

# THE CONSTRUCTION ACTIVITIES FOR THE PROTECTION OF CULTURAL HERITAGE AND LANDSCAPE

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## SUMMARY

In terms of landscape, our country can take pride in the fact that, dating back to June 1939, it began paying careful attention to the landscape. This was due to the enactment of Law No. 1497 that established rules for the “protection of natural beauty” which will be better detailed in the special report. Right now, however, it is important to highlight that 40% of the environmental, historical and existing monuments in the world are on the Italian territory. For this reason, Law No. 1089 was enacted “to protect locations of artistic and historic interest.” Since then and until now, the protection of the landscape has always been the concern of legislators, technicians and administrators of the territory. Particularly, technicians have a great responsibility of preserving the “old” and properly building the “new”.

Subsequently to the first law dating back to 1939, in 2004, with the Legislative Decree of 22.01.2004 No. 42, in Italy a “Code of the cultural heritage landscape” was issued that integrates the Laws already mentioned above.

Referring to the European Convention on the landscape approved by all Member States in Florence in 2000 and especially with reference to the Decree of the President of the Republic of 2010 No. 139, I would say: the procedure for granting landscape authorization has been simplified for minor interventions that do not involve alterations to the site of the exterior of buildings.

In the case of new buildings or modifications of existing buildings in areas subject to restrictions, it is important to highlight the role of the surveyor as a designer and mediator between the private citizen and public administration.

The final report will appropriately detail technical and administrative procedure with particular regard to the most recent legislation and the exposure of some illustrative examples.

Recently, in Italy, under the sponsorship of the National Council of Surveyors and Graduate Surveyors, the A.G.I.C.A.T. (Surveying Consultants Association for the Environment and Territory) was formed. The cultural association's main purpose is to spread culture for the environment for ensuring sustainable development and enhancement of the profession of surveyor as an expert and consultant for the land and the environment.

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40% of the existing environmental, historical and monumental heritage throughout the world is located in Italy. This is the reason why with respect to cultural heritage and landscape assets Italy can rightfully boast of a dedicated attention actually dating back to June 1939 with the issuance of Law n. 1497 regarding the regulations on “*protection of natural beauty*” intending by these:

- 1) Real estate with particular characteristics of natural beauty or of geological uniqueness;
- 2) Villas, gardens, parks, and real estate complexes that form a characteristic aspect having particular aesthetic and traditional value;
- 3) Scenic beauty considered as natural paintings as well as vistas or lookouts that are accessible to the public, from which the beauty of the scenery and the landscape can be observed.

It is necessary to distinguish between cultural heritage and the landscape assets.

Cultural heritage includes real estate and landscape that are of particular artistic, historical, archival, archaeological and bibliographic interest and value and all that is considered as a testimonial of the value of civilization. Landscape assets are the property and the areas that constitute the expression of historical, cultural, natural, morphological and aesthetic value of the territory where they are located and are an integral part of it.

With respect to the Laws issued during the same period having the same importance, Law n. 1098 “*protecting artistic and historical sites and heritage*” was issued.

These provisions had and continue to have as their only objective the protection of artistic and historical sites and heritage connected to it and it is necessary to underline that since then and up to now landscape protection has always been the focus and interest of the territory’s legislator, as well as of the technicians and administrators.

Nonetheless, these legislative provisions which even after years have not yet been fully

implemented, with the elaboration of the territorial landscape plan, have not over time prevented –unfortunately – the deterioration of entire territorial areas, also causing the irreversible and immediate alteration of the heritage. Years later, this has led to inestimable damage for society in economic terms and in human lives.

Situations were created that have increasingly underlined the importance of the territory, not only for its contemplative value, but also for the need for its sustainable development.

Legislation has reinforced Laws 1497 and 1089 with the promulgation of subsequent Law 431 of August 1985, classifying a list of property and landscape assets across the national territory that fall under landscape protection in compliance with the above-mentioned Law 1497/39 without however the procedure envisaged by the Law issued in 1939.

Subsequently, the above-mentioned initial Laws were integrated with the “European Landscape Convention”, approved by all the member Nations in Florence in 2000 and with Presidential Decree n. 139 of 2010 that simplified the procedure envisaged for issuing landscape authorizations for measures of “*minor entity*” that do not involve any alterations of the locations or of the exterior aspect of the buildings. This applies for new buildings, and/or modifications of pre-existing buildings in areas subject to restrictions.

The regions must also draft territorial landscape plans aimed at enhancing the assets that are regarded as worthy of being protected “freeing” those areas that vice-versa do not have or have lost their characteristics of value.

Europe has focused on the landscape assets as a vital space and economic resource, also of great importance owing to the complexity and importance of the subject that cannot be governed by a set of widespread norms on the various provision and consequently the legislation issued Legislative Decree n. 42 of January 22, 2004 known as the “Code of cultural and landscape assets”. This harmonizes all the provisions including norms on the landscape and on cultural heritage. Unfortunately, only a few years later, this “Code” has already been amended four times.

Within such an important theme for the entire community, owing to both its social and economic nature, where in addition to having specific knowledge, a good dose of sensibility is also required to appreciate the value inherent in the landscape, it is important to underline the role of the surveyor as a project planner in the areas that have been subject to landscape

restrictions for over three quarters of a century and as a mediator between the private citizen and the Public Administration.

As an example, I would like to recall that the above-mentioned Presidential Decree n. 139 of 2010 simplifies the procedure envisaged for issuing landscape authorization for measures of “*minor entity*” that do not involve alterations of places or the exterior aspect of buildings. The new regulations envisage a significant reduction of procedural time frames for issuing the landscape authorization and relative documents: the request must be only supported by a simplified landscape report drafted by a qualified technician and can be submitted electronically.

Presently, the landscape authorization must be issued by the territorial bodies but the scope is of the Regional Boards (or Superintendency) that express a mandatory, advance and binding assessment on all investigations.

When the assessment is positive, the local Administration submits the request to the Regional Board (or Superintendency) that proceeds to assessing compatibility with the landscape; in case of a favorable outcome, the Administration immediately issues the authorization, otherwise it is refused with a written notification to the parties. Below is a list of some measures of minor entity among the most recurring ones contained in the attachment to Presidential Decree n. 139/2010:

- **Increasing volume** that is not more than 10 per cent of the volume of the original building and however not more than 100 cubic meters. Excluding the A DM 1444/1968 zones and the real estate subject protection pursuant to art.136 paragraph 1, a), b) e c), of the Code.
- **Demolition and rebuilding** respecting the pre-existing volume and outline, excluding real estate bound by restrictions.
- Measures on **facades** of the buildings, excluding real estate bound by restrictions: opening of doors and windows or changes made to the existing openings in size and position; measures on external finishings, with replastering, painting or external coverings, changing the pre-existing ones, creating or modifying balconies or terraces; inserting or making changes to the mouldings, banisters, railings; closing of terraces or

balconies already closed on three sides by installing fixtures; building, modifying or replacing external stairs.

- Measures on **roofing** of the buildings, excluding real estate bound by restrictions: redoing the roof and the gutters with different materials; essential modifications for installing technologic plants; modifications in the incline or the configuration of brims; building the sunroof or small sized terraces; inserting flues or chimneys; building or modifying overhead windows and skylights; building garrets or similar elements.
- Compliance with anti-seismic norms and energy saving in buildings;
- **canopies**, porticoes, garden alcoves and similar structures open on various sides having a surface under 30 sq mt;
- **attached car parking**, not over 50 cubic meters,
- **accessory structures** or technical volumes not to exceed 10 cubic meters;
- **other**.

In case of new buildings and/or modifications to pre-existing buildings in areas bound by restrictions, the bureaucratic procedure envisages that the owners of the real estate or of areas of significant public interest subject to protection, must submit to the appropriate Body (Region or sub-delegated body) the projects of the works they intend to carry out, supported by the required documents, in order to obtain the advance authorization necessary for starting the work.

The landscape authorization is therefore a necessary provision for obtaining the subsequent construction permits (DIA or building permit).

To conclude, it is necessary to recall that recently in Italy, with the patronage of the National Council of Certified Surveyors, the association *A.G.I.C.A.T. (Associazione Geometri Consulenti per l'Ambiente ed il Territorio-Association of Consulting Surveyors for the Environment and the Territory)* was created. The cultural-based association has the purpose of spreading the culture for the environment in order to guarantee the sustainable development

and the enhancement of profession of surveyor as an expert and consultant for the territory and the environment.

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