

Professional Practice and Organizational Structures

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Key words: professional practice

SUMMARY

The profession of surveyor, in Italy, is practised by the recognition of qualifications that the legislative sources of first and second level require and its practice out of limits of competence is a professional crime.

The legal system directs the discipline towards the protection of clients and of third party who come in contact with professional men.

From this point of view, some infrastructures with representative powers are established to which a juridical nature of public administration is assigned. The category of surveyors, through its top management body (Consiglio Nazionale Geometri), is under the supervision of the Ministry of Justice where it has its registered office.

A lot of rules discipline the action and the role of the Consiglio Nazionale and of its offices, whom the local professional bodies are compared to.

As regards the practice of the profession, of which the surveyor is responsible, he has to refer to independent public bodies, as the public local administrations, land agencies, etc.

In conclusion, the professional man, as private subject, practises his profession in a field having a public nature and his personal right - provided also for the article 41st of the Constitution in which there is the assertion of freedom of the economic initiative - is strongly conditioned by the necessary comparison-valuation of a different and complex series of public concurrent interests.

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In Italy the professional practice is regulated by general laws if related to the aspects of the system and by particular laws when the discipline concerns to specific activities of professional services of each single category.

The tutelage is of double value taking into consideration that the professional practice, apart from being included in the largest and biggest meaning of the working activity as the founder principle of our Constitution (the principle of work, sanctioned by art.4 of the Const., has equal dignity ex art.2 of the Const. compared with other fundamental human rights like the right to health, to family, or to personal freedom) is linked, or better still, derived from the right to study and to culture, considered as human promotion and as contribution to the material and spiritual progress of society (paragraph 2 of art. 4 of the Const.).

Exactly for this, the profession, whatever it is, must be sealed by necessary presuppositions (educational qualifications, subsistence of requirements) that, apart from protecting the single professional man, are necessary for the defence of who enjoys the service, that is the customers and third party who, directly or indirectly, receive the effects of it.

The surveying profession is practised by recognition of some necessary presuppositions that are the expression of articulated regulations which, in these years, have had a strong impulse and propulsion within the osmotic logic of all the professions and within the community spirit of homogenization of educational qualifications and courses.

Even if we maintain our professional identity, as Surveyors, we wanted to follow and, in some cases, to be ahead of this time on some subjects like university education, enlarging of our knowledge and, above all, in the last time, education, updating and quality.

It is a fact that this is not a painless evolution because it springs from the will/duty of reconciling regulations with the interests of also the other categories which are comparable to ours.

In this context, it is clear that the professional practice must be articulated in an external background and in relationship with juridical, social, institutional and no institutional realities.

Sometimes the “pathological” hypothesis of fulfilling the professional activity comes off and it results, cause of the respect for civil rights that subtends it, in the penal relevance of some acts and behaviours that lie outside the typology referable to the typified profession.

Therefore, it becomes an illegal professional practice because they abuse or still better they make an excessive use of what is their own professional qualification going into services that

are not strengthened by education, professionalism and by an effective qualification that put in execution the same service.

The profession is not then a phenomenon apart but it is a collective, almost corporative, expression that needs a central structure and, in the meantime, diffused in all the realities in which it expresses itself.

It is for this reason that realities as the National Councils of different professional Categories are not only organizational phenomenon out of the collectivity. Not at all, they have the representation of the registered members, they are the exponential expression of them, they are assimilable to what the trade unions are for the employees but with a further additional value: to be an institution that works under the supervision of the Ministry of Justice where it has its legal office, and that carries out a public and social function because, guaranteeing the qualification, it guarantees also the collectivity.

This is why the National Councils, as the Surveyors' one, have a juridical nature of a no profit public body as they carries out a priority function having a public nature without profit. The associations are, then, an articulation of the public machinery contributing, effectively, to the realization of the fundamental collective interests.

Under a more institutional profile, the principal function is to be a special judge who passes the sentences in the name of the Italian People on controversies regarding the relationship professional men/category about issues concerning the enrolments on the register, the striking off and the disciplinary actions. The Consiglio Nazionale Geometri passes, also, the sentences on disputes concerning the election renewal of the peripheral structure that are inherent in it.

The CNG operating organization is public, too and the same can be said for the juridical state that works in it, for the reference regulations for the accounting, for the directions for the purchase of goods and services and for the directions for the data processing and instrumental equipments.

Seeing this public role, the structures/organizations that work on provincial and district level accomplish also an institutional aim that characterize itself, mainly, with the keeping of the registers in which the professional personal particulars of the registered members are lubricated on.

The provincial Colleges carry out other and further representative tasks and are the interlocutors of juridical subjects both private and public ones.

An example which is undoubtedly indicative is the designation of professional men as members of building commissions within the local self-governments that have to pronounce about licences and or authorizations.

Under a different view, the working relationships of professional men with external structures, in comparison with the belonging category, are numerous and they come true in the relations with the State and Land Agency, with the various Ministries or the local Self-Governments (Regions, Provinces, Municipalities, mountain community.....), with the Authorities or with every other public and private subject who can be a client, a third party, or an in charge authority to which they have to relate to for the fulfilment of the professional job.

To conclude, the fulfilment of the profession that is, ontologically, an individual phenomenon, becomes as a matter of fact an external manifestation in which the professional subject is strongly conditioned.

Today, the old Latin diction according to which the professional service is characterized by c.d. "intuitus personae" - that means that the genius and peculiarity of each single person who claims, in every action, his own and exclusive identity - is surmounted.

We are migrating from a liberal concept of the profession to a different interpretation that certainly rids itself of the classical concept to come to a maximalist acceptance.

Indeed, not rarely today, some persons identify the professional practice with the practice of the enterprise.

In Italy the 2 concepts are different because within the enterprise the dominant element is the organization of fund and capitals while within the profession the dominant element is the intelligence and the culture: in other words the "Man".

Moreover, the professional practice, to whose base there is an individual and subjective right, has to compare itself with a multitude of juridical situations and of public subjects.

It follows that the profession, even if it has as constitutional referents the articles 4 (under the global profile about the value-principle of the work in a broad sense, autonomous and subordinated) and 41 (the economic initiative is free), with reference to the autonomous activity, and even if it concentrates on expression of absolute autonomy and freedom, it is strongly influenced by the necessary comparison- consideration of a diversified and complex series of public and concurrent interests that, sometimes, weaken its importance and, sometimes, exalt its "performance".

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