

The sanctions on food provided for by Legislative Decree 193/2007

The Legislative Decree 6 November 2007, n. 193 (Implementation of the "killer" directive 2004/41 / CE), introduces significant changes in the national legislative framework in relation to the application of the Community Hygiene Package regulations and food safety controls, completing the transition from the old (directives) to the new regulatory framework (regulations).

Article. 6 of Legislative Decree n. 193/2007 does not indicate punctually the articles of the violated EU legislation, but lists the cases constituting violation and the respective applicable sanctions.

1. Administrative sanctions for non-registration of establishments (paragraph 3)

For the execution of activities of production, processing and distribution of food within the scope of Regulation 852/2004 without having been notified to the competent authority for registration of the establishment, or in the presence of suspended or revoked registration, it is the pecuniary administrative sanction from € 1,500 to € 9,000 is envisaged (reduced payment: € 3,000); if the registered establishment but the communication to the competent authority for the update is omitted (in case of structural or management changes) the penalty ranges from € 500 to € 3,000.

2. Administrative sanctions for levels other than primary production: requirements (paragraph 5)

For all activities not connected to primary production (processing, marketing, transport, etc.), Regulation 852/2004 establishes general hygiene requirements (applicable to all establishments) in Annex II, while specific requirements are laid down by Regulation 853/2004 (applicable to approved establishments). Failure to comply with these requirements entails the application of the pecuniary administrative sanction from € 500 to € 3,000 (to a reduced extent: € 1,000).

3. Administrative sanctions for self-monitoring procedures (paragraph 6)

In all activities, referring to registered establishments (Regulation 852/2004) or recognized (Regulation 853/2004), the operators must prepare, in their activity, procedures based on the HACCP system, including, where necessary, the criteria verification procedures microbiological (Regulation 2073/2005) and information on the food chain. The omission of these procedures involves the application of the administrative fine from 1,000 euros to 6,000 euros (to a reduced extent: 2,000 euros).

4. Administrative sanctions as a result of requirements relating to self-control requirements and procedures (paragraph 7)

The case of use by the competent authority of the institution of limitation, that is to say the official provision for the removal of non-conformities, referred to in paragraphs 4, 5 and 6, within a congruous deadline, is contemplated here. This procedure is reserved for cases where the self-control procedures are not omitted (in this case the sanction provided for in paragraph 6 would be applied immediately) but they prove inadequate, and those in which the requirements are met (otherwise the sanction is immediate according to paragraphs 4 and 5) but inadequate. The non-implementation of the prescription is punished with a pecuniary administrative sanction from € 1,000 to € 6,000 (to a reduced extent: € 2,000). The appropriate term for the execution of the prescription is now determined by the persons in charge of the official control on the basis of the seriousness of the non-compliance and therefore of the assessment of the related risk.

5. Administrative sanctions for non-implementation of procedures (paragraph 8)

In the event that the procedures or systems referred to in the previous paragraphs are not applied or are incorrect, a pecuniary administrative sanction from € 1,000 to € 6,000 (to a reduced extent: € 2,000) is envisaged.