IT IS UP TO PRIVATE PARTIES AND THEIR TECHNICIANS TO RECONSTRUCT THE LAWFUL STATUS OF SITES AND BUILDINGS

A recent ruling by the Regional Administrative Court (T.A.R.) of Campania–Salerno, Section II, dated 17 November 2025, no. 1893, once again addresses a matter of particular relevance in the field of urban planning and construction: whether municipalities are under an obligation to issue an attestation concerning the "lawful status" (stato legittimo) of properties, a document that private parties often seek in various contexts.

The case

A company owning certain properties located within the territory of the Municipality of Eboli applied to the municipal administration requesting a certificate attesting both to the lawful status of the building works and to the absence of landscape restrictions affecting the properties.
This certificate was intended to be produced in a criminal proceeding concerning alleged building violations in a protected area.

Only one of the municipal departments responded, merely referring per *relationem* to a previous internal note indicating the existence of a landscape restriction, without addressing the lawful status of the property.

The company therefore challenged both the reply received and the referenced note and also alleged the silence–failure to act (*silence-non-compliance*) of the other municipal department regarding the issuance of the certificate of lawful status.

The decision

The T.A.R. dismissed the appeal, recalling and confirming the consolidated case law on the legal issues raised. Reference is made to Article 9-bis of Presidential Decree No. 380 of 2001, which establishes that the lawful status of a property is determined based on existing building permits and may be documented by a qualified professional, not through certification issued by the municipal administration. In line with the case law on the matter, "*the Court (…) deems that the legal system does not provide for a procedure requiring the Municipality to certify the building compliance of a property, since such compliance must be derived from the authorising titles under which it was built*".

The most significant aspect of the ruling lies in its clear delineation of the scope of administrative obligations. Particularly noteworthy is the subsequent clarification regarding attestation obligations imposed on local administrations in construction matters: "*in the field of construction, the only attestation obligations incumbent*

upon the Administration and expressly recognised by the legislator concern land for which an urban-planning certificate may be obtained, which, however, has a predominantly declaratory value".

It follows, therefore, that "*the Municipality had no obligation to certify the 'lawful status' of the property as requested by the Company, since this amounts to a party's own attestation*". Considering this, the judges confirmed the absence of any obligation to act on the application as submitted, given that no such obligation can be found in law. As recalled in the judgment, such an obligation "*is deemed to exist only when specific legal provisions confer powers for the adoption of acts and measures, corresponding to a protected, qualified, and differentiated subjective legal position*".

Conclusions

This ruling aligns with previous administrative case law and provides an important clarification regarding a need frequently encountered in practice. The lawful status of a property may be relevant not only in criminal proceedings – as in the present case – but also in legal and economic relations between private parties, where certainty concerning the building compliance of the property is a decisive factor. Ultimately, the judgment makes clear that it is for private parties and their technicians to reconstruct the "lawful status" of sites and constructions, while public bodies (Municipalities, Provinces, Regions, Park Authorities) are only required to verify the accuracy of the declarations submitted to them.

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