



## RURAL TOURISM AND PROVIDING MEALS MEMBERS QUESTION ANDALUCIA

### Question:

Hi there, we have been operating a small specialized resort for 4/5 years now. Basically renting out our 4 apartments to cyclists who wish to explore the local area of Antequera (Andalucía) . We registered with the Malaga Board of Tourism from the beginning, but we never heard anything back, however we did register the form with the post office when sent. We were informed last November after a visit from the Town Hall that we needed a licence. We employed Lawyers at Antequera to act on our behalf and we now find we don't need a license if our quests are self catering , which there are facilities in each apartment to do so.

Over the years we have been asked to provide food for various groups of athletes as it is easier for them (we come from a restaurant background ) however one thing the lawyers have stipulated is that without a hotel licence we cannot serve any food even though it is a not a regular basis. In order to get such a license we would need 50,000 sq mts.

A second opinion would be most reassuring if at all possible, as we seem to be going round in circles and the lawyers are coming out on top all the time.

Ref: 00/0126

Date: 08/04/15

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### Additional questions by the team:

- How exactly did you register your business, as 'casa rural' or 'vivienda turística de alojamiento rural' or 'turismo activo' as per the specialised holidays you offer? Did you include a 'declaración responsable'?
- Did your lawyers dig into why you never received any answer back from the Tourism Board, as they should have confirmed the kind of activity you registered with them within 15 days, so you can display it at your premises, or did they check whether your registration has indeed been correctly processed and your business has been included in the Registro de Turismo and your Town Hall has been informed by the tourism authorities about the registration of your business?
- do you offer breakfast as included in the rental price of the apartments
- how many beds do you have in total?

### Answers from member:

I did contact my lawyers today and they informed me that, indeed, they did look into the registration with the tourism board and the file they returned to me, is a copy of the letter originally sent to my local post office (probably returned, as we missed this) from the Board showing my registration dated 28th December 2011. We are in fact registered as VIVIENDA DE ALOJAMIENTO RURAL.

I don't know what a declaración responsable is? Our apartments up till now have been either self catering or with the sports groups, full catering ( we would cook their food in their largest apartment kitchen and all would then proceed to the eatery .) We understand that catering by ourselves is forbidden so that is going to be a problem. Even a bed and breakfast is at the moment unlawful they say ??

We have 14 beds in total.

We are in a fortunate position that 95% of our training clubs return, many on their 4/5 year and normally rebook for the same week the following year. I am

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considering taking all advertisements from the web and maybe going for a members only, private club?? Would you think this would make and things easier?

Thank you all the same for your time it is most reassuring .

**Additional answer from member:**

Received this email from our lawyers yesterday, really I can see us all going round in circles ?

Dear Mr & Mrs X,

Thank you very much for your email. I would like to inform that today we have submitted into the Town Hall of Antequera a petition for the Junta de Andalucía to clarify its requirements on business like yours.

As said above, our petition will be supported by the one that the Antequera city hall has submitted also.

**Answer from the team:**

I've talked it over with Philip Carroll, with whom I have written our information document on Turismo Rural in Andalucía and this is our view on your situation.

With your current registration, **as Vivienda Turistica**, you can only offer accommodation, no additional services.

Ref: 00/0126

Date: 08/04/15

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If you would change your registration **to Casa Rural** however, you could do so, and in our opinion, including offering meals, as long as this service is limited to guests on the premises. The only 'catch' here is that casas rurales cannot consist of more than three units that are rented out. So to be completely legal, you should not offer the fourth for renting anymore.

Below I give you the relevant laws, to maybe present to your lawyers. We do not usually do that when members inform us they have already contracted a law firm and want a second opinion on their advice, as we do not feel that our freely given advice should serve to educate paid professionals, but as you are registered as one of the few 3-hearts members on the website, we would like to make an exception in this case. In return we would like to be kept posted on the progress of your licensing, so we can eventually make a post out of it for the website, so others can benefit as well. Please read through the document on the website as well, [LINK HERE](#), I think a lot will become clearer then and it will provide you with links to the Junta de Andalucía website with info on how to register too.

Firstly, to document the difference in Vivienda Turística and Casa Rural, with regards to offering services.

## Ley Turismo Andalucía

### *Artículo 47 Casas rurales*

1. Son casas rurales aquellas edificaciones situadas en el medio rural que presentan especiales características de construcción, ubicación y tipicidad; prestan servicios de alojamiento y otros complementarios, y figuran inscritas como tales en el Registro de Turismo de Andalucía en los términos establecidos en la presente Ley.

Ref: 00/0126

Date: 08/04/15

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2. Reglamentariamente se determinarán los requisitos que deberán reunir las casas rurales y los criterios de clasificación de las mismas atendiendo, entre otras circunstancias, a su ubicación y características, así como a sus instalaciones y servicios.

3. En caso de que la casa rural se implante en suelo clasificado como no urbanizable, la inscripción en el Registro de Turismo de Andalucía se entiende sin perjuicio de su previa tramitación como actuación de interés público conforme con la normativa que le sea de aplicación.

SO, SERVICIOS ADICIONALES POSSIBLE, WHEN YOU MEET THE REQUISITES AS DESCRIBED IN THE REGLAMENT, DEPENDING ON ITS CLASSIFICATION (BASICO OR SUPERIOR – SEE THE ANNEXES INCLUDED IN THE DOC FROM OUR LIBRARY) AND SERVICES OFFERED.

MAYBE THE EMAIL FROM YOUR LAWFIRM WILL CLARIFY WHAT POSSIBLE EXTRA REQUISITES YOU MIGHT BE ASKED TO COMPLY WITH, WHEN OFFERING SERVICE OF MEALS FOR GUESTS. IN ANY CASE, I WOULD SUGGEST TO GET A ´CERTIFICADO DE MANIPULADOR DE ALIMENTOS´ WHICH EVERYONE IN CONTACT WITH FOOD ON A PROFESSIONAL BASIS, SHOULD HAVE. IT IS VERY EASY TO GET, YOU CAN DO SO ONLINE IN A WEEKEND.

## Sección 2

### De las viviendas turísticas de alojamiento rural

#### *Artículo 48* De las viviendas turísticas de alojamiento rural

1. Son viviendas turísticas de alojamiento rural aquellas situadas en el medio rural en las que se preste únicamente el servicio de alojamiento, y que son ofertadas al público, para su utilización temporal u ocasional, con fines turísticos, una o más veces a lo largo del año, sin que en ningún caso la prestación del servicio exceda, en conjunto, de tres meses al año.

SO WITH REGISTRATION AS VIVIENDA TURISTICA – ONLY POSSIBLE TO OFFER LODGINGS, NOTHING ELSE, AND ONLY FOR MAX. 3 MONTHS A YEAR.

Ref: 00/0126

Date: 08/04/15

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Then for the question whether you would be allowed to offer meals - 'servicio de restauración' would that be.

## Decreto 20/2002, de 29 de enero, de Turismo en el Medio Rural y Turismo Activo.

### Artículo 20 Restauración en el medio rural

1. Se consideran establecimientos turísticos de restauración los declarados como tales en el artículo 46.1 de la Ley 12/1999, de 15 de diciembre, del Turismo.

From the law linked above art. 46.6. No tendrán la consideración de establecimientos de restauración turística:

b) Los comedores de los establecimientos turísticos de alojamiento en los que se sirva comida sólo y exclusivamente a quienes se encuentren alojados en ellos.

SO, THIS WOULD LEAD US TO CONCLUDE THAT YOU INDEED CAN OFFER MEALS TO GUESTS.

### Artículo 12 Servicios mínimos

1. Los servicios mínimos que se prestarán en los alojamientos turísticos en el medio rural serán el de alojamiento y el de limpieza de habitaciones y cambio de lencería de cama y baño a la entrada de nuevos turistas.

2. Los servicios mínimos a prestar por los complejos turísticos rurales serán, además de los señalados en el párrafo anterior, el de restauración con gastronomía tradicional de la comarca en que se ubiquen.

ANOTHER CONFIRMATION THAT YOU CAN OFFER MEALS.

Ref: 00/0126

Date: 08/04/15

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### Artículo 13 Servicios complementarios

Los establecimientos turísticos en el medio rural podrán ofertar como servicios complementarios los siguientes:

- a) Comidas y bebidas. (COVERED BY THIS AS WELL, IF NOT OFFERING TRADITIONAL REGIONAL MEALS, AS MENTIONED ABOVE)
- b) Custodia de valores.
- c) Lavandería.
- d) Venta de productos artesanales y gastronómicos propios de la comarca.
- e) Información referente a los recursos turísticos de la comarca.
- f) Actividades de turismo activo.
- g) Otros servicios complementarios vinculados con el medio rural.

*Please note, the information I provide is based upon my understanding of current legislation It is not legal advice, but is provided freely to enable you to be properly informed. I recommend that if you are considering action you should seek professional advice.*

### Response from member:

Thank you Richelle, so much for your comments, it has given us a good insight into where to go next. I am actually going to use my Asesoría for the next licences, I don't have too much confidence in my current lawyers to be honest. We have made another donation, thank you again.

Richelle de Wit, 08/04/2015

<https://www.facebook.com/groups/citizensinspain/>

Ref: 00/0126

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