

## **CERTIFICATE OF URBAN PLANNING DESTINATION AND PROTECTION OF LEGITIMATE RELIANCE: LIMITS TO BUILDING SELF-ANNULMENT**

A recent ruling of the Council of State (Section IV, 24 December 2025 No. 10299) addresses an issue of particular importance in the field of administrative self-annulment (*autotutela*), clarifying the limits on the *ex officio* annulment of a building permit issued on the basis of a certificate of urban planning destination.

### **The case**

A company obtained from the Municipality of Casamarciano a certificate of urban planning destination stating that an area it owned fell within a homogeneous zone designated as "Public green area – sports facilities."

On the basis of this certification, the municipal administration issued a building permit for the construction of a sports facility with padel courts and a service building.

Subsequently, the Municipality started the proceeding of the building permit annulment *ex officio*, considering that the permit had been issued on the basis of an incorrect representation of the applicable urban planning regulations. In particular, according to the General Territorial Plan (P.G.T.), the area would fall within sub-zone "F6 – Fairs and markets," which is incompatible with the construction of permanent buildings.

The T.A.R. (i.e. the Regional Administrative Court) upheld the company's complaint, nullifying the self-annulment measure. The Municipality filed an appeal, arguing that the conduct of the private party had caused the administration's error and that, therefore, the annulment was lawful even beyond the twelve-month deadline referred to in Article 21-nonies of Law No. 241/1990.

### **The decision**

The Council of State rejected the appeal, fully confirming the first-instance judgment.

The Court reiterated that the exception to the deadline for exercising self-annulment is admissible exclusively in cases where the administration's error is causally attributable to a false or untruthful representation of facts by the private party. This condition does not apply, however, if the error derives from investigative or certifying activity carried out directly by the administration.

In the present case, both the certificate of urban planning destination and the

favourable opinion for the issuance of the building permit originated from the Municipality itself. Consequently, any interpretative error concerning the urban planning instruments must be attributed to the administration and not to the private party, especially considering that the acts were adopted by the same municipal official, with the consequent application of the principle of organic identification.

The judgment further confirms that the certificate of urban planning designation, although it has a declaratory nature, constitutes an official act capable of grounding the private party's legitimate reliance and supporting the submission of a building application. Finally, the Court excluded that the notice of starting of proceedings (the "comunicazione di avvio del procedimento") may result in the suspension of the twelve-month deadline provided for by Article 21-nonies of Law No. 241/1990.

## Conclusions

The ruling is of significant practical interest, as it clarifies that, even where a building permit has been issued in compliance with a certificate of urban planning designation issued by the same administration, any interpretative errors in the application of urban planning instruments cannot be attributed to the private party. In such circumstances, there is no false representation of facts capable of justifying the exercise of self-annulment beyond the deadline.

The decision fits within the consolidated case law aimed at protecting legitimate reliance and calls upon local authorities to conduct their investigative and certifying activities with particular rigour.

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2

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