree No. 228/2001, p 8-bis, as introduced by the Decree Law No 69/2013, converted into Law 9 August 2013 No. 98) (Italian Republic, 2001; 2013).

Facilitations have also been introduced for the premises where the activity of direct sales of the agricultural products takes place when the change of destination of use of the

premises is not necessary. As well, the sales can be carried out over the whole town council territory regardless of the urban purpose of the zone in which the premises intended for this are situated. (*Therein, p 8-ter*). As well as the activity of marketing primary products produced by themselves, the Legislative Decree No. 228/2001 allows the sale of agricultural products coming from other farms, as long as they are not in the majority portion, at their own farms in appropriately equipped premises and, if necessary, registered with the appropriate authority and on outdoor surfaces. Farmers can also carry out sales at a distance by travelling around to markets or farmers' markets and other methods (Italian Republic, 2001). For the sale of primary products on outdoor surfaces in the farm area or in other private areas that the farm has available, neither the Notification start certified reporting nor notification is necessary according to the Regulation (EC) No. 852/2004, while the Notification start certified reporting is sufficient according to the Legislative Decree No. 228/2001 if such products are sold travelling around/itinerant markets or in a farm room specially set up for the purpose (European Commission, 2004; Italian Republic, 2001).

For direct supply carried out from the farm, as well as for selling carried out during festivals, fairs, or shows of a religious, charitable or political nature or for promoting typical or local products, reporting the start of the activity is not requested. (Legislative Decree No. 228/2001, Art. 4, c. 2) (Italian Republic, 2001).

### Selling in public areas

The Legislative Decree No. 228/2001, in Art. 4, allows farmers, either individually or associates, the retail sale of products coming for the most part from their respective farms, respecting the current regulations regarding health and hygiene (Italian Republic, 2001).

The "guidelines for setting up markets reserved for direct sales on the part of farmers referred to in Art. 2135 of the Civil Code, which includes farmers' cooperatives" (Decree by the Ministry for Forest and Agricultural Food Policies of 20/11/2007, Art. 1 and 2) state that "*in farmers' markets with direct sales conforming to the health and hygiene regulations set down in the EC Regulation No. 852/2004 and subject to the related controls on the part of the competent authorities, only agricultural products conforming to the current regulations for individual products may be placed on sale showing the place of territorial origin and the production company*" (Italian Republic, 2007). From a health point of view regarding

sales in public areas, the special regulation is the Order of the Health Ministry 03/04/2002, except for regional regulations on the subject where these are not in conflict with the European Regulations (Regulation (EC) No. 852/2004, attachment II, chapter III) (Italian Republic, 2002).

Art. 30 of the Legislative Decree No. 114/1998 (regulation concerning the marketing sector) though it excludes from its field of application farmers, share-croppers and settlers who sell their products in public areas according to the Law No. 59/1963 subsequent amendments and supplements, sets out the methods and the criteria for assigning areas reserved for farmers who sell their products (Italian Republic, 1963; 1998).

If retail selling is to be carried out, not in an itinerant form, in public places or in places open to the public, the request is addressed to the Mayor of the Town Council where the sales are to be held. (Legislative Decree No. 228/2001, Art. 4) (Italian Republic, 2001). For retail sales in public places using a stand site, the notification must contain the request for assignment of the stand-site. (Legislative Decree No. 114/1998, Art. 28) (Italian Republic, 1998).

Note that itinerant marketing of fresh, wild, above ground mushrooms is, however, forbidden. These may be sold with mycological certification and only in market areas; as well, the FBO must have the relevant Notification start certified reporting notification at the start of the activity with the relevant certification of competency issued by the official territorial LHM.

### Internet sales (e-commerce)

Among the marketing activities that farmers may carry out there is also e-commerce. This type of direct sales may be started at the same time as sending the notification to the Town Council of the place where the company has its seat. (Legislative Decree. No. 228/2001, Art. 4, p 3 and 4-*bis*) (Italian Republic, 2001).

According to the Regulation (EU) No. 1169/2011, selling by means of distance communication is a technique of communication at a distance, that means “any means which, without the physical and simultaneous presence of the supplier and the consumer, may be used for the conclusion of the contract between these parties” (European Commission, 2011). World Wide Web, as for other sectors such as electronics, tourism and dressing, has become an excellent reference target for consumers searching for territorial or particular foods. Companies offering their goods for sale through Internet come under the definition of food companies and are

subject to the regulations relevant to the food legislation. The EU Regulation (EU) No. 1169/2011 (European Commission, 2011), in Art. 14 sets down that in the case of prepacked foods offered for sale by means of distance communication all mandatory information shall be available in two distinct moments: 1) before the purchase is concluded (except the particular of date of minimum durability or the “use by” date) and shall appear on the material supporting the distance selling or be provided through other appropriate means clearly identified by the food business operator; 2) at the moment of delivery. For products marketed in this way it is not compulsory to mention the production lot or the Shipping Tracking Number as is set down in the Directive (EU) 2011/91 before the conclusion of the sale since they are instruments used for traceability which have no impact on the choice of the final consumer (European Commission, 2011). In the Official Gazette of the Italian Republic, Law 12 August 2016, No. 170 was published Art. 5 reports the power delegated for the adaptation of National legislation to European Laws (Regulation (EU) No. 1169/2011 and Directive (EU) No. 91/2011) (Italian Republic, 2016).

Regarding meat, meat-based preparations and unprocessed products based on frozen fish, at the moment of delivery the information must be supplied regarding the date of freezing or the first freezing for products that have been frozen more than once (Regulation (EU) No. 1169/2011, p 6, Attachment III) (European Commission, 2011).

In the case of non-prepacked foods offered for sale by means of distance communication the particulars required under Art. 44 shall be made available in accordance with p 1 of this Art. p 1, letter (a) of Regulation (EU) No.1169/2011: “(a) mandatory food information, except the particulars provided in point (f) of Art. 9 (1) [my note. The date of minimum durability or the “use by” date], shall be available before the purchase is concluded...; (b) all mandatory particulars shall be available at the moment of delivery”. “Any ingredient or processing aid listed in Annex II or derived from a substance or product listed in Annex II causing allergies or intolerances used in the manufacture or preparation of a food and still present in the finished product, even if in an altered form” shall be mandatory.

For the food products sold using this technique of communication at a distance, the subject who must supply the compulsory information on these products before the conclusion of the sale is the holder of the web site, while the responsibility for the

information described on the label is the food business operator whose name is on the label. In any case the general principles remain unaffected of electronic marketing referred in the Directive (EC) 2000/31 as they are set out in each member State and applied by the community and national law (European Commission, 2000).

### Automatic vending machines and automated marketing premises

Sales using vending machines, which usually dispense food and drinks which are not pre-packaged (tea, coffee in cup), are more frequently in automated selling points where foods are sold pre-packaged (snacks and drinks). For these foods (pre-packaged) the information set down as compulsory on the label must be made available to the consumers before they make their choice because it is selling at a distance also in this case (Regulation (EU) No. 1169/2011, Art. 14, point 3) (European Commission, 2011). For those not pre-packaged, the regulations are valid as in p 2, Art. 15 of the Legislative Decree No. 109/1992, which includes the name of the product and the list of the ingredients, as well as the name or trade name and address of managing carrier of vending machine (Italian Republic, 1992). Unlike raw milk meant for direct human consumption, for which specific reference regulations exist, (SRA of 25/01/2007 – No 5/CSR) (Italian Republic, 2007), for other non-pre-packaged foods (e.g. Instant drinks or instant delivery) Art. 44 of the Regulation (EU) No. 1169/2011 is applied according to which allergens must be listed that may be contained in the product (European Commission, 2011). The European Commission has made it clear that mandatory information on the food need not be supplied before the sale (in Italy is applied by Circular No. 381060 05/12/2016 of Ministry of Economic Development) (Italian Republic, 2016). However, given the special features of this means of distribution, the member States may, through specific national regulations, see to conveying the information on allergens and any other compulsory information on foodstuffs before selling, for example using a sign placed at the automatic vending machine. Lastly, this type of product, except for national regulations, may be considered exempt from the obligation of displaying the nutritional declaration.

### Labelling and presentation of the products

Agro-food products destined for direct sales must display information for the final consumer, according to their presentation (bulk or pre-packaged) with respect to general and special reference regulations. In

fact, as well as the regulations referred to in the Regulation (EU) No. 1169/2011 and the Legislative Decree No. 109/1992 and later modifications where it is still applicable (bulk and semi-processed products), some sectorial regulations have to be considered (meats, fish products etc.) as well as the metrological regulations (European Commission, 2011; Italian Republic, 1992).

As regards “fresh and processed fruit and vegetable products” the reference regulation is represented by the Regulation (EU) No. 1308/2013 and the Regulation (EU) No. 543/2011 (European Commission, 2011; 2013). For fruit and vegetables sold in bulk, as well as the origin (the country they come from) the following information must be displayed: price per kilo; category; size; variety and species. On the other hand, for fruit and vegetables sold pre-packaged, the following must be displayed on the packets: category; size; variety and species; tare weight of the packaging or weight at the origin; name and address of the packager and/or delivery agent; production lot and/or packaging, at the discretion of the FBO, using alphanumeric code preceded by the letter L (Regulation (EU) No. 1308/2013; Regulation (EU) No. 543/2011) (European Commission, 2011; 2013).

Pre-packaged fresh meat of the pork, lamb, goat and poultry species, as well as respecting the general obligations for labelling, must display information on the country of origin or the place of provenance (Regulation (EU) No. 1337/2013) (European Commission, 2013b). Further regulations are set down for beef meats (Regulation (EU) No. 1760/2000; Law 171/1964) and for poultry meats (Legislative Decree No. 202/2011; Regulation (EC) No. 543/2008, Regulation (EC) No. 508/2009; Ministerial Order 26/08/2008) (European Commission, 2000; 2008; 2009; Italian Republic, 1964; 2008; 2011).

Food products placed directly on sale on the farm, since they are prepared at the place of production, may be presented in a “bulk” state and consequently for this type of presentation, it is sufficient to show the information on a special notice near the products displayed (e.g. jars of honey, jams etc.).

### Nutritional table

Nutritional table – without prejudice to other Union provisions requiring a mandatory nutrition declaration, the nutrition declaration shall not be mandatory for the foods listed in Annex V of Regulation (EU) No. 1169/2011 as subsequently amended products produced by agricultural and artisan companies which fulfil the requirements for microenterprises which

employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million (Commission Recommendation 2003/361/EC) (European Commission, 2003) are exempt from this obligation, not only in the case of direct supplying to the consumers and the community according to Art. 2, Regulation (EC) No. 1169/2011, but also at a “local level” of the market and in the case of sales at a distance” (European Commission, 2011). Unprocessed products are also interesting which are made up of only one ingredient or a single category of ingredients e.g. honey, eggs, sacks of potatoes or apples, fruit and vegetables of III and IV range, fish preparations for frying or for sauces, bulk foods or wrapped in packages or containers where the largest surface measures less than 25 sq. cm.

### Auto-control system on farms

Farmers, as FBO who carrying out any stage of food production after primary production and those associated operations, and in compliance with general hygiene requirements listed in Annex II of Regulation (EC) No. 852/2004 and any specific requirements provided for in Regulation (EC) No. 853/2004, shall put in place, implement and maintain a permanent procedure or procedures based on the Hazard Analysis and Critical Control Points (HACCP) principles (European Commission, 2004; 2004b). Otherwise, in primary production, controlling, and consequently the food safety, may be carried out only with the application of the prerequisite programs (PRPs) which include, among other things, correct good hygienic practices (GHP), good manufacturing practices (GMP) and good agricultural practices (GAP). In fact, unlike primary products (fruit and vegetables, woodland products, farmed and hunted animals etc.) for which particular critical issues are not highlighted, for products undergoing later handling and processing it is necessary to employ procedures based on the principles of the HACCP system. (Regulation (EC) No. 852/2004, Art. 5) (European Commission, 2004). These principles, in fact, represent an indispensable instrument for FBO for identifying and controlling the hazards that may occur in foods and during food processing on their own premises. The European Commission in one of its announcements, considered it useful to supply directives concerning facilitations regarding setting up management systems for food safety, in certain food companies, regarding PRPs and the procedures based on the principles of the HACCP system. The scope of this document is to facilitate and

harmonize the implementation of the European requisites regarding PRPs and HACCP (also contained in Regulations of the series UNI EN ISO) providing a practical guide which takes account of the size and nature of the premises and the connection between PRPs and HACCP. A food safety management system (FSMS) should be considered as a practical instrument for controlling the environment and the food production process and guaranteeing that the products are safe. It includes: pre-requisites and the HACCP system. The PRPs are not specific for a certain danger, but are applied in a generalized way. GHP, together with GMP and traceability provisions are considered as PRPs which, together with the procedures based on the HACCP principles, must result in an integrated FSMS for each business operator (after primary production). When applying the PRPs the differences in terms of risk, which make up the basis for evaluating the introduction of the flexibility in applying these programs, must be taken into account. As regards the HACCP system, the procedures based on this system should be flexible enough to be able to be applied in any situation. The concept of flexibility has already been brought up by the Regulation (EC) No. 852/2004 (Art. 5, p 15) (European Commission, 2004), which has the aim of guaranteeing the proportionality of the controlling measures, adapting them to the nature and size of the premises, without omitting correct management of the risk and without compromising the food safety. On this subject, it is also useful to remember the opinion of the European social and economic committee on the topic “Hygiene regulations and processing artisan companies” (2006/C - 65/25), which draws attention to the importance of the union between the small food companies and the micro-companies and rural development; and how these, more than the others, use artisan and/or traditional production processes. When there is no preparation activity or there is simple handling activity (harvesting vegetables, ground vegetables etc.) it is considered that the analysis of the hazards and the management of the possible risks may be carried out through setting up and applying, on the part of the farmer, controlling procedures based on the application of basic hygienic measures (programs of pre-requisites) and correct keeping of adequate documentation and registration.

If there are operations such as meat processing, cheese making, food-trucks and retail sales where easily perishable food is prepared, as well as the PRPs regarding food hygiene, it is considered indispensable to identify all the important hazards that may

be found within the various types of handling and define the control systems of the same, the monitoring operations of the processing and preserving procedures of the food (correct functioning of the cooking and freezing equipment) with a simplified approach to comply with the other principles of the HACCP system. In small companies it may be sufficient for the analysis of the hazards contained in the HACCP plan to describe simply and practically the control methods for the hazards without necessarily going into detail on the nature of the hazards themselves. To identify the CCP, the various food hazards can be controlled either by implementing only the PRPs or in combination with the application of certain operational PRPs (simple visual check of the temperature of the equipment, noting only the irregularities shown and the corrective measures taken). It must be underlined, however, that flexibility regarding analysis of danger cannot be directly linked to the dimensions of the company and it is not appropriate even when the company is small: this is the case, for example, of companies where food is produced (cooked or raw) destined for categories of vulnerable consumers; or when controls are carried out for allergens in products declared free of allergens.

## Conclusions

The new course of EU politics is more and more orientated towards promotion of small agro-zootechnical productions from a point of view of sustainability and safeguarding the ties with the territory and with the other resources which contribute to the identity of the products themselves (e.g. Regulation (EU) No. 1151/2012) (European Commission, 2012). Not least is the possibility of creating work and occupation and adequately counteracting the phenomenon of the depopulation of the countryside, encouraging the return to agricultural activities on the part of young people. The same legislation urges farmers to promote a form of safeguarding of the environment by assuring them “*to the extent possible*” protection of primary products from contamination coming from the air, the earth and the water; through the correct use of veterinary medicines, additives for animal foods, fertilizers and plant protection products and biocides; and also the correct management and elimination of wastes (attachment I, Regulation (EC) No. 852/2004) (European Commission, 2004). This trend, together with the national directions, may represent a support even for small local farms which, taking advantage of

simplified procedures consistent with the objectives of flexibility of the community regulations, may take part in the promotion of agricultural markets managed directly by the farmers (Short distribution chain or short circuit).

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